Translation of Liechtenstein Law

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Act
of 25 November 2010
on Court Proceedings in Non-Contentious Matters (Non-Contentious Proceedings Act; AussStrG)

I hereby grant My consent to the following resolution adopted by Parliament: [1]

I. General provisions

A. Scope of application and parties

Article 1

Scope of application and designations

1) This Act shall govern the proceedings in non-contentious matters (non-contentious proceedings).

2) Non-contentious proceedings shall be applied to those civil cases where this has been ordered herein or in special laws. This shall always apply:

a) in child care proceedings for:
   1. decisions on child custody (§§ 144 et sqq. General Civil Code), also where these are rendered in the course of divorce proceedings based on legal action (Art. 55 to 58 Marriage Act);
   2. the extension of minority (§ 173 General Civil Code);

1 Report and Motion plus Statement of the Government No. 79/2010 and 113/2010

3. parent's minimum rights (§ 178 General Civil Code);
4. grandparents' claim to see their grandchildren regularly;
5. decisions concerning maintenance between parents and children;
6. the assessment of an adequate dowry for unmarried or already married daughters who are minors or underage (§ 1220 General Civil Code);
7. disputes between a child's illegitimate father with that child's mother (§ 168 General Civil Code);
8. the determination of paternity of a child;
9. adoption proceedings;

b) in guardianship proceedings;

c) in proceedings concerning non-contentious marriage protection matters pursuant to Art. 49h Marriage Act;

d) in proceedings for divorce on joint request for all matters connected with this;

e) in proceedings under the Advancement of Maintenance Act;

f) in probate proceedings;

g) in judicial deposit proceedings (§ 1425 General Civil Code);

h) in proceedings concerning the cancellation of mortgages, bonds, securities, and the like.

i) in proceedings concerning care-related hospitalisation;[2]

k) in proceedings concerning stays in residential or care institutions.[3]

3) Unless ordered otherwise, the General Provisions of this Act shall also be applicable to non-contentious proceedings regulated in other laws.

4) Any designations of persons in this Act shall be understood to refer to both male and female persons.

5) As far as Art. 93 through 99 refer to spouses and marriage matters, they shall apply mutatis mutandis to registered partnerships and partnership matters.[4]

2 Art. 1(2)(i) inserted by LGBl. 2021 no. 221.
3 Art. 1(2)(k) inserted by LGBl. 2021 no. 221.
4 Art. 1(5) inserted by LGBl. [Liechtenstein Law Gazette] 2011 No. 374.

Art. 2

Parties

1) The parties shall be:

a) the applicant;

b) the person designated by the applicant to be the respondent or otherwise to be a party;

c) any person as far as such person's legally protected position would be directly influenced by the decision requested or the decision envisaged by the court or by any other judicial activity; and

d) any person or office to be included in the proceedings as a result of legal provisions.

2) Anyone who obviously is merely suggesting an activity of the court shall not be party.

3) The ability of a party to act independently in court as well as the position of the legal representative shall be subject to the provisions of the Code of Civil Procedure.

Art. 3

Acts of the parties and participation

1) Any acts and omissions of any party shall not have any direct effect on other parties.

2) Any party may have the other parties or their representatives, the witnesses, or the experts be asked questions by the court or, with the court's consent, ask such questions directly itself. The court shall reject inappropriate and inadmissible questions.

Art. 4

Representation in court

1) The parties may themselves act in court and may have themselves represented by any person of full legal capacity.

2) If a party is unable to express itself comprehensively in writing or orally, the court shall direct such party (setting an adequate time-limit) to appoint a suitable authorised representative if this is necessary to carry out the proceedings appropriately. If such party does not comply with such

an instruction in time, the court shall appoint a suitable representative at such party's risk and expense.

3) If a deaf or mute party who is otherwise able to comprehensively comment on the subject of the proceedings has appeared neither with a suitable representative nor with an interpreter for sign language, the court shall adjourn the hearing for a period that is to be as short as possible, and such an interpreter shall be called upon for the new hearing. The costs of the sign language interpreter shall be borne by the State.

Art. 5

Ex officio appointment of a representative

1) Lack of capacity to act in proceedings, lack of legal representation, and lack of the possibly necessary special authorisation to conduct proceedings shall be taken into account ex officio at any stage of the proceedings. The court shall order what is required to remove such defects and ensure that the party will not suffer any disadvantages as a result. Such orders by the court shall not be subject to separate appeal.

2) In pending proceedings, the court shall ex officio:

a) appoint a legal representative (guardian) if:
   1. a party's legal representative is prohibited from representation because of a conflict of interest;
   2. the only option for service to a party would be by public announcement, and such party would have to carry out a procedural act to safeguard such party's rights as a result of service, in particular where the document to be served contains a summons;

b) effect the appointment of a guardian if:
   1. a party has not yet been born;
   2. the identity or whereabouts of a party are unknown, and the pursuit of the rights of such party or a third party could be inhibited without such a representative;
   3. there are indications that the requirements of § 187 General Civil Code might apply with regard to the party;
   4. a party requires a legal representative for the proceedings for any other reason.

3) As far as nothing to the opposite has been ordered, the appointment and dismissal of a guardian pursuant to Para (2)(b) as well as the claims

resulting from such guardian's activities shall be decided upon in the special proceedings provided for this.

4) As soon as the court carries out a procedural act concerning the appointment of a guardian, any running statutory time-limits with regard to the party concerned shall be interrupted regardless of whether the proceedings are interrupted. Such time-limits shall resume as soon as the decision on the guardian's appointment has become final. If a guardian is appointed and the service of a document triggered a time-limit, the time-limit shall begin when the document is served upon the guardian.

Art. 6

Duty to represent

In all other respects, unless ordered otherwise, the provisions of the Code of Civil Procedure on authorised representatives shall be applied mutatis mutandis.

Art. 7

Legal aid and procedural assistance[5]

1) The provisions of the Code of Civil Procedure on legal aid and procedural assistance shall be applied mutatis mutandis.[6]

2) If within a time-limit set by procedural law or within a time-limit set for mending, a party applies that it be provided with a lawyer by way of legal aid, such time-limit shall re-start for the party upon service of the ruling concerning the appointment of the lawyer – and if the time-limit was triggered by a document, upon service of that document, too – to the appointed lawyer; the ruling shall be served by the court. If an application to be provided with a lawyer has been submitted in time and is dismissed, the time-limit shall start running as soon as the dismissing ruling has become final.

3) The providing of a legal aid counsel shall if possible be decided upon before or during the first hearing.

4) Even in proceedings in which no reimbursement of costs can be asserted, the legal aid counsel shall be entitled to a fee pursuant to the tariff applicable to legal aid.

5 Art. 7 heading amended by LGBl. 2021 no. 228.
6 Art. 7(1) amended by LGBl. 2021 no. 228.

B. Proceedings

Art. 8

Initiation of proceedings

1) As far as nothing to the opposite has been ordered, proceedings shall be initiated only on application.

2) Applications initiating proceedings – unless such applications are to be dismissed or rejected immediately – shall be served like process upon all persons whose position as parties is evident from the record (parties as per the record) no later than with the initiation of an investigation.

3) In proceedings initiated ex officio, the court shall clearly designate to the party the subject of the proceedings no later than in its first procedural act.

Art. 9

Petition

1) The application need not include a specific petition but shall make it sufficiently clear what decision or other judicial activity the application is requesting and on what facts such request is based.

2) If the payment of money is requested exclusively but the specific amount is not stated, the court shall direct the party – setting a suitable time-limit – to specify the request in terms of a concrete figure as soon as the results of the proceedings permit such specification. That decision shall not be subject to appeal.

3) After the set time-limit has expired, an application that does not contain a specific figure shall be rejected. This legal consequence shall be stated in the direction.

Submissions[7]

Art. 10

a) Principle[8]

1) Applications, declarations, and notifications (submissions) may be submitted to the court of the first instance in the form of a written brief or put on record orally.

2) Written briefs shall be submitted in as many copies as parties are involved in the proceedings that are to receive a copy of the brief. If a party who is not represented by a lawyer fails to do so, the copies necessary shall be made by the court if this is required in order to speed up the proceedings.

3) Submissions shall bear the designation of the case, the first and last name and the address of the intervening party, its representative, and – as far as this is necessary – the names and addresses of the other parties known to such intervening party; and in matters of civil status, also the parties' dates and places of birth and citizenship.

4) If a submission shows a defect as to form or content that prevents further steps of the proceedings, the court shall not reject or dismiss it right away but rather ensure that the defect is mended. If a time-limit had to be kept in connection with the submission, the party shall be directed to mend the defect within an adequate time-limit. The direction shall state the defect and shall be served in a way that provides confirmation of service.

5) If the set time-limit is kept, the submission shall be deemed to have been submitted at the original time. A time-limit set for mending with regard to a statutory time-limit cannot be extended.

Art. 10a[9]

b) Confidentiality of the residential address

The provisions of the Code of Civil Procedure on confidentiality of the residential address of parties and witnesses shall be applied mutatis mutandis.

7 Heading before Art. 10 inserted by LGBl. 2021 no. 228.
8 Art. 10 heading amended by LGBl. 2021 no. 228.
9 Art. 10a inserted by LGBl. 2021 no. 228.

Art. 11

Withdrawal of the application

1) Proceedings that can only be initiated on application shall be terminated upon the withdrawal of the application. The application may be withdrawn until the decision of the court of the first instance. If an admissible appeal has been lodged, the application – as far as it is a subject of the appeal proceedings – may be withdrawn until the decision of the court of appeal, but only together with a waiver of claim or with the respondent's consent; the ruling that is subject to appeal shall become ineffective to the extent the application has been withdrawn but with the exception of the costs awarded to other parties; the court of appeal shall declare this by way of a ruling.

2) Proceedings that may also be initiated ex officio shall be terminated upon withdrawal of the application provided that the court of the first instance does not declare to continue the proceedings ex officio. After the decision of the court of the first instance, the application can no longer be withdrawn.

3) As far as the underlying claim has also been waived in a legally effective way together with withdrawing the application, such claim cannot be asserted again.

Art. 12

Pending proceedings

Proceedings shall be pending as soon as an application for their initiation is submitted to the court, or the court has carried out a procedural act in proceedings to be initiated ex officio.

Art. 13

Conducting the proceedings

1) The court shall ex officio ensure that the proceedings make progress; it shall structure them in a way ensuring a thorough discussion and assessment of the subject of the proceedings and ensuring that the proceedings are kept as short as possible. The parties shall assist the court in this.

2) Proceedings concerning a ward shall be conducted in such a way that the ward's best interests are safeguarded in the best possible way.

3) The court shall at all stages of the proceedings work towards an amicable regulation between the parties.

Art. 14

Duty to guide and instruct

1) The provisions of the Code of Civil Procedure concerning the court's duty to guide and instruct the parties shall be applied.

2) In addition, the court shall offer guidance to parties who are not represented by a lawyer about the special pleadings and offerings of evidence which are eligible considering the subject of the proceedings and which may serve the adequate pursuit and defence of rights, and the court shall guide them in carrying out the evident corresponding procedural acts.

Art. 15

Right to be heard by a court

The parties shall be given the opportunity to take note of the subject on which the court has initiated the proceedings ex officio, of the other parties' applications and pleadings, and of the content of the investigations, and to comment on all these.

Art. 16

Collection of basis for decision

1) The court shall ensure ex officio that all facts that are relevant for its decision are clarified, and it shall suitably take into account all references to such facts.

2) The parties shall fully and truthfully submit and offer all facts and evidence known to them and relevant for the court's decision, and they shall answer all questions of the court aimed at this.

Art. 17

Consequences of default

1) The court may request from a party – setting an adequate time-limit – to comment on another party's application or on the content of the investigation, or summon the party for this purpose for an examination or hearing. If the party lets the time-limit lapse unused or does not comply with the summons, the court may assume that there are no objections against the other party's observations or against an intended decision on the basis of the content of the investigation that has been disclosed.

2) The request to comment and the summons shall include a notice of this legal consequence and shall be served like process. No appeal shall be possible against the setting of such a deadline or against such summons.

Art. 18

Oral proceedings

If oral proceedings are not mandatory, the court shall be free to order a hearing for oral proceedings on the entire case or individual points with the parties affected by the subject of the proceedings if it considers this to be expedient to accelerate the proceedings, to clarify the facts, or to discuss legal issues. Even if a hearing for oral proceedings has been held, the court need not continue orally during the further proceedings.

Art. 19

Public hearings

1) Oral hearings shall be public.

2) The public shall be excluded ex officio if:

a) the publicity of proceedings appears to endanger decency or public order;

b) there is the justified concern that the publicity of proceedings might lead to the proceedings being disrupted or the investigation of the facts being obstructed;

c) this is necessary in the best interest of a ward.

2a) The public may be excluded from the hearing ex officio or on application if publicity would endanger a business secret as referred to in Art. 1a(1)(n) of the Unfair Competition Act. In this case, the reasons for

excluding the public may be announced only to the persons referred to in Art. 19 (5) of this Article and § 174(2) of the Code of Civil Procedure.[10]

3) Also, the public shall be excluded if so requested by a party for reasons worthy of being taken into account, in particular because facts from family life are to be discussed.

4) The public may be excluded for the entire hearing or for parts of them. As far as the public has been excluded, it shall be prohibited to publicly disclose the contents of the hearing.

5) If the court has excluded the public, a party may demand that in addition to the party and the party's counsel, a person of the party's trust be also permitted to be present during the oral hearing; in all other respects, §§ 171(2) and (3), 173, 174(2) and 175(2) of the Code of Civil Procedure shall be applied.

Art. 20

Taking of evidence outside oral hearings

1) Parties who appear and their representatives may participate in the taking of evidence outside oral hearings, in particular in the examination of a person. Notice of the taking of evidence shall be given only on application. The court may exclude parties and their representatives from participation as far as the proceedings concern a minor or other ward and participation in the taking of evidence would substantially endanger the best interests of a ward or the ascertainment of the facts.

2) The exclusion from participation in the taking of evidence shall not be subject to appeal.

Art. 21

Restitutio in integrum

The provisions of the Code of Civil Procedure concerning restitutio in integrum with the exception of § 154 Code of Civil Procedure shall be applied mutatis mutandis unless the legal disadvantage resulting from failure to meet a time-limit or to appear at a hearing cannot be averted by an appeal or a renewed application.

10 Art. 19(2a) inserted by LGBl. 2022 no. 117.

Art. 22

Records, files, order in hearings, and punishment

The provisions of the Code of Civil Procedure concerning records, files, the presiding judge's power to preserve order in hearings, insults in written submissions, and concerning punishment shall be applied mutatis mutandis.

Art. 23

Time-limits

1) The provisions of the Code of Civil Procedure on time-limits with the exception of § 142 Code of Civil Procedure and those on interruption by court holidays shall be applied mutatis mutandis.

2) The time-limits for the submission of and reply to an appeal as well as the submission of an application for modification are statutory time-limits.

Art. 24

Service

1) Unless ordered otherwise, the provisions of the Code of Civil Procedure concerning the service of official documents as well as the Service of Official Documents Act shall be applied.

2) Service shall be performed by public announcement (Art. 28 Service of Official Documents Act) if the court considers it probable that the requirements necessary for this are met. Edicts shall be published in the manner laid down in § 117(2) Code of Civil Procedure. In addition, announcement in the locally usual manner may be ordered ex officio or on application.

Interruption of proceedings

Art. 25

a) Principle

1) The proceedings shall be interrupted if:

a) a party who is not represented dies or loses the capacity to act as a party in court autonomously;

b) the party's legal representative dies or loses the power of representation, and the party is neither able to act in court autonomously nor represented by a person with power of attorney for lawsuits.

c) the lawyer dies or loses the ability to continue the party's representation as far as such representation is required by law;

d) insolvency proceedings are opened on a party's assets, provided that the provisions of the Insolvency Act provide for this; or[11]

e) the court discontinues its official activities as a result of war or another similarly grave event.

2) The proceedings may be interrupted partly or entirely ex officio or on application if:

a) a preliminary question concerning the existence or non-existence of a legal relationship is the subject of other proceedings that are already pending before or have to be initiated ex officio by a court or an administrative authority, it is not possible to answer the preliminary question in the pending proceedings without substantial procedural effort, and the interruption is not connected with unacceptable delay.

b) the suspicion of a punishable act arises, the investigation and conviction of which will probably have significant influence on the decision in the pending proceedings; or

c) a party is prevented from participating in the proceedings as a result of war or another comparable grave event, and there is the concern at the same time that the absent party would suffer significant disadvantages as a result of this.

Art. 26

b) Effect

1) During the interruption, the court may only carry out urgently necessary procedural acts. In the case of Art. 25(2)(a) and (b), procedural acts of the court and of the parties may be carried out as far as they do not prejudice the decision on the preliminary question. If the interruption occurs after the case has become ready for decision, it shall not prevent rendering the decision.

[11] Art. 25(1)(d) amended by LGBl. 2020 No. 377.

2) Upon interruption, every time-limit for carrying out a procedural act shall stop running. This shall not apply to time-limits which the court has set for urgently necessary procedural acts despite the interruption. Otherwise, procedural acts during interruption shall not have any effect whatsoever on other parties.

3) Interrupted proceedings shall be continued by ruling on application of a party if the reasons for the interruption have ceased. Proceedings that may be initiated ex officio shall also be continued ex officio by ruling if not doing so would endanger interests of a party or of the general public protecting which is the purpose of the proceedings. Interrupted time-limits shall re-start upon service of the ruling for continuation.

4) The ruling ordering the interruption of the proceedings or denying the continuation of the interrupted proceedings shall be subject to separate appeal.

Art. 27

c) Continuation of proceedings

1) If the proceedings are interrupted for reasons based on personal circumstances of a party or its legal representative (Art. 25 – 1 – – a – and – b), the proceedings shall be continued with the representative appointed subsequently. If the reason for the interruption is based on personal circumstances of the lawyer (Art. 25 – 1 – – c), the court shall direct the party – setting an adequate time-limit – to notify the court of its new representative. If the direction is not complied with in time, the proceedings shall be continued by ruling regardless of this circumstance.

2) If proceedings are interrupted to clarify a preliminary question (Art. 25 – 2 – – a) and if the preliminary question must be clarified in proceedings to be initiated ex officio, the court shall suggest the immediate initiation of such proceedings.

Art. 28

Suspension of proceedings

1) If at least two parties participate in proceedings, the proceedings shall be suspended if all parties expressly agree on this and notify the court of such agreement; such agreement shall take effect at the time at which it has been reported to the court by all parties.

2) If at least two parties participate in proceedings that can only be initiated on application, the proceedings shall also be suspended if all parties have been summoned to an oral hearing – the legal consequences being pointed out to them in the summons – but none of the parties follows the summons, or the parties that are present declare that they do not want to proceed.

3) The suspension of the proceedings shall have the same effects as the interruption of the proceedings; however, statutory time-limits shall continue running. Proceedings that have been suspended shall not be continued before three months have passed from the time of suspension. However, proceedings that may also be initiated ex officio shall be continued as soon as not doing so would endanger interests of a party or of the general public protecting which is the purpose of the proceedings.

4) After the expiry of the term of three months, the proceedings shall be continued if so requested by a party. Proceedings that may be initiated ex officio may also be continued by the court ex officio.

5) If suspended proceedings have already been continued ex officio once, another agreement of suspension shall require the court's approval to be effective.

6) A ruling by which the continuation of suspended proceedings is denied after three months have passed shall be subject to separate appeal.

Art. 29

Pause

1) If an amicable regulation can be expected between the parties, in particular with the assistance of a suitable institution, the court may pause the proceedings as far as this does not endanger interests of a party or of the general public protecting which is the purpose of the proceedings.

2) A pause may be ordered during proceedings on a case only for a period of no more than six months. During the pause, the court may only carry out urgently necessary procedural acts.

3) If it becomes apparent even before the laid-down set pause period that the requirements for pausing are no longer met, the proceedings shall be continued by ruling.

4) A ruling to pause that violates Para. (2) shall be subject to separate appeal.

Art. 30

Settlement agreement

1) As far as the parties have the power to dispose of rights that may be the subject of judicial proceedings, they may enter into a court settlement on them.

2) If a settlement is reached, its content shall be put on record. The parties shall on request be provided with counterparts of the settlement.

3) In proceedings that may only be initiated on application, one may apply from the competent court that it summon the opponent for the purpose of an attempt at amicable settlement before submitting the application to initiate proceedings.

Trial

Art. 31

a) Evidence

1) Any suitable evidence may be used to ascertain the facts.

2) The court may also take evidence and make inquiries even if all parties are opposed to this or if the court has justifiable misgivings against facts that are presumed by law or for which there is evidence that provides full proof.

3) The court may appoint expert witnesses even without prior examination of the parties on the identity of such experts. If the judge has the necessary expert knowledge, he or she may refrain from proof by examination of an expert witness.

4) Even in proceedings for which an oral trial is prescribed, the court shall take into account what has been submitted outside of such trial. It may take evidence, direct the parties to provide additional information, and carry out other procedural acts outside of the trial.

5) If the court considers it indispensable that a party appear for examination, submit a document, or enable the inspection of an item that is held by it, the court may apply coercive measures (Art. 79 – 2) against such party if it fails to comply with the summons or direction without extenuating reason.

Art. 32

b) Valuation of evidence

Taking into thorough account the results of the entire proceedings, the court shall assess in its free view what must considered true and what not.

Art. 33

c) No investigation

1) The court may refrain from carrying out an investigation if it is convinced that an allegation must be considered true merely on the basis of obvious facts or on the basis of undisputed and unobjectionable information provided by one or more of the parties.

2) The court may leave unproven factual assertions unconsidered and refrain from taking evidence if such facts or evidence has been asserted or offered late by a party and if after thoroughly considering all circumstance there remains no reasonable doubt that this happened to delay the proceedings and that admitting such evidence would substantially delay the completion of the proceedings.

Art. 34

d) Assessment of monetary payments

If it is certain that a party is entitled to the payment of money but it is impossible or would only be possible with disproportionate effort to ascertain the amount, the court may on application or ex officio assess the amount in its free view, even refraining from taking evidence offered.

Art. 35[12]

e) Supplementary law

Unless ordered otherwise, the provisions of the Code of Civil Procedure on the use of technical equipment for the transmission of words and images during the taking of evidence, on the taking of evidence by a requested or instructed judge, on the separate questioning of parties or witnesses, on the questioning of minors, on the taking of evidence abroad, and on individual means of evidence shall be applied mutatis

12 Art. 35 amended by LGBl. 2021 no. 228.

mutandis, with the exception of the provisions on the communality of evidence, on the continuation of proceedings without regard to outstanding taking of evidence, and on the examination of a witness or party under oath.

C. Rulings

Art. 36

Principles concerning decisions

1) The court shall decide in the form of rulings. These shall be rendered in writing; if at least one party is present, they may also be announced orally.

2) The court may also decide on the merits of claim by interim ruling and on part of the case by part ruling.

3) Every ruling shall be issued within the framework of the subject of the proceedings; in this, the interests of the parties and their declaration of intent effective under civil law in legal transactions shall be considered.

4) In proceedings that may only be initiated on application, rulings shall be worded within the framework of the applications. In proceedings that may also be initiated ex officio, the court's decision shall not be limited by what the parties have applied for.

Art. 37

Time-limit for performance

1) A performance may only be imposed if it is already due at the time the ruling is issued or if regulating a legal relationship requires the awarding of performances that are not already due.

2) As far as this is necessary, the court shall lay down an adequate term or time-limit for its directions to be carried out. § 409(3) to (5) Code of

Civil Procedure shall apply to the calculation of the time-limit mutatis mutandis.

Art. 38

Issuing and service of rulings

Rulings shall be issued in writing and served upon all parties known as per the court file. Any rulings announced orally shall be issued in writing unless the right to appeal and the right to receive a written issue of the ruling have been waived. In matters of civil status, any waivers of written issuing and of the service of rulings in the matter are ineffective.

Art. 39

Content of issued rulings

1) The written issue of a ruling shall contain the following:

a) the designation of the court and of the case;

b) the first and last names of the parties, their addresses, and their representatives; in matters of civil status, also their dates and places of birth and their citizenship;

c) the subject of the proceedings;

d) the verdict;

e) the grounds for the decision.

2) The verdict and the grounds shall be separated by appearance. Any time-limits or points in time determined to fulfil any directions that are given as well as the preliminary awarding of binding nature or enforceability shall be included in the verdict.

3) The grounds shall include the applications of the parties, the findings of fact that are legally relevant, the valuation of evidence, and the legal assessment.

4) Stating grounds may be refrained from if applications of the parties for the same are being granted, the ruling is in accordance with the declared wishes of all parties, or the ruling is announced orally in the presence of all parties and all parties have waived their right to appeal.

5) The written version of the ruling (original) intended for the court files shall be signed by the judge or registrar, and in matters for a court composed of several judges, by the presiding judge.

Art. 40

Court bound by rulings

The court shall be bound by its rulings as soon as they have been announced orally; if there is no announcement, upon handing in the written version for issuing; however, the court shall be bound by procedural rulings only as far as these are subject to separate appeal.

Art. 41

Supplementation and correction of rulings

The provisions of the Code of Civil Procedure concerning the supplementation and correction of decisions shall apply mutatis mutandis.

Art. 42

Finality

A ruling becomes final with regard to a party as soon as it can no longer be appealed by such party.

Art. 43

Effects of rulings

1) As soon as a ruling has become final, it shall become enforceable, and any declaration or modification of rights that it contains shall become binding.

2) However, if as a result of the nature of a legal relationship or as a result of provisions of the law, the effect of a ruling extends to all parties of record, its effects shall only occur if it can no longer be appealed by any party.

3) If a time-limit for performance or a time of maturity has been laid down in a ruling, the ruling shall not become enforceable until the time-limit for performance has expired / the due date has passed.

4) Where the right to appeal a ruling that has been announced orally has been waived but a written copy of the ruling is to be served, the effects of the ruling shall occur only after it has been served.

5) Procedural rulings shall be binding upon the party as soon as they have been announced orally (if so), and otherwise upon service of their written issue.

Art. 44

Preliminary awarding of binding effect or enforceability

1) Unless the matter is about civil status, the court may preliminarily award binding effect or enforceability to a ruling as far as it considers this to be necessary to prevent substantial disadvantages for a party or for the general public.

2) The preliminary effects of the ruling shall occur as soon as the ruling on their awarding has been served and shall continue until the decision on the case has become final, even if the ruling has meanwhile been set aside or replaced by another ruling.

3) The decision on awarding may be modified, in particular if there is the risk of more substantial disadvantages to an appellant that cannot be removed once his or her appeal is successful. The court of appeal is the court of competent jurisdiction for such decisions after the appeal has been lodged.

4) Decisions on preliminary binding effect or enforceability shall not be subject to appeal.

D. Appeal

Art. 45

Admissibility of appeal

1) Rulings of the court of the first instance may be challenged by appeal to the court of the second instance (court of appeal).

2) Procedural rulings may only be appealed with an appeal against the decision in the case, unless it has been ordered that they shall be subject to separate appeal.

Art. 46

Period for appeal

1) The period for appeal shall be four weeks. It shall start running upon service of the written issue of the ruling that is subject to separate appeal.

2) A party that is not of record upon whom the ruling has not been served may lodge an appeal until such time as a party of record may lodge an appeal or submit a reply to appeal.

3) Rulings shall be subject to challenge after the period for appeal has expired if their alteration or cancellation is not connected with any disadvantages for any other person.

Art. 47

Form and contents of appeal

1) The appeal shall be lodged by submitting a written submission to the court of the first instance; parties who are not represented by a lawyer may also put the appeal on record orally.

2) In addition to meeting the general requirements for a submission, the appeal shall include the designation of the ruling against which it is lodged.

3) The appeal need not contain a specific application but shall indicate with sufficient clarity for what reasons the party considers itself aggravated and what different decision it desires (appeal petition); if in doubt, the ruling against which an appeal has been lodged will be considered appealed as a whole. Art. 9 shall not be applied.

Art. 48

Reply to appeal

1) If an appeal is lodged against a ruling by which the case or the costs of the proceedings have been decided upon, a copy of the appeal shall be served upon all other parties of record.

2) The parties upon whom a copy of the appeal has been served may within four weeks from service to the respective party submit a reply to appeal to the court of the first instance; Art. 47(1) shall be applied mutatis mutandis. As long as a party of record may lodge an appeal or submit a

reply to appeal, the parties that are not of record may also submit a reply to appeal.

3) The other parties shall also be informed of the submission of a reply to appeal by serving a copy to them.

Art. 49

Admissibility of new facts and evidence

1) New facts and evidence submitted in the appeal proceedings shall be taken into consideration as far as they do not have undisputed parts of the ruling as their subject and nothing else results from Art. 55(2).

2) However, facts and evidence that already existed at the time of the ruling in the first instance shall not be taken into account if they could have been submitted by the party even before the ruling was issued, unless the party is able to demonstrate that the delay in pleading (failure to plead) constitutes an excusable error.

3) If the newly submitted facts did not exist at the time of the ruling, they shall be considered only as far as they cannot be made the subject of a new application – with the exception of an application for alteration – without substantial disadvantage.

Art. 50

Appeal decision by the court of the first instance

1) If only one appeal is lodged against a ruling, the court of the first instance may itself grant the appeal if it is directed against:

a) a procedural ruling as far as it is subject to separate appeal;

b) a summary order of punishment;

c) the rejection of an appeal (Art. 67);

d) a ruling by which a decision has been rendered as to the case, if it is evident from the record without any further investigation that the ruling must be set aside and that the possibly underlying application initiating the proceedings must be rejected, or that the ruling must be modified in its entirety as applied for in the appeal petition.

2) The court may issue a ruling pursuant to Para. (1)(d) only once during the proceedings on the same matter.

Art. 51

Submission of files to the court of appeal

1) The court of the first instance shall submit the appeal to the court of appeal with all files concerning the case – doing so, as far as provided for, after the reply to appeal or the unsuccessful expiry of the time-limit set for such reply – unless the court of the first instance grants the appeal itself (Art. 50).

2) If the contents of an appeal or of a reply to appeal gives rise to an act to be carried out by the court of the first instance, such act shall be carried out before submission; if defects of service are alleged, the necessary investigation shall be carried out before.

3) If the case has not been resolved or not been entirely resolved by the ruling that is subject to appeal, and if the proceedings on the as yet unresolved issues are to be continued during the appeal proceedings, the court of appeal shall be provided with copies or originals of those parts relating to the subject of the appeal proceedings of the files that are simultaneously required for the proceedings in the first instance.

Art. 52

Proceedings before the court of appeal

1) The court of appeal shall carry out an oral appeal hearing if it considers this necessary. Even if no reply to appeal is provided for, the court of appeal shall give the parties the opportunity to comment on the submissions of other parties as far as this is necessary to preserve their claim to be heard by a court.

2) If the court of appeal considers deviating from the findings of the court of the first instance, it may only then refrain from re-taking evidence that has directly been taken in the first instance and is relevant for the findings if it has notified the parties in advance that it has concerns about the court of the first instance's valuation of that evidence and provides them with the opportunity to apply for the renewed taking of this evidence by the court of appeal; such evidence may also be taken by a commissioned judge of the court of appeal.

Art. 53

Basis for decision

The court of appeal shall base its decision on the results of the investigation and the findings of fact of the proceedings in the first instance as far as these have not been corrected by the results of the appeal proceedings.

Art. 54

Rejection by the court of appeal

1) The appeal shall be rejected if:

a) it is inadmissible or has been submitted late, as far as Art. 46(3) is not applicable;

b) it does not have the necessary form or contents although mending proceedings have been carried out.

2) An appeal shall be inadmissible in particular if it has been lodged by a person who is not entitled to do so or who has waived the right to appeal.

Decision on the appeal

Art. 55

a) Principles

1) If the appeal does not have to be rejected, the court of appeal shall decide itself in the matter, if necessary after supplementing the proceedings.

2) The court of appeal may only decide within the framework of the appeal petition. In proceedings that may be initiated ex officio however, the court of appeal shall not be bound by the appeal petition; it may also modify the ruling subject to appeal to the disadvantage of the challenging party.

3) If the court of appeal arrives at the conclusion in connection with an admissible appeal that the ruling subject to appeal or the proceedings in the first instance suffer from a defect pursuant to Art. 56(1), 57(a) or 58(1)(a) and (b) as well as Para. (4) that has so far not been taken into account, that defect shall be mended even if none of the parties has asserted it so far.

4) If the court of the first instance has granted an appeal itself and if the court of appeal sets aside that decision of the court of the first instance, it shall at the same time decide on the appeal lodged against the original decision of the court of the first instance.

Art. 56

b) Voidness and referral

1) If the ruling subject to appeal has been issued on a matter which is out of place in non-contentious proceedings, which is not subject to domestic jurisdiction, which has already been decided in a final way, or in which the application has already been withdrawn (waiving the claim), the ruling shall be set aside and the prior proceedings shall be declared void, and the application that may have preceded it shall be rejected.

2) If the ruling subject to appeal has been issued by a court that does not have jurisdiction, it shall be set aside and the matter be remitted to the court of the first instance with proper objective and local jurisdiction.

Art. 57

c) Remittance

The court of appeal may set aside the ruling subject to challenge and, as far as the prior proceedings are affected by the procedural violation, these too, and remit the case for renewed decision and if applicable also supplementation or repetition of the proceedings to the court of the first instance if this will probably reduce the procedural effort and the costs to the parties substantially, and if

a) the wording of the ruling is so defective that it cannot be reviewed with certainty, the ruling contradicts itself, or - except for the cases of Art. 39(4) - the ruling does not include grounds, and these defects cannot be mended by correcting the ruling,

b) the public has been excluded unlawfully,

c) the factual applications have not been fully resolved by the ruling subject to appeal, and the decision cannot be confirmed or altered as a part ruling,

d) the proceedings in the first instance suffer from substantial defects preventing the thorough discussion and assessment of the matter,

e) according to the contents of the files, facts that appear to be relevant have not been investigated at all in the first instance, or

f) there are other comparable substantial procedural violations.

Art. 58

d) Priority of own decision

1) If the ruling subject to appeal shall be confirmed even on the basis of what has been stated in the appeal proceedings, the court shall not set aside the ruling but rather render itself a decision on the case, even if

a) a party's right to be heard in court has not been granted,

b) a party has not been represented in the proceedings – and if it requires a legal representative, not by the latter – and the conducting of proceedings has not been approved retroactively, or

c) contrary to special provisions of the law, there have been no oral proceedings.

2) The conducting of proceedings has been approved retroactively in particular if the legal representative enters into the appeal proceedings by lodging an appeal or submitting a reply to appeal without asserting the defect of lack of representation.

3) If a decision pursuant to Para. (1) is out of the question and the ruling subject to appeal cannot be altered without further investigation, either, then the ruling and the preceding proceedings – as far as these are concerned by the procedural violation – shall be set aside, and the case shall be remitted to the court of the first instance for renewed decision, if applicable after supplementing or repeating the proceedings.

4) The court shall in any event set aside the ruling subject to appeal and proceed pursuant to Para. (3) if:

a) an excluded or successfully challenged judge or registrar has decided,

b) a registrar has decided instead of a judge; or

c) the composition of the court was not as prescribed.

Art. 59

Verdict of the court of appeal on appeal

The court of appeal shall rule in the notice on appeal whether an appeal on points of law in terms of Art. 62 is admissible or inadmissible.

Art. 60

Written appeal decision

1) The written issue of the appeal decision shall also include the names of the judges who have taken part in the decision.

2) In the written issue of the decision, the court of appeal may limit the rendition of the parties' pleadings and of the factual basis for decision to what is required for understanding the court's legal comments. As far as the court of appeal considers the appeal pleadings to be unsound but considers the grounds of the ruling subject to appeal that are challenged by those pleadings to be correct, it may limit itself to pointing out that it considers the grounds to be correct, together with brief grounds for its assessment.

Art. 61

Binding effect of court of appeal's legal assessment

The court which a case is remitted to for carrying out the proceedings or decision once again as a whole or in part due to a ruling of the court of appeal shall be bound by the legal assessment on which the court of appeal has based its ruling.

E. Appeal on points of law

Art. 62

Admissibility of appeal on points of law

1) Subject to Para. (2) and (3), a ruling of the court of appeal issued in the course of the appeal proceedings shall be subject to appeal on points of law.

2) An appeal on points of law shall be inadmissible if the rulings of the court of the first instance and of the court of appeal are identical, with the exception of rulings on matters pursuant to Art. 1(2)(a) (child care proceedings), (b) (guardianship proceedings), (d) (divorce on joint request), (i) (proceedings concerning care-related hospitalisation), (k) (proceedings concerning stays in residential or care institutions), and in proceedings on the right of succession (Art. 161).[13]

3) However, an appeal on points of law shall be inadmissible in any event:

a) concerning the decisions as to costs;

b) concerning legal aid; and

c) concerning the fees.

Art. 63

Appeal against the decision on the admissibility of appeal on points of law

A decision of the court that an appeal on points of law is inadmissible shall not be subject to (separate) appeal.

Art. 64

Challenging the ruling to set aside

1) A ruling by which the court of appeal set aside a ruling of the court of the first instance and instructed it to decide anew after supplementing the proceedings shall be subject to challenge only if the court of appeal has decided that an appeal on points of law is admissible. The court of appeal may only decide so if it considers the requirements stated in Art. 62 met. Such decision may be issued ex officio or on application and shall come with brief grounds.

2) If a decision pursuant to Para. (1) is taken, the proceedings in the first instance may be continued only after the ruling to set aside has become final.

13 Art. 62(2) amended by LGBl. 2021 no. 221.

Art. 65

Time-limit, form, and contents of appeal on points of law

1) The term for the appeal on points of law shall be four weeks. It shall start upon service of the decision of the court of appeal. A party that is not of record upon whom the ruling has not been served may lodge an appeal on points of law until such time as a party of record may lodge an appeal on points of law or submit a reply to an appeal on points of law.

2) The appeal on points of law shall be lodged by written submission to the court of the first instance; it cannot be put on judicial record orally.

3) In addition to meeting the general requirements for a submission, the appeal on points of law shall include the following:

a) the designation of the ruling against which the appeal on points of law is directed;

b) a specific statement to what extent the ruling is being challenged, a specific and brief list of the grounds of contestation, and a statement whether a cancellation or modification of the contested ruling is applied for, and if the latter, what modification;

c) the actual pleadings and the evidence by which the grounds for the appeal on points of law are to be demonstrated;

d) as far as the appeal on points of law is based on Art. 66(1)(d), the grounds – without long-windedness – for which the legal assessment of the case appears to be incorrect;

e) the signature of the appellant or the appellant's representative (if applicable)

Art. 66

Grounds for appeal on points of law

1) Only the following may be asserted in an appeal on points of law:

a) that a case of Art. 56, 57(a) or Art. 58 applies;

b) that the appeal proceedings suffer from a defect that was suitable to prevent the thorough discussion and assessment of the case;

c) that concerning a major point, the ruling of the court of appeal uses a factual basis that contradicts the files of the first or the second instance;

d) the ruling of the court of appeal is based on an incorrect legal assessment of the case.

2) New facts and evidence may only be submitted to support or defend against the grounds for the appeal on points of law.

Art. 67

Rejection of appeal on points of law

An appeal on points of law that is inadmissible for other reasons than lacking the requirements of Art. 62 shall be rejected by the court of the first instance, or by the court of the second instance if applicable.

Art. 68

Reply to appeal on points of law

1) If an appeal on points of law is lodged against a ruling by which a decision on the merits of a case is rendered, and if the court of the first instance does not find a reason for rejection, one copy each shall be served upon all other parties. These parties may submit a written reply to the appeal on points of law within four weeks; Art. 65(1) second sentence, Para (2) second part sentence, Para. (3)(c) to (e), and Art. 66(2) shall be applied mutatis mutandis.

2) Objections to the effect that the appeal on points of law is out of time or inadmissible cannot be asserted by appeal but only in the reply to the appeal on points of law.

3) With an appeal on points of law that has been ruled by the court of appeal to be admissible, the time-limit for replying to the appeal on points of law shall start upon service of the copy of the appeal on points of law by the court of the first instance.

4) The reply to the appeal on points of law shall be submitted:

a) to the court of appeal, if the latter has given the other parties of record the option pursuant to Art. 63(5) to submit a reply to appeal on points of law;

b) to the Supreme Court, if the latter has given the other parties of record the option pursuant to Art. 71(2) to submit a reply to appeal on points of law;

c) to the court of the first instance in all other cases.

5) The other parties shall be informed of the submission of a reply to the appeal on points of law by having a copy served upon them.

Art. 69

Submission of the files to the Supreme Court

1) Where an appeal on points of law does not have to be rejected by the court of the first instance already, it shall submit the files.

2) The court of the first instance shall submit the appeal on points of law to the court of the second instance with all files concerning the case, doing so, as far as provided for, after receiving the reply to appeal or upon the unsuccessful expiry of the time-limit set for such reply; the court of the second instance shall add these files to the files of the appeal proceedings and then forward them all to the Supreme Court.

Art. 70

Decision on the appeal on points of law

1) The Supreme Court may decide on the ruling subject to appeal only within the framework of the petition in the appeal on points of law. In proceedings that may be initiated ex officio however, the Supreme Court shall not be bound by the petition; it may also modify the ruling subject to appeal to the disadvantage of the challenging party.

2) In an appeal on points of law pursuant to Art. 64, the Supreme Court may itself decide on the matter if the matter is ready for decision.

3) If the ruling of the court of appeal must be set aside, the Supreme Court shall remit the case to the court of appeal if only the proceedings in the second instance require supplementation. If however the proceedings in the first instance require supplementation or suffer from a defect to be handled ex officio, the ruling of the first instance shall be set aside, too, and the matter remitted to the first instance.

4) The Supreme Court may also set aside a ruling of the court of appeal and remit the case to the latter for renewed decision if in an appeal on points of law for final decision on the claim, it turns out to be necessary to examine individual bases for the claim or carry out detailed calculations.

Art. 71

Proceedings before the Supreme Court

1) If the Supreme Court does not find during the first review that an appeal on points of law must be rejected for lack of the requirements of Art. 62, it shall inform the appellee that it is free to reply to the appeal on

points of law. The courts of the first and second instance as well as the appellant shall be informed of this notification. After this notification has been received, the court of appeal shall submit to the Supreme Court its files on these proceedings.

2) In the written issue of the decision, the Supreme Court may limit the rendition of the parties' pleadings and of the factual basis for decision to what is required for understanding the court's legal comments. If the Supreme Court confirms the decision of the court of appeal and considers the latter's grounds to be correct, it shall be sufficient that the Supreme Court point out their correctness. If the Supreme Court assesses that an asserted defectiveness or contrariness to the record does not apply, such assessment need not be provided with grounds.

3) As far as nothing to the opposite has been ordered, the provisions on appeal with the exception of Art. 50(1)(d) shall be applied mutatis mutandis.

F. Application for modification

Art. 72

Admissibility of application for modification

If the effects of a ruling cannot be removed by initiating other court proceedings, the modification of such ruling may be applied for pursuant to the following provisions.

Art. 73

Grounds for the application for modification

1) After a ruling has become final by which a decision on the case was rendered, the modification of such ruling may be applied for if:

a) the party requires a legal representative and was not represented by such, and the conduct of proceedings has not been approved retroactively;

b) the decision has been rendered by an excluded or successfully challenged judge or registrar;

c) the requirements pursuant to § 498(1)(1) to (5) Code of Civil Procedure are met;

d) a party finds or is put in a position to use a decision that is already final and was rendered earlier on the matter, such decision regulating the legal relationship between the parties of the proceedings underlying the ruling to be modified; or

e) the party obtains knowledge of new facts or finds or is put in a position to use evidence the assertion and use of which in the prior proceedings would have led to a decision more in its favour.

2) There shall be no ground for modification pursuant to Para (1)(a) to (c) if the circumstance used as the basis for the application for modification could already have been asserted or was unsuccessfully asserted in the prior proceedings.

3) A ground for modification pursuant to Para. (1)(d) and (e) shall only apply if the party was unable without its fault to assert the finality of the decision or the new facts or evidence in the prior proceedings.

Art. 74

Time-limits for the application for modification

1) The application for modification shall be submitted within four weeks.

2) This time-limit shall be calculated from the date on which:

a) the decision was validly served upon the party (Art. 73 – 1 – – a);

b) the party obtained knowledge of the reason for exclusion (Art. 73 – 1 – – b);

c) the criminal judgment or the ruling discontinuing criminal proceedings became final (Art. 73 – 1 – – c); or

d) the party was able to use the final decision or plead the facts and evidence in court that have become known to it (Art. 73 – 1 – – d – and – e).

3) If before the application for modification, an appeal was lodged by a party that is not of record to remove the effects of the ruling or any other application was submitted for that purpose, and if such application or appeal has been rejected, the four-week time-limit shall start running only after the ruling for rejection has become final.

4) Under no circumstances shall the time-limit start running before the ruling that is to be modified has become final.

5) After ten years have passed from the decision's finality, an application for modification may only be submitted in the cases of Art. 73(1)(a).

Art. 75

Form and contents of the application for modification

1) In addition to meeting the general requirements of a submission, the application for modification shall include the following:

a) the designation of the ruling the modification of which is applied for;

b) the reasons why modification is being applied for;

c) information on the circumstances demonstrating compliance with the time-limit of Art. 74.

2) The application shall indicate what different decision is striven for. Art. 9(2) and (3) shall be applied.

Art. 76

Jurisdiction for modification proceedings

The application for modification shall be submitted to the Court of Justice (*Landgericht*). The latter shall decide on the application for modification, even if the ruling that is to be modified was issued by a court of a higher instance.

Art. 77

Decision on the application for modification

1) If the application for modification is inadmissible, the court shall reject it.

2) If a reason for modification applies, the ruling shall be modified within the framework of the application as far as the ruling is affected by the reason for modification. Rulings may be modified to the disadvantage of the party requesting the modification only in proceedings that may also be initiated ex officio. Otherwise, the application for modification shall be dismissed if no decision that is more favourable for the applicant is to be issued.

3) The modification of rulings modifying legal relationships shall have no retroactive effect towards third parties.

G. Reimbursement of costs

Art. 78

Absolute liability, equity

1) As far as nothing to the opposite has been expressly ordered in this Act or in any other legal provisions, the court shall without further investigation and after a thorough valuation of all circumstances rule to what extent a reimbursement of costs is imposed. This shall be decided in every ruling resolving the matter unless the court of the first instance has reserved the decision as to costs until the matter has been resolved in a final way.

2) A party shall be reimbursed for the costs necessary for the proper pursuit or defence of rights as far as such party has been successful in its pursuit or defence of rights against other parties who have pursued opposite interests. This may only be deviated from as far as such deviation is equitable, in particular as a result of the factual or legal difficulty of the case or because of special efforts caused by the conduct of individual parties.

3) As far as they do not result in claims for reimbursement, the cash expenditures listed in § 43(1) third sentence Code of Civil Procedure shall be imposed on the parties pro rata to their respective share in the subject of the proceedings, and if such shares cannot be assessed, in equal parts subject to special efforts caused by the conduct of individual parties. Otherwise, the parties shall bear their costs themselves.

4) The provisions of the Code of Civil Procedure shall be applied mutatis mutandis to the listing of costs and the calculation of interest on costs.

H. Enforcement of decisions

Art. 79

Coercive measures in the proceedings

1) The court shall enforce by adequate coercive measures any orders that are necessary for the progress of the proceedings against persons who do not comply with them.

2) The following coercive measures shall be eligible in particular:

a) fines, also to enforce acts that can be carried out by third parties; Art. 259 of the Execution Act (EO) is applicable mutatis mutandis to the amount of such fines;

b) coercive detention, which may only be imposed with acts, sufferings, or omissions that cannot be carried out by third parties and only up to a total period of six months;

c) compulsory attendance;

d) taking away documents, information items, and other movable items;

e) appointment of guardians to carry out at the expense and risk of a person in default any acts that can be carried out by third parties.

Art. 80

Enforcement

Unless anything to the opposite has been ordered, decisions shall be enforced pursuant to the Execution Act.

II. Proceedings in matters concerning marriage, children, and guardians

A. Parentage

Art. 81

Acknowledgement of paternity

1) Acknowledgements of paternity and any declarations in connection with this shall be recorded in writing by the court.

2) The record on the acknowledgement shall include:

a) the express acknowledgement of paternity

b) the first and last name, date and place of birth, nationality, profession, address, and membership to an officially recognised religious community of the acknowledging person, and if possible a reference to the entry in such person's Register of Births; and

c) - as far as known - the first and last names, dates and places of birth, nationalities, professions, and addresses of the child and of the mother, and if possible references to the entries in their Registers of Birth.

3) The court shall provide the competent civil register authority with copies of the declarations certified by the court or of the certified declarations handed over to it for forwarding.

4) The above rules shall apply mutatis mutandis to the acknowledgement of maternity, as far as this is eligible pursuant to foreign law.

Special procedural provisions in parentage proceedings

Art. 82

a) Application and parties

1) Unless anything to the opposite has been ordered, proceedings on parentage are initiated only on application.[14]

2) In proceedings on parentage, the child, the person whose parentage may be established, removed, or re-established by the proceedings, and the other parent of the child – as far as such other parent has capacity of understanding and taking decisions – shall under all circumstances be parties to the proceedings.

3) In proceedings on parentage of minor children, the claims of the minor child for maintenance shall not be taken into consideration when taking the decision on legal aid.

Art. 83

b) Principles of the proceedings

1) Parentage proceedings shall be oral.

14 Art. 82(1) amended by LGBl. 2014 No. 200.

2) An application shall ex officio be declared to have been withdrawn without waiving the claim as far as the request has been fulfilled in any other way than by a decision of the court, in particular by acknowledgement of parentage, and the applicant does not object to this after having been instructed by the court. If the proceedings are about a declaration on non-parentage, the court shall at the respondent's request declare the application to have been withdrawn without waiving the claim if the applicant fails to appear at the oral hearing. This legal consequence shall be pointed out to the applicant in the summons.

3) Settlements or decisions on the basis of an acknowledgement shall be inadmissible. Art. 17 may only be applied as far as this is in the best interests of ascertaining the parentage of a minor child.

4) There shall be no reimbursement of costs in proceedings on the parentage of minor children.

5) In parentage proceedings, the time-limit of Art. 74(4) shall be 30 years. Decisions on the case shall always come with grounds. If the decision is for the declaration of parentage, it shall if possible include the information of Art. 81(2)(b) and (c).

Art. 84

Handling of several applications

1) Several proceedings concerning the parentage of the same child shall if possible be joined and be resolved by a single decision.

2) If the declaration of parentage under the applicable substantive laws requires the declaration of non-parentage from another person, then:

a) joining the proceedings pursuant to Para. (1) is admissible only if the application for a declaration of parentage has been submitted before the decision of the first instance concerning the declaration of non-parentage.

b) the court shall instruct a party applying for the declaration of parentage without an application for the declaration of non-parentage having been submitted as to the legal situation, and shall if necessary interrupt the proceedings for no longer than two years.

c) the ruling declaring parentage does not take effect before the finality of the ruling declaring non-parentage.

3) If claims against several persons are asserted for the declaration of parentage, and if applicable substantive law permits only the declaration of parentage from one of these persons, the court shall combine the ruling

on the declaration of parentage from one person with the dismissal of the applications for the declaration of parentage from the other persons. The ruling on the dismissal of the applications can only be challenged and become final by appeal and applications for modification together with the ruling on the declaration of parentage.

Art. 85

Duty to cooperate

1) As far as this is necessary to ascertain parentage, the parties and all persons who according to the results of the proceedings are able to contribute to clarifying the facts shall cooperate in the establishment of the facts by an expert appointed by the court, in particular in the necessary obtainment of tissue samples, body fluids, and blood samples.

2) The duty to cooperate does not apply as far as it would be connected with serious or permanent danger to life or health. Before evidence is taken, the court shall instruct the persons requested to cooperate as to the reasons for refusal and request their comment. Any refusal shall be decided upon in a special ruling that is subject to separate appeal. In the event of lawful refusal, the court shall order a method of determining parentage that is not connected with the danger listed.

3) In order to obtain tissue samples by methods in which physical integrity is not violated, the court shall if necessary order that the person in question be brought before the court and that adequate direct force be applied. The Liechtenstein Police is obliged to provide assistance in this. The person obliged to cooperate shall pay the costs of being brought before the court and of coercion. When the tissue samples are no longer needed and the person whom they have been taken from so requests, they shall be destroyed.

4) As far as the necessary evidence cannot be provided pursuant to the above paragraphs and no provisions of special law require otherwise, the court may demand from anyone to hand over the necessary tissue samples, body fluids, and blood samples of the persons listed in Para (1), even if the persons in question have already died.

B. Adoption

Declarations of consent

Art. 86

a) Principles

1) Declarations of consent to adoption shall be made personally and in court. In the event that this would be connected with disproportionate effort or cost, or that judicial proceedings have not been initiated yet, consent may be declared in a document, the signature having to be certified.

2) It shall be admissible to grant power of attorney for making the declaration of consent in a document, the signature having to be certified.

3) The adopted child and the adopting person shall be designated specifically in the declaration of consent pursuant to Para (1) and in the power of attorney pursuant to Para (2). If notice of the name and residence of the adopting person and service of the ruling of approval are waived (Art. 88 – 1), the adopting person need not be stated.

4) If such a waiver is made in a written document pursuant to Para (1) or in a power of attorney pursuant to Para (2), the respective signatures shall be certified. A declaration of consent that includes such a waiver may also be made personally before the court. In this, the person making the waiver shall be instructed about the consequences of such declaration.

Art. 87

b) Revocation

1) Consent may be revoked in writing or before the court until the decision in the first instance (Art. 40).

2) If proceedings on the approval of adoption are already pending, the revocation of a declaration of consent shall be submitted to the court. If the declaration of consent was made before or delivered to an institution arranging the adoption, revocation may also be declared to such institution. The institution shall be obliged to forward the revocation to the court forthwith.

3) Declarations of consent shall remain in effect as long as they have not been revoked and may also form the basis for later proceedings.

Art. 88

Incognito adoption

1) The parties to the agreement may by identical applications make the approval of the adoption of a minor contingent upon all or individual parties that have authority of consent or to be heard – with the exception of the Office of Social Services – waive the notification of the name and residence of the adopting person as well as service of the ruling of approval.

2) At the waiving party's request, the personal and economic situation of the adopting person shall be described to such party in general terms.

3) The written issue of the ruling served upon the waiving parties must not include any indication of the name or residence of the adopting person.

4) If the condition of Para (1) is not met, the application shall be dismissed.

Art. 89

Approval

The ruling of approval shall include the following in addition to what is stated in Art. 39:

a) the verdict on the approval of adoption;

b) the verdict on the expiry of the legal relations of the adopted child to a natural parent and on the time such expiry becomes effective, provided that consent to such expiry exists;

c) the first and last names of the adopting parents and the adopted child, the date and place of their birth, their nationalities, their membership to an officially recognised religious community, and a reference to the respective entries in the Register of Civil Status;

d) the date on which adoption takes effect;

e) on application, other information required for the full registration of adoption by foreign civil register authorities.

Special procedural provisions

Art. 90

a) Hearing and other procedural principles

1) The following shall be heard before approving the adoption of a minor child:

a) the minor child, applying Art. 105 mutatis mutandis; and

b) the Office of Social Services.

2) In proceedings on adoption, applications for modification shall be inadmissible, and there shall be no reimbursement of costs. Art. 104 shall be applied mutatis mutandis.

Art. 91

b) Cancellation of adoption

In the cancellation of adoption, Art. 88 and 90(2) shall be applied mutatis mutandis.

C. Recognition of foreign decisions on adoption

Art. 91a

Recognition and reasons for denial

1) A foreign decision on adoption shall be recognised in Liechtenstein if it is final and no reason to deny recognition applies. Recognition can be assessed separately as a preliminary question without special proceedings being required.

2) Recognition of the decision shall be denied if:

a) it is obviously contrary to the child's best interests or other fundamental values of the Liechtenstein ordre public;

b) any of the parties has not been heard in court, unless such party obviously agrees with the decision;

c) the decision is incompatible with a Liechtenstein decision or with an earlier decision meeting the requirements for recognition in Liechtenstein;

d) the deciding authority would not have had international jurisdiction if Liechtenstein law had been applied.

3) Furthermore, recognition shall be denied at any time if so applied for by a person whose rights of consent under the governing law have not been respected, in particular because such person did not have the opportunity to participate in the proceedings of the country of origin.

Art. 91b

Recognition proceedings

1) Recognition of the decision in separate proceedings may be applied for by anyone who has a legal interest in this.

2) The application shall be submitted with a copy of the decision and with proof of its finality under the laws of the country of origin. If a party who has not applied for recognition has not entered an appearance in the proceedings in the country of origin, proof of service of the document that served to include such party in the proceedings or a document that demonstrates that such party obviously agrees with the foreign decision shall also be submitted.

3) The court shall include the adopting parents and the adopted child in its proceedings, but not any other persons who participated in the foreign proceedings on the adoption of the child.

4) If an appeal is directed against a decision in the first instance, the time-limit for appeal and reply to appeal shall be four weeks. If the habitual abode of a party who has not applied for recognition is located abroad, and if an appeal or reply to appeal is that person's first opportunity to participate in the proceedings, the time-limit of such party for the appeal or the reply to appeal shall be eight weeks.

Art. 91c

Application for non-recognition

Art. 91a and 91b shall be applicable mutatis mutandis to applications by which the non-recognition of foreign decisions on adoption is asserted.

Art. 91d

Priority of international law

Art. 91a to 91c shall not be applied as far as anything to the opposite has been laid down in international law.

D. Legitimation by the Prince

Art. 92[15]

Repealed

E. Matters concerning marriage

Special procedural provisions

Art. 93

a) Parties and representation

1) In proceedings on divorce on joint request, the parties may have themselves represented. Representation of both parties by the same layer or representative shall be admissible if the parties have agreed on all ancillary consequences of divorce. If this is not the case, the lawyer or representative must no longer represent the two parties in these proceedings.

2) In proceedings on divorce on joint request, only the spouses shall be parties.

3) If possible, any creditors shall be included in the proceedings pursuant to Art. 86 of the Marriage Act no earlier than by service of the decision in the first instance.

15 Art. 92 repealed by LGBl. 2014 No. 200.

Art. 94

b) Application for divorce, hearing, and withdrawal of application

1) The application for divorce on joint request shall be submitted in writing to or be put on record orally with the Court of Justice (*Landgericht*). It shall include information on:

a) the place and time of marriage;

b) the institution where the marriage was recorded, and if possible the registration number;

c) the last joint and the current habitual abode;

d) nationality;

e) occupation;

f) the dates of birth;

g) membership to a religious community;

h) the names and dates of birth of the children;

i) the spouses' former marriages;

k) any marriage contracts that have been entered into.

2) The proceedings on divorce on joint request shall be oral. The court shall carry out the hearing pursuant to Art. 50 of the Marriage Act and instruct the spouses as to the purpose and significance of the hearing.

3) If one applicant fails to appear at the oral hearing in the proceedings on divorce on joint request, the application shall ex officio be declared withdrawn.

4) Each spouse may withdraw the application for divorce on joint request until the divorce ruling (Art. 43) has become final. If the application is withdrawn, this shall have the consequence that a divorce ruling that has already been issued becomes ineffective; the court of the first instance shall declare this by way of a ruling. The same shall apply if a spouse dies before the divorce ruling has become final.

Art. 95

Regulation of the ancillary consequences of divorce

1) If a party is not represented by a lawyer in proceedings on divorce on joint request, and if such party has not obtained advice on the all the consequences of divorce, including the consequences under social insurance law and the requirements of a verdict on liability for loans, then

the court shall point out to such party possible advisory services and generally point out to such party the adverse effects that may occur as a result of insufficient knowledge of such consequences. The party shall be given the opportunity to obtain such advice. The proceedings shall not be adjourned another time for this reason. The court shall schedule the next hearing for a date and time within six weeks if possible.

2) If the spouses do not submit an agreement by which they regulate the consequences of divorce, the court shall instruct them to enter into such an agreement. As long as no agreement on the consequences of divorce is available in writing, any waiver of withdrawing the application for divorce and any waiver of appeal against the ruling for divorce shall be ineffective.

3) If despite a request of the judge, there are no applications of the spouses to such effects, in particular in terms of Art. 51(3) of the Marriage Act, the application for divorce on joint request shall be dismissed by the court.

4) Any later adjustments of maintenance payments or retirement pensions of the divorced spouses on the basis of changed circumstances shall be settled in contentious proceedings.

Art. 96

Ruling for divorce

1) The court shall render the decision for divorce on joint request by way of a ruling and approve the agreement submitted by the spouses concerning maintenance, the assignment of the marital apartment, the distribution of chattels, the distribution of the assets gained during the marriage, and the distribution of the termination benefits from occupational benefits insurance if the hearing makes it evident that both spouses have taken the decision for divorce by their free will and following through consideration, and if the submitted agreement is not manifestly inappropriate.

2) The court shall – also by way of a ruling – approve the submitted agreement concerning maintenance, child custody and – in the case of joint custody – child care, and concerning personal contact between one parent and the children.[16]

3) Grounds shall be provided for the ruling.

16 Art. 96(2) amended by LGBl. 2014 No. 200.

4) The verdict for divorce shall have the effect that the marriage is dissolved as soon as the ruling has become final.

5) If the spouses have applied for a verdict in terms of Art. 86 of the Marriage Act, this shall if possible be connected with the ruling for divorce.

6) On application, a written copy of the ruling for divorce without the grounds and without the verdict pursuant to Para. (5) shall be issued to the parties.

F. Recognition of foreign decisions concerning the status of a marriage

Art. 97

Recognition and reasons for denial

1) A foreign decision concerning separation without the dissolution of the marriage, concerning the divorce of a marriage, concerning the declaration of a marriage as invalid, and concerning the declaration that a marriage exists or does not exist shall be recognised in Liechtenstein in terms of Art. 89 of the Persons and Companies Act if such decision is final and no reason to deny recognition applies. Recognition may be assessed separately as a preliminary question without special proceedings being required.

2) The institution which has jurisdiction for recognition shall be the government. Subject to appeal to the government as a whole, the government may transfer this task to an office for autonomous handling. Recognition in separate proceedings pursuant to § 61 of the Jurisdiction Act shall remain reserved.

2) Recognition of the decision shall be denied if:

a) it is obviously contrary to fundamental values of the Liechtenstein ordre public;

b) one of the spouses has not been heard in court, unless such spouse obviously agrees with the decision;

c) the decision is incompatible with a Liechtenstein decision or with an earlier decision meeting the requirements for recognition in Liechtenstein, by which decision the marriage in question was separated, divorced, declared invalid, or declared to be existent or non-existent.

d) the deciding authority would not have had international jurisdiction if Liechtenstein law had been applied.

Art. 98

Recognition proceedings

1) Recognition of the decision in separate proceedings may by applied for by anyone who has a legal interest in this. The Public Prosecutor may submit an application if the decision is based on a reason for invalidity similar to Art. 29 to 38a of the Marriage Act.

2) The application shall be submitted with a copy of the decision and with proof of its finality under the laws of the country of origin. If the respondent has not entered an appearance in the proceedings in the country of origin, proof of service of the document initiating the proceedings or a document that demonstrates that such party in default obviously agrees with the foreign decision shall also be submitted.

3) The court may also include the respondent in the proceedings no earlier than by service of the decision. The respondent may submit everything in a possible appeal.

4) If an appeal is directed against a decision in the first instance, the time-limit for appeal and reply to appeal shall be four weeks. If the habitual abode of the respondent is located abroad, and if an appeal or reply to appeal is the respondent's first opportunity to participate in the proceedings, the time-limit of the respondent for the appeal or the reply to appeal shall be eight weeks.

Art. 99

Application for non-recognition

Art. 97 and 98 shall be applied mutatis mutandis to applications by which the non-recognition of foreign decisions concerning the existence of a marriage is asserted.

Art. 100

Priority of international law

Art. 97 to 99 shall not be applied as far as anything to the opposite has been laid down in international law.

G. Maintenance between persons related in the direct line

Art. 101

Special procedural provisions

1) Proceedings concerning claims for maintenance between persons related in the direct line shall be subject to this Act.

2) If the claim for maintenance between persons related in the direct line depends on the result of parentage proceedings, an application for maintenance may be submitted if an application directed at the initiation of parentage proceedings is submitted to the court no later than at the same time. The application for maintenance shall not be decided on before the parentage proceedings have been concluded in a final way.

3) Ordering the payment of not yet payable maintenance shall be admissible if the duty to pay maintenance has already been violated or is about to be violated.

4) In proceedings concerning the assessment, enforcement, and collection of the legal maintenance of minors, the minor child's claims for maintenance shall not be taken into consideration in decisions on legal aid.

Duty to provide information

Art. 102

a) Principles

1) Persons whose income or property is of relevance for the decision on legal maintenance between persons related in the direct line shall provide the court with information on this and make it possible to verify that information.

2) The court may also request information from "*Arbeitsmarkt Service Liechtenstein*" (Liechtenstein Employment Centre) at the Office of Economic Affairs, the respective social security authority, or other institution granting social benefits, asking those about the occupation, insurance, or income situation of persons whose income is relevant for the decision on legal maintenance between persons related in the direct line. If someone does not meet the duties pursuant to Para. (1), that person's employer may also be requested to provide information. If the duty to pay maintenance has been established in terms of merits, and if the court is unable to determine the amount of the maintenance payments in any other

way, it may also request the Tax Administration or other offices to provide information.

3) The Office of Social Services, being the legal representative of wards, shall also have the power to make requests for information pursuant to Para. (1) and Para. (2) first and second sentence.

4) The requests for information shall be worded and structured in such a way that the persons obliged to provide information are enabled to answer in a quick, comprehensive, and verifiable way. The requested persons are obliged to provide the information.

Art. 103

b) Violation of duty to provide information

If a person obliged to provide information has through gross negligence failed to fulfil such duty, the court may on application and at the court's equitable discretion order such person to reimburse the additional costs of the proceedings caused thereby. This shall be pointed out to the person obliged to provide information in the request for information.

H. Regulation of custody and personal contact between parents and minor children[17]

Art. 103a[18]

Initial meeting, mediation

1) In proceedings on an application to regulate custody or care of a minor child or the exercise of the right and the duty to have personal contact with a minor child, the court may first of all schedule a hearing for an initial meeting with the parties. The court shall summon the parties and the minor child – provided that the child has reached the age of 14 years – for that hearing to appear personally.

2) During that hearing, the court shall explain to the parties the legal situation, the course of the proceedings, and the nature and possibilities of mediation. If the application is not already resolved during that hearing, the court may order the parties – unless this appears to be bound to fail

17 Heading before Art. 103a inserted by LGBl. 2014 No. 200.
18 Art. 103a inserted by LGBl. 2014 No. 200.

from the outset – to obtain mediation from a mediator pursuant to the Civil Law Mediation Act in order to come to an amicable arrangement on the subject of the proceedings, and the court shall then pause the proceedings. Such an order shall not be subject to separate appeal. Such an order shall not be an obstacle to ordering provisional measures.

3) Apart from that, Art. 29 shall be applied. The court shall continue the proceedings ex officio if one party submits to it a confirmation from a mediator that mediation has been obtained unsuccessfully.

Art. 104

Special capacity of minors to conduct proceedings

1) Minors who have reached the age of 14 years may act independently in court in proceedings on care and education or on the right to personal contact. As far as the minor's capacity to understand does require this, the court shall ensure at the latest on the occasion of the minor's examination that such minor is able to exercise his or her procedural rights effectively; existing advisory services shall be pointed out to the minor. [19]

2) The power of the minor's legal representative to carry out procedural acts in such minor's name shall remain unaffected. If applications submitted by the minor and by the legal representative do not agree, the contents of all applications shall be taken into consideration in the decision.

3) If a minor who has reached the age of 14 years lacks representation in terms of Art. 6 in proceedings before the Supreme Court on an appeal on points of law, such minor shall on application be granted legal aid by providing the minor with a lawyer without a prior review of the income and property requirements. After the proceedings on the appeal on points of law have ended, the requirements for legal aid shall be reviewed, and a final decision shall be taken on a possible successive payment.

Art. 105

Examination of minors

1) In proceedings on care and education or on the right to personal contact, the court shall hear minors personally. The minor may also be heard through the Office of Social Services or in any other suitable manner – such as by expert witnesses – if the minor has not yet reached the

19 Art. 104(1) amended by LGBl. 2014 No. 200.

age of 10 years, if this is required by the minor's development or health, or if the minor can otherwise not be expected to state his or her serious and uninfluenced opinion.[20]

2) There shall be no examination as far as the examination itself or the delay connected with it in issuing the order would endanger the minor's best interests, or as far as it is obvious in view of the minor's capacity of understanding that a considerate comment on the subject of the proceedings cannot be expected.

Art. 106[21]

Examination of the Office of Social Services

The Office of Social Services may be heard before orders are issued on care and education or on the right to personal contact, and before approving agreements on these matters.

Art. 107

Special procedural provisions

1) In proceedings on custody or on the right to personal contact:[22]

a) the parties shall on application be provided with a written issue of the decision without grounds, or with a document in which the extent is described to which custody is awarded;

b) rulings that have been appealed may also be modified to the disadvantage of the challenging party if this is required in the best interests of the minor concerned;

c) there shall be no modification proceedings.

2) The court may also award custody and the exercise of the right to personal contact on a preliminary basis.[23]

3) In proceedings on custody and on the right to personal contact, there shall be no reimbursement of costs.[24]

20 Art. 105(1) amended by LGBl. 2014 No. 200.
21 Art. 106 amended by LGBl. 2014 No. 200.
22 Art. 107(1) amended by LGBl. 2014 No. 200.
23 Art. 107(2) amended by LGBl. 2014 No. 200.
24 Art. 107(3) amended by LGBl. 2014 No. 200.

4) The costs of judicially ordered mediation pursuant to Art. 103a(2) shall be reimbursed by the State up to an amount laid down by the government by ordinance. In laying down the reimbursement of costs, the government shall take into account the requirement of expert mediation in accordance with the purpose of the proceedings.[25]

5) The costs not reimbursed by the State shall be borne by the parties subject to the contractual arrangements with the mediator.[26]

Art. 108[27]

Special decisions in visiting proceedings

If a minor who has already reached the age of 14 years or a parent not living in the same household as the child expressly refuses the exercise of personal contact, and if instructions on the legal situation and on the fact that the creation or maintenance of personal contact with both parents is generally to the benefit of the minor's best interests, and if an attempt to effect an amicable solution is unsuccessful, the applications to regulate personal contact shall be dismissed without any further review of the contents, and the further enforcement of personal contact shall be refrained from.

Art. 109[28]

Agreements on custody and right to personal contact[29]

The court shall prepare a written record on any agreements on custody or on the right to personal contact or take delivery of such record. The court shall decide without further application whether such agreement is judicially approved. As far as this resolves the subject of the proceedings in terms of merits, the proceedings shall then end without further ado.

25 Art. 107(4) inserted by LGBl. 2014 No. 200.
26 Art. 107(5) inserted by LGBl. 2014 No. 200.
27 Art. 108 amended by LGBl. 2014 No. 200.
28 Art. 109 amended by LGBl. 2014 No. 200.
29 Heading before Art. 109 amended by LGBl. 2014 No. 200.

Art. 110

Enforcement of custody or visiting regulations

1) In proceedings for the enforcement of a judicial or judicially approved regulation of custody or regulation of the right to personal contact, enforcement under the Execution Act shall be excluded.[30]

2) The court shall on application or ex officio order adequate means of coercion pursuant to Art. 79(2). Decisions concerning custody may also be enforced by the court by applying adequate direct coercion.

3) The court may also ex officio refrain from continuing enforcement only if and as long as it endangers the minor's best interests.

4) If so required by the concerned minor's best interests, the court may in enforcing the judicial or judicially approved regulation of custody also ask the Office of Social Services for assistance, in particular by temporarily taking care of the minor. However, direct coercion to enforce the judicial regulation may be exercised only by judicial bodies; these may also seek the assistance of the Liechtenstein Police.

Art. 111[31]

Visiting escort

If this is required by the minor's best interests, the court may call upon a suitable and willing person to provide assistance in the exercise of the right to personal contact (visiting escort). An application for a visiting escort shall include the nomination of a suitable person or institution (visiting escort). The nominated person or institution shall be included in the proceedings; the court shall lay down such person's powers and duties at least in general terms. Coercive measures against the visiting escort shall be inadmissible.

30 Art. 110(1) amended by LGBl. 2014 No. 200.
31 Art. 111 amended by LGBl. 2014 No. 200.

I. Declaration of enforceability of foreign court decisions regulating custody and the right to personal contact[32]

Art. 112

Requirements

1) Foreign court decisions regulating custody and the right to personal contact may only be enforced if the Liechtenstein court has declared them enforceable for Liechtenstein. In this, court settlements and enforceable public documents shall be equivalent to court decisions.[33]

2) A foreign decision shall be declared enforceable if it is enforceable under the laws of the country of origin and no reason to deny the declaration of enforceability applies.

Art. 113

Reasons for denial

1) The declaration of enforceability shall be denied if:

a) it is obviously contrary to the child's best interests or other fundamental values of the Liechtenstein ordre public;

b) any of the parties has not been heard in court in the country of origin, unless such party obviously agrees with the decision;

c) the decision is incompatible with a later Liechtenstein or later foreign decision on custody or visiting rights that meets the requirements for a declaration of enforceability in Liechtenstein;

d) the deciding authority would not have had international jurisdiction if Liechtenstein law had been applied.

2) Furthermore, the declaration of enforceability shall be denied on application of the person who has custody of the child if such person had no opportunity to participate in the proceedings of the country of origin.

32 Heading before Art. 112 amended by LGBl. 2014 No. 200.
33 Art. 112(1) amended by LGBl. 2014 No. 200.

Art. 114

Declaration of enforceability proceedings

1) The application for a declaration of enforceability shall be submitted with a copy of the decision and with proof that it is enforceable under the laws of the country of origin and has been served. If the respondent has not entered an appearance in the proceedings of the country of origin, proof of service of the document initiating the proceedings or a document that demonstrates that the party in default obviously agrees with the foreign decision shall also be submitted.

2) The court may also include the other participants in the proceedings no earlier than by service of the decision and refrain from hearing the child concerned.

3) If an appeal is directed against a decision in the first instance, the time-limit for appeal and reply to appeal shall be one month. If the habitual abode of the respondent is located abroad, and if an appeal or reply to appeal is the respondent's first opportunity to participate in the proceedings, the respondent's time-limit for the appeal or reply to appeal shall be two months.

4) If the foreign decision is not yet final under the rules of the country of origin, the proceedings for declaring that decision enforceable may on application of the respondent be interrupted until the foreign decision is final. If necessary, a time-limit may be set to the respondent for challenging the foreign decision.

5) Enforcement may be applied for at the same time as the declaration of enforceability. The court shall decide on both applications at the same time.

6) There shall be no reimbursement of costs.

Art. 115[34]

Recognition

The above provisions shall be applied mutatis mutandis to applications by which the recognition or non-recognition of court decisions regulating custody and the right to personal contact is asserted.

34 Art. 115 amended by LGBl. 2014 No. 200.

Art. 116

Priority of international law

Art. 112 to 115 shall not be applied as far as anything to the opposite has been laid down in international law.

K. Proceedings on guardianship for disabled persons

Art. 117

Initiation of proceedings

1) The proceedings on the appointment of a guardian for a person who as a result of a mental illness or mental disability requires a legal representative shall be initiated if the disabled person him- or herself applies for the appointment of a guardian or if there are reasonable indications for the necessity of such an appointment, such as due to a notice that such person requires protection.

2) If the mentally ill or mentally disabled person is a minor, the proceedings may be initiated no earlier than one year before that person comes of age; the appointment of a guardian shall not take effect until the person has come of age.

Art. 118

Initial meeting

1) First of all, the court shall – as far as this is reasonable and possible – gain a personal impression of the person concerned. It shall inform that person of the reason and purpose of the proceedings and hear the person on this subject.

2) If the person concerned does not comply with the court's summons, the court may have the person brought before the court with the necessary protection. If appearing before the court is impossible or unfeasible for the person concerned or contrary to such person's best interests, the court shall visit the person.

3) If the court is unable to gain a personal impression of the person concerned because of disproportionate difficulties or costs, the initial meeting may take place by way of mutual legal assistance.

Art. 119

Guardian ad litem

If the proceedings shall be continued on the basis of the results of the first meeting, the court shall effect that the person concerned has a legal counsel in the proceedings if this appears necessary due to the special circumstances of the particular case. If the person concerned does not have a legal or chosen representative, or if the interests of such representative and those of the person concerned contradict each other, the court shall appoint a guardian for the proceedings (guardian ad litem) for the person concerned; the person concerned shall not be limited in his or her legal acts by such appointment. The guardian ad litem shall be removed from office as soon as the person concerned has chosen a suitable representative. If applications submitted by the person concerned, by that person's legal representative, and by the guardian ad litem do not agree, the contents of all applications shall be taken into consideration in the decision.

Art. 120

Preliminary guardian

If so required by the best interests of the person concerned, the court shall with immediate effect and for a period not exceeding the duration of the proceedings appoint a preliminary guardian for such person to handle important matters. The person concerned shall be limited in its legal acts by such appointment only as far as expressly ordered by the court. The appointment may happen before the initial meeting, but only if there is reason to fear that a substantial and irretrievable disadvantage would occur otherwise, and if the initial meeting is then carried out forthwith. Preliminary guardianship shall be subject to the rules on guardianship for disabled persons. Art. 123(a) to (d) and 126 shall be applied mutatis mutandis.

Art. 121

Oral proceedings

1) The proceedings on the appointment of a guardian shall be oral unless this is unnecessary as a result of the proven and undisputed legal incapacity of the person concerned and as a result of the clear factual and legal situation.

2) The person concerned and such person's representative shall be summoned for the oral hearing. The person concerned shall not be summoned if it is certain that such person is utterly unable to follow the proceedings or that such person's best interests would be endangered if he or she were present at the hearing.

3) If it is impossible or unfeasible for the person in question to appear before the court or contrary to that person's best interests, the court shall carry out the oral hearing at the place where the person in question is located. If this does not work, either, the court may also hold the hearing without the person concerned if the latter has already been assessed by an expert witness and an initial meeting has taken place.

4) In the oral hearing, the evidence necessary for the court's declaration – if feasible calling upon persons close to the person concerned – shall be taken; otherwise, the circumstances relevant for the decision shall be submitted.

5) A guardian may only be appointed after calling on at least one expert witness. Expert witnesses may as far as necessary present their findings in the oral hearing; the examination may also be carried out outside the oral hearing. The court must carry out the proceedings orally and discuss the results if there is even the slightest doubt or uncertainty.

6) The results of the taking of evidence shall be discussed in the oral proceedings.

Art. 122

Discontinuation

1) If the court arrives at the conclusion that no guardian is to be appointed, it shall discontinue the proceedings in every phase.

2) A ruling on discontinuation shall only be issued if:

a) the person concerned has already obtained knowledge of the suggestion (Art. 117) or of the proceedings; or

b) it was a court or a public authority which suggested that the proceedings be initiated.

3) The ruling on discontinuation shall be served upon the person concerned and upon such person's representative. Any courts or authorities that suggested the initiation of the proceedings shall be informed of the discontinuation; in this, it shall be ensured that the private or family life of the person concerned is being protected.

Art. 123

Appointment

1) The ruling on the guardian's appointment shall include:

a) the verdict that a guardian is appointed for the person concerned;

b) a description of the affairs to be handled by the guardian;

c) if applicable, to what extent the person concerned is free to dispose or oblige him- or herself autonomously;

d) the designation of the guardian's identity;

e) the reference to the special formal rules for making a will (§ 568 of the General Civil Code);

f) the decision as to costs.

2) Rulings on the appointment of a guardian on application of the person concerned shall always come with grounds.

Art. 124

Service and explanation of the ruling of appointment

1) The ruling on the appointment of a guardian shall be served upon the person concerned personally, upon such person's representative, and upon the guardian.

2) If there is no doubt that the person concerned is unable to even remotely understand the process of service or the contents of the decision, service shall also be effective if the written issue of the ruling has reached the physical proximity of the person concerned in such a way that such person could obtain knowledge of its contents without such person's mental illness or mental disability.

3) The court shall explain the contents of the ruling to the person concerned in a suitable manner. The court may instruct the guardian to make the explanation if this is expedient.

Art. 125

Appointment of guardian taking effect

The ruling by which the guardian is appointed cannot be granted preliminary effectiveness.

Art. 126

Duty to notify

1) The persons and institutions that according to the results of the proceedings, in particular according to the information provided by the guardian, have a reasonable interest in being notified of the guardian's appointment shall be so notified in a suitable manner.

2) Furthermore, the court shall effect that the guardian's appointment be entered in the public books and registers if the guardian's sphere of activity includes the rights registered the book or register in question.

3) In addition, the court shall on request inform anyone on the guardian's appointment and sphere of activity who plausibly demonstrates a legal interest.

Art. 127

Appeal in appointment proceedings

An appeal may be lodged by the person concerned, such person's representative, the guardian ad litem, and the person to be appointed as guardian. Art. 119 shall apply mutatis mutandis. Art. 46(3) shall not be applied.

Art. 128

Termination, limitation, and extension of guardianship

1) The rules on the proceedings to appoint a guardian shall also be applicable mutatis mutandis to the proceedings on the termination, limitation, and extension of guardianship; in this, an already appointed guardian shall have the duties of a guardian ad litem.

2) The court need only obtain a personal impression of the person concerned, hold oral proceedings, and call on an expert witness as far as this is applied for by the person concerned or such person's representative or is considered necessary by the court. This shall not apply in proceedings on a substantial extension of guardianship.

Art. 129

Costs

If a guardian is appointed, guardianship is extended, or proceedings pursuant to Art. 131 are carried out, the costs incurred by the State shall be imposed on the person concerned as far as the necessary maintenance of such person or of the family for which such person has to care is not endangered by this. Otherwise, the costs shall be finally borne by the State.

Art. 130[35]

Duty to report and application for a new examination of the capacity of judgement

1) The guardian shall inform the court at adequate intervals, but at least every three years, on his or her personal contacts with the person concerned, and on that person's way of life, mental and physical well-being, and capacity of judgement with regard to elections and voting. The court may also instruct the guardian to submit such a report.

2) If the person concerned has been excluded from the right to vote in accordance with Art. 131a et sqq., the guardian may – if the guardian deems it appropriate – apply to the court for a review of the person's capacity of judgement with regard to elections and voting.

35 Art. 130 amended by LGBl. 2024 No. 4.

Art. 131

Approval of sterilisation

In proceedings on approving a medical measure the objective of which is the permanent inability of the person concerned to reproduce, the court shall appoint a special guardian to represent such person. The court shall call upon two independent expert witnesses for the proceedings.

K.bis Proceedings on exclusion from the right to vote[36]

Art. 131a[37]

Initiation of proceedings

1) Proceedings on exclusion from the right to vote shall be initiated on application or ex officio if there are reasonable indications for the necessity of such an exclusion.

2) Exclusion from the right to vote shall be cancelled on application or ex officio if the requirements for it have ceased to apply.

Art. 131b[38]

Initial meeting

1) First of all, the court shall – as far as this is reasonable and possible – gain a personal impression of the person concerned. It shall inform that person of the reason and purpose of the proceedings and hear the person on this subject.

2) If the person concerned does not comply with the court's summons, the court may have the person brought before the court with the necessary protection. If appearing before the court is impossible or unfeasible for the person concerned or contrary to such person's best interests, the court shall visit the person.

36 Heading before Art. 131a inserted by LGBl. 2012 No. 360.
37 Art. 131a inserted by LGBl. 2012 No. 360.
38 Art. 131b inserted by LGBl. 2012 No. 360.

Art. 131c[39]

Discontinuation

1) If the court arrives at the conclusion that exclusion from the right to vote is not necessary, it shall discontinue the proceedings in every phase.

2) A ruling on discontinuation shall only be issued if:

a) the person concerned has already obtained knowledge of the suggestion (Art. 131a) or of the proceedings; or

b) it was a court or a public authority which suggested that the proceedings be initiated.

3) The ruling on discontinuation shall be served upon the person concerned and such person's representative. Any courts or authorities that suggested the initiation of the proceedings shall be informed of the discontinuation.

Art. 131d[40]

Exclusion

1) If the person concerned is incapable of judgment with regard to elections and voting (Art. 2(1)(b) of the People's Rights Act), the ruling on the exclusion from the right to vote must contain a statement to this effect.

2) The ruling referred to in Para (1) must also specify a reasonable period within which the court must review the exclusion from the right to vote; the period may not exceed five years.

Art. 131e[41]

Service of the ruling on exclusion from the right to vote

1) The ruling on exclusion from the right to vote shall be served upon the person concerned.

2) The municipality of residence of the person concerned shall be notified of the exclusion from the right to vote.

39 Art. 131c inserted by LGBl. 2012 No. 360.
40 Art. 131d amended by LGBl. 2024 No. 4.
41 Art. 131e inserted by LGBl. 2012 No. 360.

3) If there is a change of residence, the former municipality of residence shall inform the future municipality of residence of the exclusion from the right to vote.

4) This provision shall be applied mutatis mutandis if the exclusion from the right to vote had to be cancelled.

Art. 131f[42]

Costs

The costs of conducting proceedings on exclusion from the right to vote shall be borne by the State.

L. Pecuniary rights of wards

Art. 132

Approval of legal acts of wards

In its decision on the approval of a legal act of a ward, the court must not give such legal act a wording that is different in content. The court may also approve a specific legal act that is only being planned or rule that a legal act does not require judicial approval. The ruling on approving a legal act must always come with at least summary grounds. If approval is denied for several reasons, they shall all be listed in the grounds. On application, the court shall confirm on the document concerning the legal act – without adding grounds – that approval has been given or that the legal act does not require approval.

Art. 133

Supervision of the management of the assets of wards

1) If there are concrete indications that a ward has assets worth mentioning, the court shall research these ex officio. If the ward does have assets worth mentioning according to such research, the court shall supervise their management with the objective of preventing danger to the ward's best interests.

42 Art. 131f amended by LGBl. 2024 No. 4.

2) If parents, grandparents, or foster parents have been charged with managing the assets in the framework of custody, the court shall supervise the management of the assets only if the assets include immovable property or if the value of the assets materially exceeds 75,000 Swiss francs or the value of the annual income materially exceeds 25,000 Swiss francs. If the assets come from the persons entitled to exercising custody or from their parents, supervision shall be unnecessary as long as there are no indications for improper management.

3) In any case, the court shall also supervise the management of assets not worth mentioning if this is necessary to avert imminent danger to the ward's best interests. With those preconditions, the court shall also supervise the management activities of the Office of Social Services.

4) To research the assets and supervise their management, including their securing, the court may instruct in particular the legal representative to obtain information from bank and investment firms or from persons and institutions obliged to provide information pursuant to Art. 102; order valuation, the freezing of credit balances, and the judicial safekeeping of documents and movable items; and take provisional measures.

Art. 134

Guardianship account

In the course of supervising the management of assets, the legal representative shall render account to the court after the first full year of supervision has passed (initial account), thereafter at adequate intervals of no less than three years (current accounts), and after the management of assets has ended (final account). The court shall suitably instruct the legal representative to this end; with the current account and the final account, such instruction shall be given together with the decision on the last account.

Art. 135

Special obligations

1) Parents, grandparents, and foster parents – in the framework of custody – as well as the Office of Social Services shall be obliged to render account to the court only as far as the court so orders for special reasons.

2) The court may limit the duty of other legal representatives to render current accounts as far as this does not give rise to concerns that the ward may suffer a disadvantage as a result.

3) Even if the legal representative is released from rendering account to the court, such representative shall remain obliged to collect and keep supporting documents concerning the management of assets worth mentioning and to notify the court of the acquisition of immovable property or the exceeding of the value of 75,000 Swiss francs.

4) To avert a danger to the ward's best interests, the court shall issue a special order to a legal representative to render account.

Art. 136

Content of and enclosures to accounts

1) The account shall first of all show the assets of the ward that were available at the beginning of the period being accounted for. Then, the changes to the capital, the income and expenses shall be shown, and finally the status of the assets at the end of the period being accounted for. The account shall be structured in an easily verifiable way.

2) As far as annual accounts must be drawn up or a tax return be filed pursuant to other provisions, the legal representative shall point this out in the account and enclose these documents with the account if already available. Other supporting documents collecting and retaining which the legal representative is obliged to (Art. 135 – 4) shall only be submitted if so demanded by the court.

3) If the legal representative is only obliged to prepare the initial and the final account, the account may be limited to showing the status of the assets at the beginning and at the end of the period being accounted for.

Art. 137

Confirmation of account, remuneration

1) If there are no concerns about the correctness and completeness of the account, the court shall confirm it. Otherwise, the legal representative shall be directed to supplement or correct the account accordingly; if this is unsuccessful, confirmation shall be denied. As far as the assets or the income appear to have not been invested or secured in accordance with the law, the court shall take the necessary measures pursuant to Art. 133(4).

2) At the same time with the decision, the court shall decide on any applications of the legal representative for the granting of a remuneration (in particular considering a schedule of time spent), compensation for personal efforts, and reimbursement of costs. On application, the court shall issue the orders required to satisfy these claims from the income or from the assets of the ward, and if necessary oblige the ward to make a corresponding payment. If the legal representative applies for advance payments on remuneration, compensation, or reimbursement of costs, the court shall grant these if the legal representative plausibly demonstrates that this will further the proper management of the assets.

3) The decision on the account shall not limit the ward's right to assert through the courts of law any claims resulting from asset management.

Art. 138

Termination of asset management, final account

1) Art. 136 and 137 shall apply mutatis mutandis to the contents of the final account and to the decision on it. As far as this is necessary, the court shall make the contents of the final account comprehensible to the ward.

2) Upon the termination of the management of assets, the court shall if necessary direct the legal representative by enforceable ruling to hand over the assets to the ward or to a different legal representative.

3) Once the ward has come of age, he or she shall be directed to accept any assets that are in judicial custody. In this, the rules on the collection of assets in judicial custody shall be pointed out to the ward. Measures pursuant to Art. 133(4) shall be cancelled as far as the ward does not demand their maintenance for a specific period to avert danger that may be imminent otherwise. The court shall effect the deletion of the limitation of legal capacity from the public books and registers.

Art. 139

Special procedural provisions

1) Regardless of the ward's ability to conduct proceedings, the ward shall be notified of orders of the court, as far as this serves the ward's best interests.

2) There shall be no reimbursement of costs and no modification proceedings.

M. Other provisions

Art. 140

Protection of private and family life

1) Oral proceedings shall not be public. If no party objects, the court may make hearings public as far as no circumstances of private and family life are discussed and this is consistent with the ward's best interests. The non-public parts of the evidence proceedings may be attended not only by the persons listed in Art. 19(5) but also by the minor's legal representatives and the representatives of the Office of Social Services.

2) Information on circumstances of private and family life which any party to the proceedings or any third party has an interest in keeping secret must not be published as far as the knowledge of them has been conveyed by the proceedings exclusively (§ 301 – 1 – Criminal Code).

3) As far as this is required by a minor's best interests, the court shall also oblige persons to keep certain facts secret (§ 301 – 2 – second case Criminal Code) of which they have learned through the proceedings exclusively. This ruling shall be subject to separate appeal.

Art. 141

Confidentiality of income and asset situation

Information on the income and asset situation may be forwarded by the court only to the ward concerned and to such ward's legal representatives, but not to any other persons or institutions.

Art. 142

Authorisation

In proceedings under this Chapter that are collected in a joint court file, all further service of documents shall be performed upon a lawyer nominated as authorised person unless such authorisation is expressly limited.

III. Probate proceedings

A. Preliminary proceedings

Art. 143

Initiation of proceedings

1) Probate proceedings shall be initiated ex officio as soon as a death has become known by public document or in any other unquestionable manner.

2) The settling of an estate with regard to movable assets located abroad (§ 54 Jurisdiction Act) shall only be initiated on application of a party plausibly demonstrating its status as an heir. If it turns out that the applicant is not an heir, and if the proceedings are not to be continued on the basis of other applications, the proceedings shall be discontinued by ruling.

Art. 144

Municipalities

1) As far as the municipalities have jurisdiction under this Chapter, they shall act on instruction of and provisionally for the court. The court may take back jurisdiction in individual cases. The municipal council shall determine the official in charge and such official's deputy who act for the municipality.

2) To supervise the municipality's activities, the court may give instructions to it, obtain reports, and carry out the necessary investigation. Persons whose testimonies or information serve as evidence have the same rights and duties towards the municipality as towards the court.

3) An application may be submitted to the court against measures of the municipality. The court shall decide after hearing the municipality and the applicant.

4) The President of the Court of Justice will provide the municipalities with the necessary forms to carry out their duties.

Art. 145

Death record

1) The municipality shall record deaths. To do this, it shall ascertain all circumstances that are necessary for settling the estate and for effecting any guardianship court measures. It shall be supported in this by the Registry Office and by the Office of Justice.[43]

2) The death record shall include the following:

a) the deceased's first and last name, marital status, citizenship, occupation, the date and place of the deceased's birth and death, the deceased's last residence or habitual abode, and all other circumstances relevant for jurisdiction;

b) the estate left, including all rights and liabilities;

c) the funeral costs and the person who has advanced them (if applicable);

43 Art. 145(1) amended by LGBl. 2013 No. 6.

d) the documents constituting disposals mortis causa (wills, codicils) and their cancellation, legacy, inheritance, and forced share agreements, agreements of waiver for inheritance and forced share and their cancellation, and the first and last names of the witnesses of oral disposals mortis causa;

e) the first and last names, addresses, and dates of birth of the statutory heirs, the heirs appointed by a disposal mortis causa, and the legatees;

f) the first and last names, addresses, and dates of birth of the persons whose legal representative the deceased was.

3) The value of the assets left shall be determined in a simple way, in particular by examining informants, and without long-winded investigation, and if feasible without calling upon an expert.

Art. 146

Investigation

1) For the purpose of the investigation, the municipality may with care open the deceased's residence, business premises, safe deposit boxes, cupboards, and other containers. In this, two persons of age – preferably relatives, fellow occupants, or neighbours of the deceased – shall be called upon as persons of trust. The heirs, housemates, and other persons who had access to the deceased's asserts shall be obliged to truthfully state and set forth any assets that may be in their possession.

2) Banks, investment firms, and other financial institutions shall be obliged to inform the court of a deceased's asset status if a business relationship has been proven and the court has issued a ruling to such effect; the figures so obtained may only be used for the probate proceedings.

3) If the municipality finds third-party money, cash register keys, documents, or files that refer to the deceased's activities in public service, it shall secure these and hand them over to the administrative authority in question without further inspection.

4) The municipality shall report the death of persons who received recurring payments from public funds and other pension institutions to the paying institution forthwith if that institution does not obviously know already.

5) If the deceased was subject to official or professional secrecy, the municipality shall refrain from doing anything that might impair or endanger the interests for secrecy protected thereby.

Art. 147

Securing the estate

1) If there is the danger that the settlement of the estate is deprived of assets or if the presumed heirs, close relatives or fellow occupants are unable or unwilling to keep the estate safe, the municipality shall secure the estate in a suitable manner.

2) Apart from locking the estate, securing may happen by sealing it or by putting it in safekeeping with the municipality or with a custodian. The costs of securing shall be borne by the estate.

3) Third parties, in particular relatives or fellow occupants of the deceased shall, if they safeguard the estate, refrain from making any disposals on it.

Art. 148

Release

1) Regardless of any measures to secure the estate, the municipality may hand over or release the amounts required for paying the costs for a simple funeral.

2) If it is undisputed or proven by unquestionable documents that a third party has a right to items that apparently are part of the estate, such third party may also exercise that right even during the probate proceedings.

Art. 149

Freeze

If the legal basis of an agreement between a bank and the deceased provides that a freeze is to be imposed with regard to certain disposals after the deceased's death, in particular payments from an account or access to a safe deposit box, the court may declare to release these subject to Art. 148.

Art. 150

Delivery proceedings

1) If no settlement proceedings are to be carried out with regard to the movable assets located in Liechtenstein (§ 54 JN), the court shall on application hand them over by ruling to a person who on the basis of a declaration by the deceased's home authority or the authority of the state in which the deceased had his or her last habitual abode is authorised to accept such assets.

2) In the event of the death of persons with regard to whose estate the settling of the estate and the decision on disputed claims for succession is – under the provisions of Liechtenstein law – up to a foreign court or other public authority, the court shall on application of those heirs and legatees who are Liechtenstein citizens or foreign citizens resident or present in Liechtenstein wait with delivering abroad the estate or the assets required to cover their claims until the foreign courts of competent jurisdiction have decided on their claims in a final way.

3) Creditors with domestic jurisdiction who have asserted their claims against the deceased before the latter's death or who sue for such claims before the estate is actually handed over and register them with the court shall be provided for by the court insofar as the assets of the estate must not be handed over until they have been satisfied or security for their claims has been provided.

4) Creditors and presumed heirs and legatees shall, unless they are known anyway, be asked by the court by public announcement to register their claims and submit the necessary applications within a term of four weeks, lacking which the estate will be handed over to the foreign court, the other authority, or the persons properly certified by these to accept the estate.

5) International treaties shall remain reserved.

Art. 151

Transfer of disposals mortis causa

Anyone who learns of the death of a person and who has any documents constituting disposals mortis causa (wills, codicils) and their cancellation, legacy, inheritance, and forced share agreements, agreements of waiver for inheritance and forced share and their cancellation, and records of oral declarations constituting a disposal mortis causa of such person in his or her possession shall be under the obligation to transfer such documents to the municipality or the court immediately, even if in the opinion of the possessor the transaction is ineffective, void, or has been cancelled.

Art. 152

Acceptance of disposals mortis causa

1) The municipality or the court shall accept documents constituting disposals mortis causa (wills, codicils) and their cancellation, legacy, inheritance, and forced share agreements, agreements of waiver for inheritance and forced share and their cancellation, or other declarations mortis causa and state in a take-over record all circumstances that may be relevant for assessing authenticity and validity, such as whether the document was sealed and whether it had any external defects.

2) Non-certified copies shall be served upon the parties and the persons who according to the files would be the statutory heirs.

3) If it is alleged that there was an oral declaration that constituted a disposal mortis causa, the municipality shall determine the witnesses and report to the court on this. The court shall examine the witnesses concerning the contents of the declaration and concerning the circumstances which the validity of the declaration depends on.

Art. 153

No settlement of the estate

1) If the estate lacks assets or if such assets do not exceed the value of 8,000 Swiss francs and no entries in public registers are required, there shall be no settlement of the estate if no application to continue the probate proceedings is submitted. No notification shall be required.

2) On application, the court shall authorise the persons whose claim has been plausibly demonstrated according to the files to accept the assets of the estate as a whole or certain parts of it, to assert or relinquish rights associated with it, to confirm in a legally effective way the receipt of performances received, and to issue declarations for deletion.

Handover in lieu of payment

Art. 154

a) Distribution

1) The court shall on application hand over the assets of an over-indebted estate to the creditors unless there is already an unconditional declaration of acceptance of the inheritance or an application for delivery as heirless, and no insolvency proceedings have been opened for the estate.[44]

2) The assets shall be distributed:

a) first of all in mutatis mutandis application of Art. 43 and 44 of the Insolvency Act;[45]

b) then to the deceased's guardian, as far as amounts were awarded to the guardian for the last year;

c) finally, to all other creditors, each pro rata to their claims that are undisputed or plausibly demonstrated by unobjectionable documents.

[44] Art. 154(1) amended by LGBl. 2020 No. 377.
[45] Art. 154(2)(a) amended by LGBl. 2020 No. 377.

Art. 155

b) Proceedings

1) If the value of the assets presumably exceeds 8,000 Swiss francs, the court shall before transferring the estate in lieu of payment notify – as far as their residence is known – the creditors of record and those persons of record who are eligible as heirs or mandatory heirs and give them the opportunity to comment.

2) If the value of the assets presumably exceeds 40,000 Swiss francs, the creditors of the estate shall be summoned (Art. 174).

3) The ruling for handover in lieu of payment shall include:

a) the items that are handed over;

b) the first and last names and the addresses of the persons to whom the items are handed over in lieu of payment;

c) what claims are to be settled by this;

d) any other information required to implement the transaction in a public register.

B. Settling the estate

Art. 156

Provision for representation

1) To carry out the settlement, the court shall on application and ex officio decide on the appointment of guardians in the cases of Art. 5(2)(a)(1) and (b)(1) and on the appointment of trustees for the estate. If the whereabouts of known heirs or mandatory heirs are unknown, the court shall appoint a guardian in terms of Art. 5(2)(b)(2) for them.

2) If it is necessary to appoint a trustee for the estate, and if the deceased has designated in his or her will a person to represent the estate, such person shall, if feasible, be appointed as the trustee for the estate.

3) If a minor or other ward requires a legal representative, the guardianship court shall effect the appointment of such representative. In this, the wishes of the deceased shall be taken into account if this is feasible and not contrary to the interests of the ward.

Art. 157

Declaration of acceptance of the inheritance

1) The court shall request the persons who according to the record are eligible as heirs to declare whether and how they want to accept the inheritance or whether they want to refuse it. The request shall point out the legal consequences of Para. (3) as well as instructions concerning the legal consequences of making a conditional and an unconditional declaration of acceptance, and it shall point out the option of submitting an application pursuant to Art. 184(3).

2) The persons eligible as heirs shall be given an adequate time-limit of at least four weeks for making the declaration of acceptance. If there are important reasons, a reflection period may be granted to them, which must not exceed one year in total.

3) If any such person misses the time-limit, such person shall no longer be included in the further proceedings unless and until the declaration is made later. If a ward's legal representative misses the time-limit, the guardianship court shall be notified.

4) If no declaration of acceptance is made, a trustee for the estate shall be appointed – unless this has already happened – as preparation for the proceedings pursuant to Art. 184.

Art. 158

Unknown heirs and mandatory heirs

1) If no heirs are known, and if according to the record there are indications that other persons besides the known ones may be eligible as heirs or mandatory heirs, the court shall request those by public announcement to assert their claims within six months.

2) If this time-limit is missed, the estate may without regard to the claims of the unknown heirs or mandatory heirs be handed over to the known heirs or be declared to be heirless. The announcement shall point out this legal consequence.

Art. 159

Contents of declaration of acceptance

1) The declaration of acceptance shall include the following:

a) the first and last name, date of birth, and address of the claimant to the estate;

b) reference to a title of succession;

c) the express declaration to accept the inheritance;

d) the express declaration whether this is done unconditionally or subject to the making of an inventory (declaration of conditional acceptance).

2) If this is possible at the time the declaration is made, the share in the inheritance shall be stated too.

3) The declaration shall be personally signed by the claimant to the estate or by such claimant's representative of record.

Art. 160

Contradicting declarations of acceptance

If declarations of acceptance contradict each other or a declaration of the State, the court shall act to achieve recognition of the right of succession between the parties; if this is unsuccessful, the court shall proceed pursuant to the provisions below.

Decision on the right of succession

Art. 161

a) Declaration of the right of succession

1) The court shall declare the entitled parties' right of succession within the framework of the parties' pleadings and offers for evidence and shall dismiss the other declarations of acceptance. It may decide on this by separate ruling (Art. 36 – 2) or by the ruling to hand over the estate.

2) All acts concerning the settling of the estate that are independent from declaring the right of succession shall be continued during the proceedings on the right of succession.

Art. 162

b) Oral proceedings and representation

The proceedings on the right of succession shall be oral. The parties may only be represented by a lawyer.

Art. 163

c) Suspension of proceedings

1) If the parties agree that the proceedings on the right of succession be suspended, or if other cases of Art. 25 to 29 occur, the proceedings shall be suspended.

2) If the parties do not continue the proceedings on the right of succession after the suspension period has expired, the court shall direct them to submit suitable applications within a time-limit to be assessed. If a claimant to the estate misses this time-limit, the probate proceedings shall be continued without taking into account such party's declaration of acceptance. This shall be pointed out to the party in the ruling of direction.

Art. 164

d) Declaration of acceptance after decision on right of succession

If a party makes a declaration of acceptance after the right of succession has been decided on but before the court is bound by the ruling on handing over the estate, the court shall proceed once again as laid down in Art. 160 to 163, the dismissal of the declaration of acceptance that formed the basis of the prior decision on the right of succession being an admissible option, too. Later, claims under the law of succession may only be asserted by legal action.

Inventory

Art. 165

a) Reasons for inventory

1) An inventory shall be made:

a) if a conditional declaration of acceptance has been made;

b) if persons who are eligible as mandatory heirs are minors or require a legal representative for other reasons;

c) if the estate's segregation (§ 812 General Civil Code) has been approved;

d) as far as reversion must be taken into account or a foundation was formed mortis causa;

e) if the estate might go to the State as heirless (Art. 184);

f) as far as this is applied for by a person entitled to do so or by the trustee for the estate.

2) In the cases of Para (1)(a) to (c) and Para (1)(e), the inventory must be for all assets of the estate.

3) The creditors of the estate shall be summoned (Art. 174) if this is applied for or if the court considers this necessary for the protection of the persons pursuant to Para (1)(b) due to the circumstances.

Art. 166

b) Extent of inventory

1) The inventory serves as a full listing of the estate (§ 531 General Civil Code), namely all physical items and all inheritable rights and duties of the deceased and their value at the time of the deceased's death.

2) If the allegation that an item is part of the estate's assets is denied, the court shall decide whether the item in question is to be included in or excluded from the inventory. If the item was last in the deceased's possession, it shall only be segregated if it is proven by unobjectionable documents that it is not part of the estate's assets.

3) In order to ascertain whether an item is part of the estate, third parties shall be under the obligation to grant access to the items in dispute and permit their inspection and description.

Art. 167

c) Valuation rules

1) Movable items shall be valued at their market value. The valuation of household effects, commodities, and other movable items may be based on the undisputed and unobjectionable information given by all parties unless the municipality or the court has concerns about that valuation or the interests of a ward or other special circumstances require that an expert witness be called upon.

2) Immovable items shall be valuated according to their market value. This shall depend on the economically justified mean price for which properties of the same or similar size, location, and character are sold in the area in question. For land with structures, a mean value shall be sought pursuant to recognised principles. The government shall regulate details by way of an ordinance.

3) The tax assessment value may be used instead of the market value if only persons of age who are not subject to guardianship are eligible as heirs.

4) Debts shall be listed with their outstanding figures plus ancillary fees as at the date of death, as far as this is possible without long-winded research and large loss of time.

Procedure to make the inventory

Art. 168

a) Principles

1) In making the inventory, the municipality shall have the same powers as in recording death (Art. 146 – 1 – and – 2). The court may instruct the banks, investment firms, and other financial institutions to give the corresponding information directly to the municipality.

2) For the purpose of making an inventory, the municipality may call upon experts and request the parties to pay the fees directly. If the fees are paid directly, there shall be no ruling to assess the fees.

3) The costs of making the inventory shall be borne by the estate.

Art. 169

b) Service

The inventory shall be served upon the parties without acknowledgement of receipt. Acceptance in court is not required.

Art. 170

Declaration of assets

If no inventory needs to be made, the heir shall describe and value the assets of the estate broken down into all parts just as in an inventory and confirm the accuracy and completeness of the declaration by the signature of the heir or the heir's representative. The consequences under criminal law of misrepresentation shall be pointed out to the declaring party. The declaration of assets shall replace the inventory in the settlement of the estate.

Use, management, and representation of the estate

Art. 171

a) Duty to notify; notification of representation

1) The municipality shall point out to the presumed heirs the advantages of agreeing on the use, management, and representation of the estate in writing and notifying the municipality and the court of the fact.

2) Any change in the way the estate is represented (§ 810 General Civil Code) shall take effect at the time when it has been reported to the court or the municipality by all claimants to the estate that have authority to represent.

Art. 172

b) Confirmation

On request, the court shall issue a confirmation to the authorised parties of their power to represent (§ 810 General Civil Code).

Art. 173

c) Appointment of a trustee for the estate; change of representation

1) If the persons who jointly have the rights pursuant to § 810 General Civil Code cannot agree on the manner of representation or on individual acts of representation, or if proceedings on the right of succession are to be initiated (Art. 160 et sqq.), the court shall if necessary appoint a trustee for the estate. The power of representation of other persons shall end upon the appointment of the trustee for the estate.

2) If representation changes during the proceedings, the court shall reclaim the thus outdated confirmations from the recipients.

Rights of creditors

Art. 174

a) Summoning

1) If an oral hearing is scheduled when summoning the creditors of the estate (§§ 813 to 815 General Civil Code), the court shall announce the date and time of such hearing publicly and summon the presumed heirs, the mandatory heirs, and any trustees for the estate and executors that may have been appointed.

2) During the hearing, the court shall act to achieve mutual agreement on the registered claims.

Art. 175

b) Application for segregation

The court shall decide on any application for the segregation of the estate (§ 812 General Civil Code). Even before issuing a ruling on the application, it may withdraw from the heirs the management and use of the assets of the estate and appoint a trustee. After such application has been granted, any trustee for the estate already appointed shall have the powers and duties of a segregation trustee.

Art. 176

Proof required for handing over the estate

1) All persons who have claims to the estate that are different from those of an heir shall be notified by the heirs – with acknowledgement of receipt – before the estate is handed over.

2) If wards have claims pursuant to Para. (1) that have not yet been fulfilled, security shall be provided before the estate is handed over (§ 56 Code of Civil Procedure). If the security is not deposited despite direction to such effect with a time-limit, the court shall order the deposit by way of a ruling.

3) The security deposit may also be made from the assets of the estate.

Handing over the estate

Art. 177

a) Requirements

If the heirs and their shares have been determined and if it has been proven that the other requirements have been met, the court shall hand over the estate to the heirs (§ 797 General Civil Code).

Art. 178

b) Ruling to hand over the estate

1) The ruling to hand over the estate shall include:

a) the designation of the estate by the deceased's first and last name, date of birth and date of death, and last residence;

b) the designation of the heirs by first and last names, dates of birth, and addresses;

c) the title of succession, the respective shares in the inheritance, and the reference to an agreement for the partition of the estate, if any;

d) the type of declaration of acceptance made (§ 800 General Civil Code).

2) Furthermore, the following shall be recorded if applicable:

a) any limitation to the heirs' rights by entailed estates or equivalent orders (§§ 707 to 709 General Civil Code);

b) the properties concerning which adjustments to the public registers have to be made as a result of handing over the estate; in this, it shall be stated whether the persons to whom such part of the estate is handed over are among the statutory heirs.

3) Concurrently with handing over the estate, all other open procedural acts shall be carried out, in particular the lifting of freezes, the securing of claims (Art. 176 – 2), and the assessment of fees.

4) Anyone who plausibly demonstrates that otherwise, the private sphere of the deceased or of the parties would be negatively affected, may demand that the orders be issued separately.

5) The ruling to hand over the estate shall be served upon the parties, the guardianship court (with heirs, mandatory heirs, and legatees who are wards), and on application also to other persons who have set forth a legal interest, in particular creditors.

6) If the ruling to hand over the estate includes grounds for the declaration of the right of succession, the counterparts intended for persons who were not parties to the proceedings on the right of succession shall contain no grounds in this respect.

7) On application, a confirmation with the information listed in Para. (1) shall also be issued to the parties.

Art. 179

c) Overcoming the freeze

A written issue of the ruling to hand over the estate together with a confirmation of finality in terms of Art. 36(1) Court Organisation Act shall suffice to overcome a freeze (Art. 149).

Art. 180

d) Waiver of appeal; finality

1) Even before the ruling to hand over the estate has been issued, the parties may waive their right to appeal a ruling that is in accordance with their applications; the orders that are in accordance with their applications may then be enforced immediately.

2) There shall be no modification proceedings after the ruling to hand over the estate has become final.

Art. 181

Agreement to partition the estate

1) If there are several heirs, they may put on court record their agreement on the partitioning of the estate or on the use of the items in the estate. Such agreements shall have the effect of a settlement agreement entered into before the court.

2) If wards are involved, the agreement shall require the approval of the guardianship court.

3) The above provisions shall also apply mutatis mutandis to agreements concerning the estate with other persons involved in the probate proceedings.

C. Proceedings outside the settlement of the estate

Art. 182[46]

Land Register matters

Having obtained the necessary declarations of consent, the court shall provide the Office of Justice with a copy of the ruling to hand over the estate as far as plots of land in Liechtenstein are concerned. The Office of Justice will carry out the necessary steps.

Art. 183

Changes to the basis for settlement

1) If assets become known only after the probate proceedings have already been concluded, the court shall inform the parties to whom this is not yet known.

2) If the proceedings were concluded by handing over the estate, the court shall supplement the inventory or direct the heirs to supplement their declaration of assets, as the case may be. Typically, is shall not be required to supplement the ruling to hand over the estate, but Art. 178(2) shall be applied.

3) If no settlement of the estate has taken place so far, a renewed decision on the basis of the now supplemented amount of the total assets shall be taken in terms of Art. 153 et sqq.

4) If documents in terms of Art. 151 are found after the probate proceedings have been concluded, one shall proceed pursuant to Art. 152 once again.

Art. 184

Heirless estate

1) After the time-limit set pursuant to Art. 157(2) has expired and an inventory has been made, an estate that has remained heirless (§ 760 General Civil Code) shall on application of the government be handed over to the State of Liechtenstein. On application of the government, a

46 Art. 182 amended by LGBl. 2013 No. 6.

valuation (Art. 167) of assets shall be carried out unless this has already been done.

2) The ruling to hand over the estate shall include the information required pursuant to Art. 178 mutatis mutandis.

3) Before issuing this ruling, the inventory shall be served upon the persons who were requested to make a declaration of acceptance but only applied that the inventory be served upon them.

Art. 185

Costs and publicity

In probate proceedings – with the exception of proceedings on the right of succession – there shall be no reimbursement of the costs of representation and no public hearings.

IV. Certifications

Art. 186

Certifications and authentications

Certifications and authentications shall be subject to the respective provisions of special laws, in particular of the Securing of Rights Act, of the Persons and Companies Act, and of property law.

V. Transitional and final provisions

Art. 187

Changing of designations

In Art. 46(3)(18) of the Court Fees Act, Art. 18(a) of the Act on Registrars, Art. 3 of the Act on Tariffs for Lawyers and Legal Agents, Art. 49h(1) of the Marriage Act, Art. 5(2) of the Act of 20 May 1980 to Implement the European Convention of 20 May 1980 on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children, §§ 159(2) and 164 of the General Civil Code, Art. 10, 23, 27(3), 28(2) of the Advancement of Maintenance

Act, Art. 8(2), 43(3), 102(5), 105(3), 110(2), 120(3), 121(2), 155(1), 234, 235, 280(4), 281(4), 282(3), 283(2), 295, 316(2), 340(3), 351(1), 378(1) and (2) as well as Art. 141(2)(12) Final Part of the Property Law, Art. 15(2) of the Act Creating Transitional Provisions Concerning the Plots Involved in Property Consolidation and Remapping and Concerning Rights of Lien and of Use in Such Plots, Art. 9(2) of the Protection of Semiconductor Topographies Act, Art. 7(2), 19(2), 36(3), 54(1) and (2), 101(2), 121(3), 122(3), 124(2), 136(4), 142(3), 152(4), 159(1), 172(1), 183(1), 190(1), 192(7), 210(1), 211(5), 212(2), 213(1), 231(2), 258(1), 287(3), 318(5), 337(2), 351n(5), 406(1), 407(2), 414(1), 445(5) and (6), 461(4), 477(3), 516(2), 521(1), 544(2), (3), and (4), 549(3), Art. 552 § 9(4), Art. 552 § 19(4), Art. 552 § 27(1), Art. 552 § 29(3) and (4), Art. 552 § 33(1), Art. 552 § 34(1), Art. 552 § 35(1), Art. 552 § 39(4) and (5), 659(5), 720(3), 738(5), 764(2), 773(2), 791(2), 796(1), 804(2), 807(2), 819(3), 825(5), 826(3) and (4), 827(1), 831(1) and (4), 904(1), 906(2), 910(4), 913(2) and (3), 919(6), 921(1), 923(7), 925(5), 927(2), 929(2) and (3), Art. 932a § 116(1), 1061(3), 1062a(3), as well as §§ 66(1), 66b(1), 66c(1), 72a(1), 78(1), 125(3), 128(1), 138(1), 149(2) and (3), 155(2)(4) of the Final Part of the Persons and Companies Act, Art. 37(4) of the Data Protection Act, Art. 31(2) of the Media Act, Art. 12(1) of the Social Services Act, Art. 24(4) of the Children and Underage Minors Act, Art. 1(g) and (o), 270(3) and 284(2) of the Execution Act, as well as Art. 76, 98(2) and (3), 105(1) and (3), 106(5) of the Securing of Rights Act, § 633(1) of the Code of Civil Procedure, the designation "*Rechtsfürsorgeverfahren*" [extra-judicial proceedings] shall be replaced by "*Ausserstreitverfahren*" [non-contentious proceedings] in the respective grammatically correct form.

Art. 188

Implementation Ordinances

The government shall issue the ordinances necessary to implement this Act.

Art. 189

Transitional provisions

1) This Act shall not be applicable to disputes that became pending in court before this Act entered into force in matters which would now have to be asserted in non-contentious rather than contentious proceedings.

2) It shall apply to procedural steps taken before it entered into force.

3) The provisions of this Act concerning probate proceedings shall be applicable to deaths which were initially made pending in court or at the municipalities after this Act entered into force, unless they could have been initiated earlier. Otherwise, the rules on probate proceedings that have been in force so far shall continue being applicable.

Art. 190

Repeal of current law

The following are repealed:

a) Act of 21 April 1922 Concerning Extra-Judicial Proceedings, LGBl. 1922 Nr. 19;

b) Act of 22 October 1992 Concerning the Amendment of the Extra-Judicial Proceedings Act, LGBl. 1993 No. 57;

c) Act of 17 December 1998 Concerning the Amendment of the Extra-Judicial Proceedings Act, LGBl. 1999 No. 32;

d) Instruction of 8 April 1846 for the Judicial Handling of Estates in the Sovereign Principality of Liechtenstein, Official Compilation;

e) Act of 22 October 2008 Concerning the Amendment of the Instruction for the Judicial Handling of Estates in the Sovereign Principality of Liechtenstein, LGBl. 2008 No. 341;

f) Act Concerning the Handling of Foreigners' Estates, LGBl. 1911 No. 6;

g) Art. IV of the Act of 10 December 1912 Concerning the Introduction of the Code of Civil Procedure and the Jurisdiction Act, LGBl. 1912 No. 9/3.

Art. 191

Entering into force

If the time-limit for a referendum lapses without being used, this Act shall enter into force on 1 January 2011, and otherwise on the date of its publication.

For the Reigning Prince:
signed *Alois*
Hereditary Prince

signed *Dr. Klaus Tschütscher*
Head of the Princely
Government

Transitional Provisions

274.0 Act on Court Proceedings in Non-Contentious Matters (Non-Contentious Proceedings Act; AussStrG)

Liechtenstein Law Gazette
Year 2014 No. 200 published on 1 August 2014

Act
of 6 June 2014
on the Amendment of the Non-Contentious Proceedings Act

. . .

III.
Transitional provisions

1) Proceedings pursuant to Art. 92 pending at the time this Act enters into force[47] shall be subject to the former law.

2) Art. 103a and 107(4) and (5) shall be applicable to proceedings initiated after this Act has entered into force.

. . .

47 Entry into force: 1 January 2015.

Liechtenstein Law Gazette

Year 2021 **No. 221** **published on 6 July 2021**

Act

of 7 May 2021

on the Amendment of the Non-Contentious Proceedings Act

. . .

II.

Transitional provision

Proceedings pending at the time this Act enters into force[48] shall be subject to the new law.

. . .

48 Entry into force: 1 September 2021.

Liechtenstein Law Gazette

Year 2021 **No. 228** **published on 6 July 2021**

Act

of 7 May 2021

on the Amendment of the Non-Contentious Proceedings Act

. . .

II.

Transitional provision

Proceedings pending at the time this Act enters into force[49] shall be subject to the new law.

. . .

49 Entry into force: 1 October 2021.