



LAO PEOPLE'S DEMOCRATIC REPUBLIC  
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY

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President's Office

No. 35/PDR

**DECREE**  
*of the*  
**PRESIDENT**  
*of the*  
**LAO PEOPLE'S DEMOCRATIC REPUBLIC**

**On the Promulgation of the Amended Law on Civil Procedure**

Pursuant to Chapter VI, Article 67, paragraph 1 of the Constitution of the Lao People's Democratic which provides for the promulgation of the Constitution and of laws that have been adopted by the National Assembly;

Pursuant to Resolution No. 02/NA, dated 15 May 2004, of the National Assembly of the Lao People's Democratic Republic which adopted the Amended Law on Civil Procedure; and

Pursuant to Proposal No. 14/NASC, dated 24 May 2004, of the Standing Committee of the National Assembly.

**The President of the Lao People's Democratic Republic  
Decrees That:**

**Article 1.** The Amended Law on Civil Procedure is hereby promulgated.

**Article 2.** This Decree shall enter into force on the date of its signing.

Vientiane, 14 June 2004

President of the Lao People's Democratic  
Republic

*[Seal and Signature]*

Khamtay SIPHANDONE



LAO PEOPLE'S DEMOCRATIC REPUBLIC  
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY

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National Assembly

No. 02/NA  
17 May 2004

## LAW ON CIVIL PROCEDURE

### Part I General Provisions

#### Article 1. Purpose

The Law on Civil Procedure defines in detail the principles, regulations and court procedures for solving civil disputes, commercial disputes, family disputes and [juvenile disputes]<sup>1</sup> in a manner consistent with the reality, laws and justice, with the [following] aims: protecting the socio-economic regime, [protecting] the property rights of the State and collectives, [and] the legitimate rights and interests of organisations, enterprises and citizens; enhancing the use of legislation; eliminating and preventing the violation of laws; educating the citizenry to strictly respect and implement the laws; and creating conditions for citizens to contribute to the national socio-economic development.<sup>2</sup>

#### Article 2. Civil Proceedings

“Civil proceedings” refer to the actions taken by a court<sup>3</sup> and participants in a proceedings to consider and solve civil, commercial, family and juvenile disputes and other disputes, as provided in the laws and regulations.

#### Article 3. The Right to File Claims and the Right to Request Court Declarations

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<sup>1</sup> The terms “juvenile dispute” and “juvenile case” shall be used in this translation. The Lao term is “cases involving children”.

<sup>2</sup> For readability, the punctuation in this sentence has been modified.

<sup>3</sup> Readers from common law jurisdictions should note that the role of the Lao court as active taker or “investigator” of evidence is akin to that of civil law judges and that investigations by judges before the trial would constitute part of the “proceedings” in a “case”. Where the Lao text makes a clear reference to a specific part of such proceedings (e.g., the investigation or the actual public hearing), specific words are used.

Individuals, organisations and enterprises have the right to file a claim in court as provided by the laws to protect their rights and interests that have been violated or disputed by other persons.

Individuals, organisations and enterprises have the right to request the court to consider issues that are not in the nature of disputes such as a declaration of death, a declaration of disappearance or other [issues].

#### **Article 4: Events Giving Rise to Civil Proceedings**

Civil proceedings commence upon the following events:

1. The filing of a claim by an individual, organisation or enterprise to protect its rights and interests;
2. The filing of a request by an individual, organisation or enterprise requiring the court to consider a specific issue;
3. The filing of a claim by an organisation, enterprise or individual who has been authorized by the laws to protect the rights and interests of other persons; [or]
4. The submission of a claim by the [Office of the] Public Prosecutor to protect the interests of the State or society.

#### **Article 5. Rights and Obligations of the Court in Adjudicating Cases**

Only the courts have the right and authority to adjudicate and decide on cases based on strict observance of the laws.

When any of the events stipulated in Article 4 of this law arises, the court must consider, mediate or adjudicate.

#### **Article 6. Equality of Citizens before the Laws and in the Courts**

Civil proceedings must be conducted on the basis that all citizens are equal before the laws and the courts, irrespective of their gender, race, ethnicity, socio-economic status, language, educational level, occupation, beliefs, place of residence or other [factors].

The people's courts must create favourable conditions for citizens, in particular for litigants in civil proceedings, to ensure equality and to ensure that court proceedings are based on true and objective circumstances.

#### **Article 7. Consideration of a Case by Judicial Tribunals**

Judicial tribunals of the People’s Supreme Court, appellate courts, provincial, city<sup>4</sup>, district and municipal courts consist of three judges, one of them taking on the role of presiding judge, and the other two as members of the tribunal.

Only judges who are appointed in accordance with the laws may be assigned to judicial tribunals.

The decision of each tribunal must be reached by a majority vote.

The deliberations of judicial tribunals shall be secret.

#### **Article 8. Independence of Judges**

In considering and deciding a case, judges shall be independent and comply with the laws only.

#### **Article 9. Language used in Proceedings**

Court proceedings must be in the Lao language.

Persons involved in a case who do not know the Lao language have the right to use their own language or other languages through translation.

#### **Article 10. Trial<sup>5</sup> in an Open Court Hearing**

All trials shall be heard in public, except for cases that concern secrets of the State or the society, [which shall be heard in proceedings closed to the public]. During the trial, information relating to family relationships such as spousal relationships must be kept confidential.<sup>6</sup>

In all cases, court decisions must be delivered in public.

#### **Article 11. Enforceability of Court Decisions**

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<sup>4</sup> The generic term “City People’s Court” or “Metropolitan People’s Court” is often interchangeably translated as Vientiane City People’s Court because Vientiane is, as of 2005, the only city. This term is intended to include the Special Zone People’s Court (although the specific words are not stated in the Lao text). Readers may wish to refer to the Law on Local Administration for information on the structure of local administration at provincial, municipal, district and city levels. Readers may also wish to refer to the Law on the People’s Courts for information on the structure and administration of the courts.

<sup>5</sup> In this translation, the words “trial” and “hearing” are used specifically to refer to those parts of the case that involve a “meeting of the judges with the participants” (which is the actual Lao term used). The word “trial” is used for such “meetings” at first instance or on appeal (to reflect the fact that the courts at these levels can consider evidence and facts). The word “hearing” is used for such “meetings” on cassation. Readers should note that these two English words are translations of the same Lao term.

<sup>6</sup> For readability, the structure of this paragraph has been modified.

The people's courts, on behalf of the Lao People's Democratic Republic, issues instructions, orders, decisions at first instance, decisions on appeal and decisions on cassation.<sup>7</sup>

All Party and State organisations, the Lao Front for National Construction, mass organisations, social organisations, enterprises and citizens must respect, and the individuals and organisations concerned<sup>8</sup> must strictly implement, the final instructions, [final] orders, [final] decisions at first instance, [final] decisions on appeal and the decisions on cassation of the people's courts, in accordance with Article 85 of the Constitution.<sup>9</sup>

The instructions, orders, decisions at first instance, decisions on appeal and decisions on cassation of the people's courts, when final, shall not be revised unless the case has been re-opened.

#### **Article 12. Prohibition from Considering the Same Case Twice**

A judge who has considered a civil case shall not consider the same case again at any level, unless the laws require otherwise.

#### **Article 13. Comprehensive, Complete and Objective Case Proceedings**

The court must apply measures provided by the laws to ensure that the proceedings are comprehensive, complete and objective, with the aim of [presenting] a case that is clear and accurate enabling the determination of the true facts of the case, and of correctly applying the laws.

The court must inform the litigants of their rights and obligations, [and] warn and instruct the litigants to adhere to the laws.

#### **Article 14. Recusal**

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<sup>7</sup> Lao has three different words for (i) “decision at first instance”, (ii) “decision on appeal” or “at second instance”, and (iii) “decision on cassation” or “on appeal from an appeal”. Where the Lao text is not specific about the level of decision or proceedings, the terms “decision” or “decide” might be used without qualification. In addition, the terms “consider” and “adjudicate” are also used in a general sense (i.e., without distinguishing the level of the decision-making). The reader may wish to refer to the Law on People's Courts for information on the jurisdiction of courts. The term “instruction” is used to refer to directions of a court on matters collateral to the subject matter of the claim (e.g., an instruction that expert evidence is required). The term “order” is used to refer to decisions of a court that are rendered without a trial or hearing (e.g., an undisputed declaration of affiliation).

<sup>8</sup> The term “concerned” is used in the sense of “involved in” or “referenced by”.

<sup>9</sup> The reader may wish to refer to the Law on Judgment Enforcement for information on the conditions under which such instructions, orders and decisions become “final”. For readability, the punctuation in this paragraph has been modified.

Judges, public prosecutors, court clerks, experts or translators must recuse themselves from the proceedings if they are related to any litigant by family ties, or have an interest in or a dispute with any litigant.

If they do not voluntarily recuse themselves, either litigant has the right to request that they be recused from the proceedings.

#### **Article 15. Events Giving Rise to Recusal of the Judge**

The judge must voluntarily recuse himself or be recused upon objection, if:

1. The judge has previously been involved in the same proceedings as a witness, an expert, a public prosecutor, or a court clerk;
2. The judge is a relative or close friend of any litigant;
3. The judge has either a direct or an indirect interest in the case; [or]
4. The judge is a relative of another member of the judicial tribunal [hearing the case].

### **Part II Evidence in the Case**

#### **Article 16. Evidence**

Evidence in a case refers to all the information on which the court bases its determination of the facts supporting the claim, defence and counterclaim and other facts which the court deems important in reaching a sound decision.

#### **Article 17. Type of Evidence**

Evidence in civil, commercial, family and juvenile cases may be of the following types:

- Physical evidence;
- Documentary evidence; [and]
- Witness evidence.

An item of physical evidence refers to materials<sup>10</sup> relating to the dispute such as vehicles, fences, agricultural produce and other [things].

An item of documentary evidence refers to [documents of] title, contracts, photographs, financial statements, and other documents relating to the dispute.

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<sup>10</sup> The term “materials” is used in the sense of tangible things.

An item of witness evidence refers to litigants' testimony, witnesses' testimony and confirmation and testimony of [other participants in the proceedings]<sup>11</sup> relating to the dispute.

#### **Article 18. Documentary or Physical Evidence**

The person who presents evidence personally or who requests the court to demand documentary or physical evidence must explain the events or the source of evidence in order to assist the court in its consideration of the case.

If documentary or physical evidence is acquired from individuals, organisations or enterprises who are not participating in the proceedings, such evidence must be returned to them and the court shall keep copies of such evidence for the file.

#### **Article 19. Testimony of Litigants and of Third Parties**

The testimony of litigants and of third parties related to the case<sup>12</sup> shall be considered and assessed together with evidence collected in the case.

The court shall consider the [factual assertions] and information presented by the litigants in the claim, defence and counterclaim with a view to ascertaining the truth. The court shall make a determination as to the true facts of the case if it believes that the [factual assertions] and information presented by the litigants support such facts.

#### **Article 20. Obligations of the Litigants to Present and Collect Evidence**

Each litigant has the obligation to present and collect evidence for the case.

The plaintiff has the obligation to present all evidence to prove the facts that form the basis of his claim.

The defendant has the obligation to present all evidence to prove the facts that form the basis of his defence or counterclaim.

Before the court accepts a claim for consideration, the court must check whether the plaintiff's evidence is sufficient. If there is no evidence, the court must request the plaintiff to collect evidence. The court shall not consider the case if there is no evidence.

If the evidence presented by the plaintiff or the defendant is insufficient, the court shall request that the litigants collect additional evidence or the court may collect evidence on [its own initiative] or upon the request of the litigants.

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<sup>11</sup> The literal translation is "participants in other proceedings".

<sup>12</sup> Readers may wish to refer to Article 28 for the definition of "third parties related to the case".

## **Article 21. Assignment to Other Courts**

In the event that there is a need to collect evidence in the provinces, cities, districts or municipalities, the court that has jurisdiction over a case has the right to assign the provincial, city, district or municipal courts to undertake the collection of evidence for it.

The request to another court to collect evidence must contain a summary of the case and an explanation of the evidence to be collected by the assigned court. Such request is only binding on the assigned court and must be implemented within thirty days from the date of receipt of the request.

All records and items of evidence which have been collected must be immediately submitted to the court which is considering the case.

## **Article 22. Consideration and Assessment of Evidence**

The court must consider [and] assess evidence by making its own judgment based on a thorough, complete and objective consideration of the facts of the case.<sup>13</sup>

An [item presented as] evidence shall only have evidentiary value if it has been considered, assessed and admitted by the court.

### **Part III Participation in the Proceedings**

#### **Chapter 1 Participants in Proceedings**

## **Article 23. Participants in Proceedings**

Participants in proceedings are:

- Litigants;
- Third parties;
- Witnesses;
- Experts;
- Translators;
- Attorneys or guardians; [and]
- Public prosecutors.<sup>14</sup>

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<sup>13</sup> The phrase “facts of the case” may either mean “the facts” determined to be true by the judge or the “factual assertions” made by the litigants. The Lao term does not distinguish between these two meanings.

<sup>14</sup> The term “Public Prosecutor” has been chosen because it is the English term commonly used in Laos for this title/institution. Other common translations are “People’s Prosecutor” or “People’s Public Prosecutor”. Readers from common law jurisdictions should note that the Lao Public Prosecutor has considerably more powers than public prosecutors in their home jurisdictions and is more akin to a

#### **Article 24. Litigants in Proceedings**

Litigants in proceedings are the plaintiff and the defendant.

The plaintiff is an individual, organisation or enterprise that has filed a claim with the court asserting that its rights have been violated or disputed.

The defendant is an individual, organisation or enterprise against whom a claim has been filed asserting the violation of rights or a dispute over rights.

#### **Article 25. Rights and Obligations of Litigants**

Litigants have equal rights in the proceedings.

Litigants have the following rights:

1. To file a claim, defence or counterclaim;
2. To request the recusal of a judge, public prosecutor, court clerk, expert or translator;
3. To present evidence, to request a mediation, to participate in the investigation and to search for evidence;
4. To cross examine other individuals who participate in the proceedings;
5. To view documents contained in the file, to make a copy of required documents from the file or to make notes of necessary information contained in the file;
6. To use an attorney or guardian in the proceedings;
7. To give oral or written testimony;
8. To appeal against an instruction, order, decision at first instance or decision on appeal of the court;
9. To complain against the judge's actions or instructions which are believed to be wrong; [and]
10. To demand that a final court decision be enforced.

Litigants have the following obligations:

1. Upon the summons of the court, to appear before the court personally or through a representative;
2. To follow the court's instructions and orders and the rules of the proceedings;
3. To honestly exercise their rights in the proceedings;
4. To search for evidence in order to prove the facts upon which their claims, defences, or counterclaims are based.

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procurator in socialist systems. In addition, readers should note that the term is principally used to refer to the "office" or "organisation" of public prosecutors rather than to refer to individual prosecutors. In this Article, the reference is to the persons (i.e., the individual prosecutors) rather than the office.

In order to protect the rights and interests of litigants who are under eighteen years of age or who are incompetent<sup>15</sup>, such litigants must act through legal representatives.

**Article 26. Modification to the Object of the Claim, Withdrawal of a Claim, Admission of a Claim and Amicable Settlements**

The plaintiff has the right to modify the object of his claim, to increase or decrease the amount of the claim or to withdraw the claim. The defendant has the right to admit the claim. The litigants may terminate the case by an amicable settlement.

The court shall not allow the plaintiff to withdraw his claim, the defendant to admit the claim, or the litigants to amicably settle the case if such withdrawal, admission or amicable settlement conflicts with the laws, violates the interests of the State and the society or violates the rights and interests of other persons.

A claim may be filed by one plaintiff or jointly by several plaintiffs and may be filed against one defendant or several defendants. Each plaintiff or defendant must appear in the proceedings personally or, if necessary, may assign a person to participate on their behalf.

**Article 27. Succession in Proceedings**

The court shall allow the succession of either litigant if:

1. The litigant dies;
2. The litigant is a legal entity that has been dissolved or declared bankrupt; [or]
3. The plaintiff or defendant has assigned his rights or obligations to other persons to perform on his behalf as provided in Article 23 of the Contract Law.

Succession may take place at all stages of the proceedings.

Rights, duties and all acts of the litigants in the case shall be binding upon their successors.

**Article 28. Third Parties**

“Third parties”<sup>16</sup> refers to individuals, organisations or enterprises that participate in a case to protect their rights and interests involved in the case being considered by the court.

Third parties shall not be direct plaintiffs or defendants in a case.

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<sup>15</sup> The term “incompetent” is used in the sense of mentally disabled or incapable.

<sup>16</sup> The quotation marks have been added and are not in the original text.

Third parties who have filed a claim themselves may participate in the proceedings from that date until a decision is reached by the court. [Such third parties] exercise the same rights and have the same obligations as plaintiffs as provided in Article 25 of this law.

Third parties who have not filed a claim themselves:

1. May participate in the proceedings on the side of the plaintiff or the defendant;
2. May join in the proceedings upon the request of the litigants, the public prosecutor or the court; [and]
3. Exercise the same rights and have the same obligations as the litigants, except the right to modify the object of the claim, the right to increase or decrease the amount of the claim, the right to withdraw the claim, the right to admit the claim or reach an amicable settlement, and the right to demand the enforcement of final decisions.

#### **Article 29. Third Parties in Cases Relating to Reinstatement [of Employees]**

In a claim relating to the reinstatement of employees, workers or labourers who have been improperly dismissed or transferred, the court shall summon the person who ordered such dismissal or transfer of workers or labourers to participate in the case as a third party. If the court finds that the dismissal or transfer has been made in violation of the laws, the courts must decide to reinstate the dismissed or transferred worker and shall order the person who issued the order to compensate for all damages incurred from the improper dismissal or transfer.

#### **Article 30. Witness in the Proceedings**

The witness is an individual who has seen the actual event in dispute or [has actual knowledge of] circumstances relating to the case.

The following persons may testify but are not considered as witnesses: persons who are deaf, mute or incompetent; children under eighteen years of age; and close relatives of either litigant.<sup>17</sup>

The witness has the following rights:

1. To testify;
2. To view the records of the testimony which he<sup>18</sup> has given;

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<sup>17</sup> For readability, the structure and punctuation in this paragraph have been modified.

<sup>18</sup> The reader should note that the Lao language does not distinguish between genders in pronouns. In this translation, a reference to a gender is a reference to all genders, unless the context requires otherwise. The translators' decision to use the male gender was made in the interests of simplicity and consistency.

3. To propose modification and addition to the records of his testimony or to make additional testimony;
4. To complain against the judge's actions or instructions which are believed to be wrong; [and]
5. To be protected under the laws and regulations from any harassment to his life, health or assets because of his testimony.

The witness has the following obligations:

1. To appear [before the court] upon the court's summons;
2. To give true testimony; [and]
3. To be responsible for any untrue testimony or refusal to give testimony as provided in Article 153 of the Penal Law; the court may take the witness' testimony at his residence if the witness is ill, advanced in age, physically disabled or cannot appear before the court in accordance with the court summons due to a valid reason.<sup>19</sup>

A person seeking to bring a witness to the proceedings must explain to the court the facts of the case relating to such witness and must give details of the name, surname and address of such witness.

#### **Article 31. Expert**

The expert is an individual who has knowledge and experience in a specific field and is recognized by a competent institution, [and] must be able to clarify issues relating to his field of expertise.

In the event that it is necessary to verify a doubtful item of evidence relating to scientific, technical, commercial, accounting and other matters, the court must issue an instruction to appoint an expert to testify if requested by any participant in the proceedings or based on the court's own decision.

The expert must testify on the evidence within the scope instructed. Once the expert finishes testifying, the expert must give a report of his opinion to the court within the allocated timeframe, [and] must be responsible for his opinion and must keep the information in the case confidential.

To verify [an item of evidence,] the court may take testimony from more than one expert and on more than one occasion.

In re-verifying [any evidence established by an expert], a larger number of experts is required.

#### **Article 32. Translators**

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<sup>19</sup> This clause is obviously not technically an "obligation" of a witness but appears to have been inserted in this paragraph because it provides an excuse in certain circumstances to the witness' obligation to appear before the court.

The translator is an individual who has knowledge, ability or experience in translating a language used by a participant in the proceedings who does not know the Lao language.

The translator must be responsible for his translation and must keep the information in the case confidential.

### **Article 33. Attorney or Guardian**

A guardian is an individual who participates in the proceedings to protect the legitimate rights and interests of a litigant.

The guardian may be an attorney, a representative of the organisation or enterprise, or a spouse, parent, protector<sup>20</sup> or close relative.

The attorney or guardian has the right to participate in all stages of the proceedings.

The attorney or the guardian has the following rights:

1. To discuss [the case] with litigants;
2. To file a claim or request;
3. To view documents contained in the file, to make a copy of required documents from the file or to make notes of necessary information contained in the file;
4. To present evidence;
5. To participate in the trial and give opinions;
6. To request the recusal of a judge, a public prosecutor, a court clerk, an expert or a translator;
7. To complain against the judge's actions or instructions which are believed to be wrong;
8. To appeal the instructions, orders, decisions at first instance or decisions on appeal of the court; [and]
9. To be protected under the laws and regulations from any harassment to his life, health, liberty or assets because he has acted in the proceedings on behalf of a litigant.

The attorney or guardian has the following obligations:

1. To use all measures under the laws to protect the legitimate rights and interests of the litigant whom he is protecting;
2. To provide legal assistance to the litigant whom he is protecting; [and]
3. To follow the rules of ethics in collecting evidence in order to ensure a fair proceedings.

In addition, the attorney must exercise other rights and obligations as provided in the regulations of the bar association.

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<sup>20</sup> The terms “protector” and “guardian” are two different words in Lao but they appear to have been used interchangeably in this law.

## Chapter 2 Representation in the Court

### Article 34. Representative-By-Law

A representative-by-law<sup>21</sup> is an individual who has the right to argue in the proceedings without being appointed and assigned by the litigant whom he is protecting.

The representative-by-law may be:

- A “guardian”<sup>22</sup>, namely the parent or [other] protector of the rights and interests of a child under eighteen years of age, or an insane, incompetent, deaf or mute person;
- A “representative of a missing person”<sup>23</sup>, namely the protector who is appointed to protect and manage the assets of such missing person; [or]
- A “representative of a successor”<sup>24</sup>, namely the protector who has been appointed to preserve and manage the heritage of a successor<sup>25</sup> which was inherited from a deceased person or a person who has been declared by court decision to be a deceased person, if such heritage has not been received by someone else.<sup>26</sup>

A person who is in possession of an asset assigned to him by another person is also considered as a representative-by-law.

A representative-by-law has the same rights and obligations as the litigants as provided in Article 25 of this law.

### Article 35. Representative in Court

A representative in court is an individual who has the right to argue in the proceedings, through appointment or assignment by the person whom he is protecting or by the people's court.

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<sup>21</sup> Another term might be “guardian ad litem”.

<sup>22</sup> The quotation marks have been added and are not in the original text.

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*

<sup>25</sup> The term “successor” is used here in a slightly different sense than in Article 27. The difference ought to be clear from the context.

<sup>26</sup> The court may appoint a representative for a successor who is not in a position to claim his inheritance, but such appointment only covers the part of the estate of the deceased which has not been claimed by some other successor. This may also refer to protection of persons who are only entitled to receive the inheritance if successors with higher priority do not claim first. Readers should refer to the Law on Inheritance for more information.

The following persons may be a representative in court:

1. An attorney;
2. An employee or a worker of an organisation or an enterprise who has been assigned [as a representative] in proceedings involving his organisation or enterprise;
3. A person involved in the same case as the litigants and assigned by the litigants; [and]
4. A person appointed by a court to act as a representative in the case.

**Article 36. Power of Attorney**

A power of attorney is a delegation of rights and obligations of either litigant or of a third party to another person to act on his behalf in a court. The power of attorney must be made in writing and certified by an organisation where the grantor is located, such as: organisations or enterprises, notary offices, village administrative authorities, institutes, schools, hospitals, prisons and others.

A power of attorney on behalf of a legal entity must be issued by a director of the concerned organisation or enterprise.

**Chapter 3  
Participation of Public Prosecutors**

**Article 37. Role of the Public Prosecutors in Civil Proceedings**

Public prosecutors participate in civil cases to monitor and inspect the implementation of laws in the court, and [may also participate] as plaintiffs in civil cases, as provided by the laws, to protect the interests of the State or society or of a person who is unable to act, such as an insane or incompetent person, or a child under eighteen years of age without a guardian.

**Article 38. Monitoring and Inspection of the Implementation of Laws in Court by Public prosecutors**

Public prosecutors have the right to participate in civil proceedings to monitor and inspect the implementation of laws in a court in order to ensure thorough, complete, objective, correct and fair proceedings.

**Article 39. Participation of Public Prosecutors as Plaintiff in Civil Proceedings**

When a civil case affects the interests of the State or society and no organisation or enterprise has filed a claim, the [Office of the] Public Prosecutor has the right to file a claim in court and to act as plaintiff in the case, as provided by the laws.

The public prosecutor participating in the proceedings has the right to view the file, to request recusal of the judicial tribunal, court clerks, experts or translators, to present evidence, to participate in the search for evidence, to submit objections, [and] to make statements regarding issues raised during the proceedings.

## **Chapter 4 Court Summons**

### **Article 40. Summons and Delivery of Summons**

A summons is a letter issued by a court requesting a plaintiff, defendant, third party, witness, expert [or] translator to appear in court<sup>27</sup> at the time and place prescribed in the summons.

When the summons is delivered to the relevant person, that person must sign his name or place his thumb-print on the summons. If that person refuses to do so, the person who delivers the summons shall record his refusal in the summons.

The summons may be delivered to the residence or to the workplace of the relevant person.

The summons must reach the summoned person at least three days before the day the person must appear in court. The summons must be made in three copies, one for the summoned person, one for the relevant village administrative authority and the last copy, once it is signed, must be kept in the court's file of the case.

### **Article 41. Content of Summons**

A summons must have the following contents:

1. The name of the people's court;
2. The given name and surname of the summoned person;
3. The summoned person's relationship to the case, his status [in the case], and the purpose of his being summoned in the proceedings;
4. The venue and date of appearance in court;
5. Instruction and orders to the summoned person to follow certain requirements, such as to bring available evidence to the court; [and]
6. A warning to the summoned person of the potential consequences of failing to appear in court.

### **Article 42. Obligation to Appear in Court according to Summons**

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<sup>27</sup> Readers from common law jurisdictions should note that this term may also include appearing before the investigating judge(s) prior to the “meeting of judges” or “trial”.

Every person who is summoned must appear in court at the time, date, and venue prescribed in the summons.

If the plaintiff or his attorney has received a summons, but fails on three occasions to appear in court according to the summons, and does not present any reasonable excuses for such failure, the court may dismiss the case and the plaintiff shall lose his rights to reinstate that case.

If the defendant does not appear in court pursuant to the summons because he has moved from his original address without notifying the village administrative authority of his new address, the plaintiff has the right to request that the court issue a default decision.

**Article 43. Trial where Litigants are Present**

When litigants or their representatives appear in court as summoned, the judge or the judicial tribunal shall hear their testimony and explanations, and consider the evidence in the litigants' case. If necessary, the parties may be questioned in the presence of each other.

**Article 44. Warrant**

A warrant is a court order authorizing the police to bring a defendant or witness to the court on the date, time and venue prescribed in the warrant to meet the court officials.

If a defendant or witness has received a summons, but fails on three occasions to appear in court according to the summons, and does not present any sufficient excuse, the court shall issue a warrant. Such warrant must be exercised in cooperation with the village administrative authority. Such defendant and witness shall also be charged under Article 162 of the Penal Law.

**Part IV  
Jurisdiction of Judicial Tribunals**

**Chapter 1  
Jurisdiction of the Civil Chamber**

**Article 45. Jurisdiction of the Civil Chamber**

The civil chamber<sup>28</sup> has the jurisdiction to decide on:

1. Cases relating to property and inheritance;
2. Cases relating to civil relationships, such as the violation of contracts other than commercial contracts;
3. Cases relating to request for compensation of damages;
4. Cases relating to labour [disputes]; [and]
5. Cases relating to administrative relationships.

**Article 46. Cases relating to Labour [Disputes]<sup>29</sup>**

Cases relating to labour [disputes] shall be considered by the court if the cases could not be resolved by the labour management organisation or the labour arbitration committee.

Such cases are:

- Disputes relating to labour laws and regulations, such as [disputes relating to] employment contracts, or claims for compensation arising from the improper termination of an employment contract, an occupational injury or work-related illness; [and]
- Disputes relating to benefits, such as salaries or wages.

Details of labour disputes are described in the Labour Law.

**Article 47. Cases relating to Administrative Relationships**

Cases relating to administrative relationships, [where the case does not have] the components of a criminal offence, and which may be considered by the court are as follows:

- Cases involving a mistake in the list of persons eligible for election, which the election committee was not able to solve;
- Cases relating to the acts of administrative officials in connection with the imposition of penalties, the improper collection of income tax and other issues;
- Cases relating to the improper seizure of assets; [and]
- Cases relating to other mistakes [made by administrative officials].

## **Chapter 2 Jurisdiction of the Commercial Chamber**

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<sup>28</sup> The reader may wish to refer to the Law on People's Courts for information on how each court is divided into chambers. Even though it may not be apparent from the text in this law, a reference to "the chamber" is not a reference to a single chamber of a single court but to a certain kind of chamber of each court.

<sup>29</sup> For readability, the structure of this paragraph has been modified.

#### **Article 48. Jurisdiction of the Commercial Chamber**

The commercial chamber has jurisdiction to decide:

1. Cases relating to business or commercial [disputes];
2. Cases relating to business or commercial contracts, or commercial documents such as promissory notes, bills of exchange, cheques and other documents;
3. Cases relating to commercial loan agreements;
4. Cases relating to enterprise bankruptcy and liquidation;
5. Cases relating to business or commercial relationships in connection with the import or export of goods, transportation of goods, insurance, banking and financial services, marketing [services], and agency;
6. Cases which the Office of Economic Dispute Resolution has sent to a court for enforcement;
7. Cases relating to violation of copyright and trademarks; [and]
8. Other cases relating to business and commercial relationships.

#### **Article 49. Proceedings of the Commercial Chamber**

Only the provincial and city people's courts have the right to consider a commercial case as a court of first instance.

The commercial chamber must make a proper, prompt and fair consideration and decision of the case to ensure efficiency and to ensure that no [delay] is caused to business operations.

The information of individuals, organisations and enterprises participating in the commercial proceedings should be kept confidential.

Proceedings in a commercial case must be conducted in compliance with business, commercial and other laws, as well as domestic and international commercial practices.

In addition to the principles mentioned above, the commercial chamber must apply the general principles relating to civil procedure.

#### **Article 50. Evidence in Commercial Case**

Items of evidence in a commercial case may be documents, materials or important information which is valuable evidence in the proceedings, such as testimonies, reference materials, photographs, [records of] telephone [conversations], facsimiles or various scientific tools.

#### **Article 51. Request for Payment of Debt before the Filing of a Claim**

Before filing a commercial claim in court, the creditor shall request the debtor to repay or to settle the matter through mediation. If amicable settlement cannot be reached, the creditor then may file a claim in court to request the court to instruct the debtor to bring documents or his financial statements, as well as to request that the court issue an order to seize or sequester the debtor's property to repay the debt.

**Article 52. Mediation of a Case in the Commercial Chamber**

Before the trial, the commercial chamber must seek a way to mediate the dispute between the litigants to help them reach an agreement.

If an agreement on repayment between the debtor and creditor has been reached in front of the court, the agreement shall become enforceable immediately. The repayment must be made in one instalment but, if the debtor cannot repay in one instalment, he can repay in several instalments. However, the first instalment must not be less than one-third of the total debt.

**Article 53. Consideration of Mediation Settlements or Arbitration Awards made by the Office of Economic Dispute Resolution**

The litigants have the right to request the court to review a mediation settlement or arbitration award of the Office of Economic Dispute Resolution which has not yet been enforced.

In reviewing a mediation settlement or an arbitral award of the Office of Economic Dispute Resolution, the court shall only review whether the dispute resolution<sup>30</sup> has been conducted in conformity with existing regulations regarding dispute resolution and shall review the application of the laws with respect to security and social order. If the court finds [such settlement or award] correct, the court shall confirm it, and such mediation settlement or arbitral award shall become enforceable. The litigants have no right to appeal, unless the decision of the people's court has confirmed a wrong mediation settlement or arbitral award of the Office of Economic Dispute Resolution or if the decision of the people's court is inconsistent with the mediation settlement reached by the litigants or the arbitral award of the Office of Economic Dispute Resolution.<sup>31</sup>

If the court finds that the mediation settlement or arbitral award of the Office of Economic Dispute Resolution has violated the regulations regarding arbitration of economic disputes or laws and regulations relating to security and social order, the court shall not issue a confirmation. Any litigant who is

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<sup>30</sup> The term “dispute resolution” appears to be used in this article to refer to both mediations and arbitrations conducted by the Office of Economic Dispute Resolution.

<sup>31</sup> This is a literal translation. The translators are aware that there may be an inconsistency between the lead-in language prohibiting appeal and the fact that litigants can appeal a “wrong” settlement or award.

not satisfied has the right to appeal to the court for a review, in accordance with the laws.

**Article 54. Commercial Case after the Decision**

After the court has decided a case relating to a commercial dispute and if there has been no appeal, the decision shall be sent to the relevant judgment enforcement office for speedy enforcement.

**Chapter 3  
Jurisdiction of the Family Chamber**

**Article 55. Jurisdiction of the Family Chamber**

The family chamber has jurisdiction to decide:<sup>32</sup>

1. Cases relating to the marriage relationship such as divorces, division of matrimonial property, and debts of married persons;
2. Cases relating to requests for spousal or child support;
3. Cases relating to family relationships, such as requests for acknowledgement of consanguinity or for [an acknowledgement] that a person is incompetent, missing or dead;
4. Cases relating to the custody of children;
5. Cases relating to the termination of parental rights and rights of children;
6. Cases relating to adopted children;
7. Cases relating to the affiliation of children or to establish paternity;
8. Cases relating to the interests of children, such as to determine the name, surname or nationality of children; [and]
9. Cases relating to damages arising from the refusal to marry following engagement, sexual relations before marriage, null marriages, and other [matters].

**Article 56. Mediation of a Family Case**

Before considering a divorce case, the court shall mediate between the husband and wife and try to reconcile them. The court shall invite the litigants' parents and relatives to appear before the court in order to discuss or assist in educating and mediating the litigants to understand [each other,] reach a compromise and continue living together.

If the husband and wife reconcile, the court must make a memorandum and withdraw the divorce claim.

If the husband and wife refuse to reconcile immediately, they must be granted a period not exceeding three months to reconsider their decision.

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<sup>32</sup> The reader may wish to refer to the Family Law for more information on what each of these kinds of cases may entail.

If the husband and wife are unable to reconcile within the granted period, the court must make a decision on the divorce case in accordance with the laws.

**Article 57. Division of Matrimonial Property and Custody of the Child**

The division of matrimonial property must be in accordance with Article 28 of the Family Law.

In the event of a divorce, the court shall make a decision awarding custody of any child under seven years of age to his mother, unless the mother does not accept the child or does not have the means to raise the child. A child who is seven years of age or older has the right to make his own decision.

In the event that the parents are unable to accept a child or are incapable of raising the child, the court shall make a decision to allow the child to be under a third person's custody.

**Article 58. Consideration of Spousal and Child Support**

In the event of a divorce, where there is a request for spousal or child support and if matrimonial property exists, [the court] shall make a decision whereby payment for support shall be deducted from the part of the matrimonial property [held by] the party who is obligated to pay for such support. If there is no matrimonial property, the court shall make a decision whereby the party who is responsible for such support must make payment on a monthly basis in accordance with the cost of living from time to time. If the matrimonial property is in the form of a house in which the family lives, the party with whom the children are living has the priority in receiving the house. If the value of the house is greater than the amount to be received by the parent awarded custody of the child, such party who receives the house must pay back the balance to the other party.

**Article 59. Termination of the Right of Parents and Children**

A consideration on the termination of the right of a parent by a request of another parent, close relatives or the public prosecutor can be made if the child has not reached eighteen years of age and must be made in accordance with paragraph 2 of Article 32 of the Family Law.

A consideration on the termination of the right of a child may be made if such child has reached eighteen years of age and the child is ungrateful by physically abusing or threatening his parents and neglecting the obligation to take care of and support his parents in accordance with a court decision or otherwise.

**Chapter 4  
Jurisdiction of the Juvenile Chamber**

## **Article 60. Jurisdiction of the Juvenile Chamber**

The juvenile chamber has jurisdiction to decide:

1. Cases relating to compensation for damages caused by an act of a child under eighteen years of age;
2. Cases relating to child labour;
3. Cases between children; [and]
4. Cases relating to violation of children's rights.

If, during the course of a juvenile case, the child [becomes] capable of acting on his own behalf or reaches eighteen years of age, the [juvenile chamber] must nevertheless continue the proceedings until a decision is reached. If there is a request for appeal or cassation, the juvenile chamber at the higher instance must consider such request.

## **Article 61. Consideration of a Juvenile Case**

A parent or a protector must participate in proceedings involving a child under the legal age<sup>33</sup>, especially in a case where the child has caused damage to other people.

Consideration of other issues in a juvenile case must be conducted in accordance with general regulations and based on true evidence.

## **Chapter 5 Disputes Relating to the Jurisdiction of the Court**

## **Article 62. Jurisdiction of the Court over a Case**

The people's court where an event or a dispute has occurred, or where the asset which forms the basis [of the claim]<sup>34</sup> is located, or where the defendant resides has jurisdiction over the case.

The people's courts at district and municipal levels have jurisdiction over civil cases with a value of less than 20,000,000 Kip and over other cases as provided in Article 50 of the Law on the People's Courts. The people's courts at provincial and city levels have jurisdiction over civil, family and juvenile cases which are not within the jurisdiction of the people's courts at district and municipal levels, and over commercial cases.

## **Article 63. Dispute relating to the Jurisdiction of the Court**

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<sup>33</sup> Article 60 of this law prescribes the "legal age" – namely, eighteen years of age.

<sup>34</sup> This is a reference to the property or asset which forms the subject matter of the dispute.

In the event of a dispute relating to the jurisdiction of a court, the court which has received the request shall submit the dispute to the People's Supreme Court for a final decision.

The right to request the re-assignment of a case to itself and the right to submit a case [to another court] must be in accordance with Articles 31 and 41 of the Law on the People's Courts.

#### **Article 64. Dispute Relating to the Jurisdiction of the Chambers**

In the event of a dispute relating to the jurisdiction of a civil, commercial, family or juvenile chamber [of any court], the president of such court must decide which chamber has the jurisdiction over such case.

### **Part V Proceedings at the Court of First Instance**

#### **Article 65. People's Courts which Adjudicate at the First Instance**

The people's courts at district, municipal, provincial and city levels have the right to adjudicate cases at first instance, based on facts<sup>35</sup> and law.

### **Chapter 1 Filing of a Claim**

#### **Article 66. Claim**

A claim is a document submitted by an individual, organisation or enterprise to a court to complain that it has suffered damage from a violation or dispute in respect of its rights and interests.

A claim consists of the following main elements:

- The name of the court in which the claim has been filed;
- The given name, family name and address of the plaintiff and defendant. If the plaintiff and defendant are legal entities, the office address of those legal entities must be indicated, as well as the given name and family name of their representatives;
- [A statement of] the events giving rise to the claim and evidence on which the court may base its decision;
- The amount of the claim;
- The [remedies] requested by the plaintiff; [and]
- Other documents relating to the case [which shall be] attached to the claim.<sup>36</sup>

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<sup>35</sup> The Lao word connotes “information and evidence”.

<sup>36</sup> The Lao text suggests that these documents are not technically part of the claim but this bullet item has been inserted at the end of this list because the documents relate to the claim.

The claim must be signed by the plaintiff or the plaintiff's representative, or should display such person's thumb print; the claim must be affixed with stamps<sup>37</sup> and must be accompanied by the payment of a [deposit of] court fees depending on the case as provided in the Law on Court Fees. The representative must hold a proper power of attorney.

#### **Article 67. Defence and Counterclaim**

A defence is a document submitted to a court by a defendant responding to the plaintiff's claim. If the defendant perceives that the plaintiff's claim is groundless, that the plaintiff's claim for damages, compensation or return of assets is unrealistic or that [the claim] lacks sufficient facts so as to render a court incapable of making a decision, the defendant has the right to make a reasonable defence by bringing witnesses and presenting evidence.

A counterclaim is a document submitted to a court by a defendant to protect his interests if the defendant finds that the plaintiff has violated the defendant's [rights and interests] or has failed to discharge any obligation owed to the defendant, so that the court can consider [such matters] at the same time.

#### **Article 68. Admission or Withdrawal of Claim**

The defendant has the right to admit all or part of the plaintiff's claim. Upon such admission, the court shall decide without any trial.

The plaintiff has the right to partially or completely withdraw his claim against the defendant. In the event that the plaintiff withdraws his claim in part, the court shall only consider the portion not withdrawn. If the plaintiff withdraws the entire claim, the case shall be terminated, unless it is a divorce case.

#### **Article 69. Acceptance of Claim for Consideration**

When the plaintiff has filed his claim in court, the court must accept such claim for consideration, unless such claim does not comply with Article 66 of this law. In such a case, the court must inform the plaintiff and must specify a period for him to remedy the defects in the claim. If the plaintiff does not present himself to resolve such defects within that time period, the claim shall be returned to the plaintiff.

Upon receipt of the claim, the court must determine whether it has jurisdiction over the case.

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<sup>37</sup>

The translators believe that this is a reference to stamps evidencing the payment of stamp fees.

If the court determines that it has jurisdiction over the case and the claim conforms with the laws and regulations, the court shall send the claim to the defendant to allow him to submit a defence or counterclaim.

If the litigants are unable to settle their dispute by mediation in the court, the court must conduct proceedings within the time specified in Article 70 of this law. The court must investigate and collect evidence and present them at the trial for decision.

#### **Article 70. Period for Consideration of Case**

Upon receipt of the claim, the different chambers must proceed with the case in accordance with the following timeframe:

- Civil case – proceedings must commence within sixty days; cases relating to labour and administrative matters – proceedings must commence within thirty days;
- Commercial case – proceedings must commence within fifteen days;
- Family case – proceedings must commence within thirty days; [and]
- Juvenile case – proceedings must commence within fifteen days.

#### **Article 71. Measures to Guarantee the Claim**

If it is necessary to guarantee the repayment of the debt that is the subject matter of a claim, the court shall take [the following] measures upon the request of a litigant or based on the court's own opinion if it is in the interests of the State and society.

Measures [to guarantee a claim] are divided into the following types:

1. Seizing or sequestering the defendant's assets, [whether] held by him or another person, but [the value of the asset] must not exceed the amount of the debt and interest thereon;
2. Forbidding the defendant to undertake certain work or do certain things relating to the case;<sup>38</sup>
3. Forbidding the defendant to enter into contractual obligations relating to the case with other persons; [and]
4. Other measures to guarantee repayment of the claim.

Violation of any of the above measures shall be subject to prosecution under Article 162 of the Penal Law.

#### **Article 72. Modification and Cancellation of Measures [to Guarantee Claim]**

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<sup>38</sup> This is a literal translation. The text does not clarify what such work or things might be nor make clear that the reference is to work or things specified in the court's order.

The modification or cancellation of any measures to guarantee a claim must be considered in a court hearing with the involvement of the relevant individuals in the case, but the failure of any individual to participate in the hearing shall not create an obstacle to the consideration [of such measures].

The court may modify or cancel measures to guarantee a claim according to a request of either litigant or based on its own opinion if it is in the interests of the State and society.

In the event that the court does not grant a request for modification or cancellation, the measures which have been awarded shall continue to be valid until a final decision is made by the court.

## **Chapter 2**

### **Investigation and Presentation of Evidence in Cases**

#### **Article 73. Investigation**

Upon the receipt of a claim, the president of the court may assign any judge to prepare the case for thorough, complete and objective investigation and presentation of evidence, [in order to make] a timely decision.

Investigation shall take place through the testimony given by the litigants, witnesses or individuals involved in the case separately or in front of one another. Testimony shall be taken through the investigation of the judge and recorded by the court clerk.

#### **Article 74. Record of Testimony**

The record of testimony must indicate the location, date and time [it was recorded], the given name and surname of the judge, [the] given name, surname and brief resume of the testifier and other [details] as provided in the standard form.

Upon completion of the testimony, the judge must read the record of such testimony out loud in front of the testifiers or allow them to read it personally. After that, all the testifiers must sign and affix a thumb print on each page [of the testimony record]. If testimony is taken from a child who is under eighteen years of age, or from a person who is deaf, mute, incompetent or insane, his guardian must sign the testimony record and affix a thumb print on it, to confirm such testimony.

If any word is crossed out or added to the testimony record, the judge, court clerk and testifier[s] have to sign and affix their thumb print at the start of the line where [the word] has been crossed out or added.

In the event that the testifier[s] refuse to sign and affix their thumb prints on the testimony record, the judge must make a note of this at the end of the record.

The testimony record must be made in two copies; one copy must be kept in the file, and the other copy must be given to the testifier[s].

**Article 75. Verification**

In the event that after the trial is over, the information or evidence presented is not clear and if it is necessary to verify any accounts, letters, signatures, seals, assets or locations, then, at the request of either litigant or based on its own opinion, the court must issue an instruction appointing an expert to conduct such verification. Such instruction shall indicate the subject matter of the verification, the date and time of the verification, and the rights and obligations of the expert in conducting such verification.

The court must inform the litigants or other concerned individuals of such instruction.

Verification may be undertaken by one or several experts and several times.

After conducting the verification, the experts must compile a summary report regarding the results of such verification and give their opinions based on [what they have found to be] true during the verification, and [must] send [such report] to the court within the allocated time period.

Experts shall receive a fee for performing the court assignment in accordance with specific regulations. Expenditures relating to the verification must be in accordance with paragraph 1 of Article 10 of the Law on Court Fees.

**Article 76. Seizing and Sequestering Assets**

In the event that the type, amount, quantity, list of assets or location of the stock of material or goods relevant to the claim are clearly determined [and] it is useful for the case, or in order to guarantee payment of the claim, the court may, upon the request of either litigant or based on its own opinion that [such seizure or sequestering] is in the interests of the State or society, issue an instruction to seize or sequester assets.

**Article 77. Assignment to another Court to Investigate on its Behalf**

When litigants, witnesses, or individuals involved in a case are unable to appear in a court for testimony because they are in different locations or for some other reason, the court that is considering the case shall assign the issue under investigation to the other court where the relevant person is located to investigate on its behalf. Once the investigation has been completed, the [testimony] records or items of evidence collected must be submitted to the assigning court immediately.

#### **Article 78. Collection and Assessment of Evidence**

After taking testimony from the litigants and witnesses and after collecting information and evidence from various sources, the judge must analyse and assess such evidence in order to determine the true facts of the case and in order to apply the relevant provisions of the laws.

Evidence that does not form the basis of the case must still be analysed in the court's decision.

### **Chapter 3 Mediation**

#### **Article 79. Mediation**

Small disputes or disputes which are not of high value such as family disputes, disputes relating to the possession of animals, rights of way and other [disputes] must be settled by the village mediation unit. If the litigants cannot reach a settlement, the justice office of the district must educate, encourage reconciliation, and mediate between the litigants once again, based on the regulations of the village mediation unit and district justice office. In the event that the justice office of the district is unable to mediate such dispute, the dispute may be brought to a court for adjudication in accordance with the laws if a claim is filed. When a court receives a claim, the judicial tribunal may mediate between the litigants again.

In the event that a dispute involves a high amount, the litigants have the right to request mediation as described in the preceding paragraph or can submit a claim to a court directly.

A mediation may be conducted if it does not affect peace and social order.

#### **Article 80. Results of Mediation**

When the litigants reach a settlement as a result of mediation, the village mediation unit or the district justice office must make a memorandum and the litigants must sign and affix their thumb prints to it in order to evidence [their agreement]. The memorandum of mediation shall become effective from the date it is signed.

In the case of mediation by the court, the mediation settlement shall be effective and enforceable as a final decision of the court. The order for execution of the mediation settlement must be made within five days from the date of the mediation.

The court shall not reconsider a case that it has mediated.

## **Chapter 4**

### **Proceedings in the Court of First Instance<sup>39</sup>**

#### **Article 81. Preparation for Trial**

In the preparation for trial, it is necessary to consider whether there is sufficient evidence and whether the case is ready for trial; and to see whether any member of the judicial tribunal has requested recusal. If a third party is involved in the case, the court must bring the third party into the trial, in a similar way as it would for litigants.

Litigants must be involved in the trial, unless the case relates to a missing or incompetent person, in which event such person's appearance in the trial is unnecessary. A parent or protector must represent the child in a juvenile case.

Before declaring the start of a trial, the court clerk must inspect whether the litigants, third persons, witnesses and other summoned persons are present. Additionally, the court clerk must read the regulations regarding trial to such participants for acknowledgement and implementation.

The regulations regarding trial are set out in specific regulations.

#### **Article 82. Trial by the Court of First Instance**

A trial at first instance must take place directly, orally, in open court (or in private in certain cases)<sup>40</sup>, with debate [by the parties], continuously and before the same judicial tribunal.

The presiding judge has the duty to lead the trial in an impartial manner.

After a trial is declared open, the presiding judge must announce [the following matters:] the names of the members of the judicial tribunal, prosecutors and clerks; the case to be considered; the right to request recusal of the entire judicial tribunal, any member of the judicial tribunal, prosecutors, clerks, experts and translators; and the rights of the litigants and participants.<sup>41</sup> If recusal is requested, the judicial tribunal must suspend the trial to consider and decide on this matter.

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<sup>39</sup> The reader should note that, throughout this law, the reference to a “court of first instance”, a “court of second instance” or a “court of cassation” is not a reference to any specific court but to the jurisdiction which a court is exercising in a particular case. E.g., a people’s provincial court may be a court of first instance for certain purposes and a court of second instance for other purposes.

<sup>40</sup> The parentheses have been added.

<sup>41</sup> For readability, the structure and punctuation of this sentence have been modified.

A trial must begin with the reporting of the background<sup>42</sup> of the case. Thereafter, the plaintiff and third parties on the plaintiff's side (if any) shall confirm their claim followed by the defendant's response as to whether he admits the claim filed by the plaintiff. Thereafter, the plaintiff shall be allowed to state whether he admits the counterclaim (if any) made by the defendant.

In the event that the defendant rejects the plaintiff's claim or the plaintiff rejects the defendant's counterclaim and if the issue cannot be mediated, the presiding judge shall start to question the plaintiff and third parties on his side (if any), and thereafter shall question defendant and third parties on defendant's side (if any), witnesses, and other participants, respectively.

In the event that the composition of the judicial tribunal changes, the trial must be re-conducted.

### **Article 83. Debate by Litigants and the Statement of the Public Prosecutor**

Debate by the litigants refers to the expression of the plaintiff's and defendant's conflicting views regarding the truth of the case.

After the court has presented the evidence of the case, it shall open the session for debate among the plaintiff, the defendant and their guardians (if any).

The plaintiff and defendant may present additional documents or evidence in their possession and which are useful for their case. The judicial tribunal must question the plaintiff and defendant in an impartial, reasonable and focused manner.

In the debate, each party must respond to the other in order to find the correctness and truth in the case.

At the end of the debate, the presiding judge shall request the public prosecutor to make a statement relating to the case under his supervision. Thereafter, the presiding judge shall close the debate and declare a temporary recess of the trial in order to make a decision in private.

### **Article 84. Decision Made During Closed Session of the Court**

Deliberations during closed sessions of the court must be thorough, complete and objective and based principally on the results of the investigation in the trial in order to arrive at a proper and fair decision.

The final decision made at a closed session of the court must be reached based on a majority vote; the junior judges shall be allowed to express

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<sup>42</sup> This would include the facts, a summary of the claims being made and other relevant matters.

their opinion and vote first, and the presiding judge shall be the last person to express his opinion and give a vote.

The dissenting judges have the right to express their opinion in writing to be kept in the file for the consideration of the court at the higher level, if any appeal or request for cassation is submitted.

#### **Article 85. Pronouncement of Decision in Trial**

Once a decision has been reached at a closed session of the court, the presiding judge and members of the tribunal must pronounce the final decision in an open court session and also instruct [the litigants] of their right to appeal the court's decision.

If the final decision cannot be pronounced at that time, it may be adjourned to another day not exceeding seven days.

#### **Article 86. Record of Trial**

A court clerk must be present in the trial to record the testimony and the debate of the parties. When there are discussions about important issues, the presiding judge shall advise the clerk to record the words of the litigants in their statements during the trial. At the end of the trial, the clerk shall ensure that all participants in the trial, in particular the plaintiff, defendant, witnesses, the judicial tribunal, public prosecutors and the clerk himself, sign and affix their thumb prints on the trial record.

If a request to appeal the court's decision is submitted, the clerk must attach a copy of the trial record to the case file for review by a higher court.

#### **Article 87. Suspension of Trial**

A suspension of a trial is when case proceedings temporarily cease due to circumstances which create an obstacle to the trial.

A trial may be suspended if either litigant loses his ability to act or unexpectedly becomes ill, if either litigant dies, if a litigant that is an organisation or an enterprise is dissolved [but] such organisation or enterprise still has successors to its rights and obligations, or if it is necessary to await the consideration of another case relating to the case being considered and other [events].<sup>43</sup>

#### **Article 88. Adjournment of Trial**

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<sup>43</sup>

For readability, the structure of this sentence has been modified.

A trial may be adjourned in the event that either litigant fails to appear at trial due to the fact that he did not receive a summons or due to other reasons which the court deems credible, or if it is necessary for new evidence to be collected, or in the event that a person who is important to the consideration of the case did not appear at trial, but not if the circumstances justify a default judgment.

A trial can only be adjourned if the court has not yet declared the closing of the debate.

**Article 89. Decision Made in the Presence of the Parties and Judgment Made in Default**

“Decision made in the presence of the parties”<sup>44</sup> is a decision made by the court where the plaintiff and the defendant have participated in the proceedings, but excludes a decision of the court on cassation.

In the event that a plaintiff or defendant has received a summons but does not appear in court and offers no reasonable explanation or in the event that a plaintiff or defendant has requested the court to enter a decision [without his presence], such decision shall still be considered a decision made in the presence of the parties. In such cases, neither the plaintiff nor defendant has the right to object to the decision, but has the right to appeal.

The court shall make a default judgment in the event that the information and evidence are sufficient and it is necessary to make a decision [immediately], but either the defendant avoids the proceedings, or the plaintiff or defendant fails to appear in the proceedings because of certain reasons, such as he did not receive a summons. In this case, the plaintiff or defendant has the right to object to such decision within fifteen days from the date he is informed of the decision.<sup>45</sup>

In the event [of such objection], the same judicial tribunal must render a new decision in the presence of the plaintiff and the defendant in accordance with court procedures.

**Article 90. Cases which are not Considered**

A case shall not be considered in the following circumstances:

1. There is a final and binding decision on the case;
2. The case has been mediated by the court as provided in Article 80 of this law;
3. The statute of limitations has expired;
4. The claim has been filed by a person who is legally incompetent, or by a person who has no right to represent [the plaintiff]; [or]

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<sup>44</sup> The quotation marks have been added and are not in the original text.

<sup>45</sup> For readability, the structure of this paragraph has been modified.

5. The claim has not been made in accordance with Article 66 of this law.

As far as items 4 and 5 are concerned, the litigants may rectify their claims to conform them to the laws and resubmit them to the court for consideration.

The judicial tribunal must issue a decision as to why the case has not been considered.

#### **Article 91. Closing of Case**

A closing of a case is the end of the proceedings due to the fact that the consideration of the case has shown that the plaintiff in such case did not have the right to make this particular claim, or the case has been closed by an order, or there was a previous final and binding court decision [on the case], or the plaintiff has withdrawn the claim.

The closing of the case must be ordered by the judicial tribunal.

A case which has been closed may not be reconsidered again.

#### **Article 92. Objection to a Decision by a Third Party**

A third party has the right to object to the court's decision if:

- The court decision has an [adverse impact] on the legitimate rights and interests of the third party who is not a litigant in the case; [or]
- Such third party, being a third party on the side of the plaintiff or the defendant and having participated in the proceedings, was not summoned or did not receive a summons to the hearing at which the decision was pronounced.

The objection to a court decision by the third party must be dealt with in a similar manner as an objection to a default judgment.

#### **Article 93. Types of Decision of the Court at First Instance**

The types of decision that a court at first instance may issue are as follows:

1. If a plaintiff's claim or a defendant's counterclaim is not supported by sufficient [evidence]<sup>46</sup>, the court must dismiss such claim or counterclaim;
2. If a plaintiff's claim or a defendant's counterclaim is supported by sufficient [evidence]<sup>47</sup>, the court must issue a decision to the effect that:

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<sup>46</sup> The actual word is "reasons".

<sup>47</sup> *Ibid.*

- The defendant must compensate or pay a penalty or make payment for loss of opportunity to the plaintiff, as appropriate. In the case of a counterclaim, the compensation shall be the other way around;
- In the case of a loan, the defendant must return the assets, such as vehicles or animals, to the plaintiff, or the other way around if it is a counterclaim;
- In the case of a loan [of money], the defendant must repay the plaintiff the principal and interest, if any, or the other way around if it is a counterclaim;
- In the case of a lease or other agreement, the defendant must vacate the land or house of the plaintiff, or the other way around if it is a counterclaim;
- In a divorce case, the matrimonial relationship between the plaintiff and defendant is terminated;
- The defendant must be responsible for child support and various costs relating to the restoration of the plaintiff's moral [rights];
- The defendant must perform certain obligations to the plaintiff, pending the final decision;<sup>48</sup> [and]
- Other decisions.

The decision of a court at first instance must be published within twenty days from the date of such decision.

#### **Article 94. Partial Execution**

A partial execution is the execution of part of the decision before a final decision is reached in order to mitigate the damage and to respond to the urgent need of the plaintiff.

A court decision requiring partial execution, issued in an urgent case or issued in a case where the defendant has admitted the plaintiff's claim, must immediately be sent to the competent judgment enforcement offices or units for execution, even if there is an appeal.

#### **Article 95. Decision of the First Instance Court without Appeal**

Decisions at first instance of the people's court at district, municipal, provincial and city levels in respect of which no appeal or objection has been filed by any litigant or the public prosecutor, respectively, within the time period provided for appeal or objection shall be considered to be the court's final decision, and neither the litigants nor the Public Prosecutor have the right to appeal or object thereafter.

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<sup>48</sup> This is a reference to partial execution under Article 94.

**Part VI**  
**Proceedings on Appeal**

**Article 96. People’s Courts that Adjudicate on Appeal**

The people's courts at provincial and municipal levels and the appellate courts have the right to adjudicate a case on appeal based on facts and laws.<sup>49</sup>

**Chapter 1**  
**Right to Appeal Against or Object to Court Decisions**

**Article 97. Persons who have the Right to Appeal**

The plaintiff, defendant or a third party on the side of either litigant involved in the case has the right to appeal an instruction, order or a decision [at first instance] of the court.

The public prosecutor also has the right to object to a court decision which is not in conformity with the laws or which does not have sufficient justification.

**Article 98. Time Period for Appeal and Objection**

Litigants have the right to appeal and the public prosecutor has the right to object to a decision of the court at first instance within twenty days from the date of a decision made in the presence of the parties or [within twenty days] from the date such person acknowledges receipt of notification of a default judgment or of a decision which is deemed to have been made in the presence of the parties.

The time period within which to lodge an appeal against an instruction or final order of the court is seven days from the date [the litigant] is informed of the instruction or order.

The litigant who appeals must pay a fee in accordance with the laws and regulations.

**Article 99. Rules regarding Appeal or Objection**

The litigant's appeal or the public prosecutor’s objection to an instruction, order or a decision [at first instance] must be submitted to the court of appeal through the court of first instance. The court of first instance must inform the person who wishes to appeal about the timeframe of appeal, the [pleadings to be submitted in] an appeal, fees in relation to the appeal and

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<sup>49</sup> In this translation, the term “court of appeal” shall be used as the generic term to refer to any of these courts when exercising their appeal jurisdiction.

other rights of such person. The court of first instance must accept the appeal or objection request even if the timeframe has expired.

Once the timeframe for appeal or objection has ended, the court of first instance must submit, within twenty-three days, the appeal or objection request together with the case-file to the court of appeal for its further consideration.

In the event that the court of first instance does not accept or delays the acceptance of an appeal or objection, the litigant or the Public Prosecutor has the right to submit the appeal or objection request directly to the court of appeal.

Once the timeframe for appeal [or objection] has ended, if the court of first instance which received the appeal or objection request delays the submission of the case-file, the litigant or the Public Prosecutor has the right to request the court of appeal to request the case-file [from the court of first instance] for consideration.

The court of appeal must begin the consideration of the case within sixty days from the date of receipt of the case-file.

In the event of appeal or objection, such appeal or objection must be communicated to the other litigant to allow him to lodge a defence or objection.

Before the consideration and adjudication [on appeal] at the court of appeal begin, each litigant and the public prosecutor have the right to submit a written statement to the court of appeal to give additional reasons for his appeal or objection, [and] to comment on the appeal of the other party or the objection of the public prosecutor.

#### **Article 100. Right to Withdraw an Appeal or Objection**

Before the consideration and adjudication [on appeal] at the court of appeal take place, each litigant or third party involved in the case or the public prosecutor has the right to withdraw his appeal or objection.

In the event that the appeal or objection request is withdrawn, the litigant, third party or public prosecutor does not have the right to the appeal or objection again.

The court shall issue a decision regarding the withdrawal of the appeal or objection request.

#### **Article 101. Consequence of Request for Appeal**

The appeal or objection request that has been filed with the court of appeal shall suspend the execution of the judgment against which the appeal

or objection has been filed, except when there is a decision of the court regarding partial execution as provided in Article 94 of this law.

## **Chapter 2**

### **Consideration of a Case by the Court of Appeal**

#### **Article 102. Persons involved in the Proceedings at the Court of Appeal**

The court of appeal must summon the litigants to appear in the trial.

The public prosecutor may participate in the trial at the court of appeal.

At the court of appeal, litigants have the right to present new evidence before the public prosecutor makes a statement in the trial.

The opening of the trial at the court of appeal is conducted in a similar manner as the opening of the trial at the court of first instance.

#### **Article 103. Rules Relating to Consideration of a Case at the Court of Appeal**

Rules relating to consideration of a case at the court of appeal are similar to the rules relating to consideration of a case at the court of first instance and are provided in Articles 81 to 89 of this law.

After the presiding judge of the judicial tribunal opens the trial in accordance with the rules and after the responsible member reports on the case, the presiding judge of the judicial tribunal shall allow the person who requested the appeal or the public prosecutor who objected to the decision to give the reasons for such person's appeal or objection.

If new evidence is presented, the court must inform the public prosecutor and the participants involved in the trial about the new evidence. Thereafter, the court shall allow the litigants to provide explanation[s] to the court. After the court hears the statement of the public prosecutor, the court shall close the debate and declare a temporary recess of the trial in order to make a decision in private.

#### **Article 104. Type of Decisions of the Court of Appeal**

The types of decision that the court of appeal may issue are as follows:

- To decline to consider an appeal or objection if [the appeal or objection] is not in conformity with the rules relating to appeals;
- To dismiss an appeal or objection request and confirm the entire decision of the court of first instance;
- To amend the decision of the court of first instance in part or in its entirety and have a new adjudication;<sup>50</sup>

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<sup>50</sup> The phrase "have a new adjudication" is used in the sense that the court of appeal may issue its own decision on the case.

- To nullify<sup>51</sup> the decision [at first instance] and send the case to a new tribunal at the court of first instance in order to consider the case or send the case back to the original tribunal to reconsider if such tribunal has not considered a certain claim of the litigants or [a certain] request of the public prosecutor; [and]
- To nullify the decision of the court of first instance without sending the case to any court to reconsider.

The decision of the court of appeal is the final decision as to the information and evidence.

In the event that the court of appeal returns the case to the court of first instance for reconsideration, the court [of first instance] has to consider the case in accordance with general rules relating to proceedings at the court of first instance.

The court of appeal that has made a decision on the case must publish the decision within thirty days from the date of the decision.

#### **Article 105. Reasons for Nullifying or Amending a Decision**

The reasons for nullifying or amending a decision of the court of first instance are as follows:

- The presentation of the facts of the case is unclear;
- The presentation of evidence is insufficient;
- The court's analysis is not in conformity with the facts of the case;
- The application of the law is wrong;
- There is a breach of the rules on civil procedure; [and]
- Other [reasons].

### **Part VII**

#### **Proceedings in the Court of Cassation**

#### **Article 106. The People's Court which Adjudicates on Cassation**

Only the People's Supreme Court has the right to adjudicate a case on cassation and at a final level, based on the laws.

### **Chapter 1**

#### **The Right to Request a Cassation and Objection to Court Decisions [on Appeal]**

#### **Article 107. Persons Entitled to file a Cassation**

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<sup>51</sup> The word “nullify” here has a meaning similar to the idea of “set aside” or “vacate” and is distinguished from the third bullet point where the court of appeal issues its own decision in the case.

[Each of] the plaintiff, the defendant, a third party on the side of either litigant [and] the public prosecutor has the right to file a cassation or objection to the instructions, orders and decisions [on appeal of the court of appeal]. An individual or the public prosecutor who files such request for cassation or objection must explain his reasons for such request or objection.

Any decision made by the court of first instance that has not been appealed or objected to the court of appeal cannot be adjudicated on cassation [by the People's Supreme Court].

The decision of the court of appeal that has been affirmed by the court of cassation is considered a final court decision and must be executed.

#### **Article 108. Means to Exercise the Right to Cassation**

Litigants have the right to request a cassation and the public prosecutor has the right to submit an objection to a decision of the court of appeal within sixty days from the date of a decision made in the presence of the parties or [within sixty days] from the date such person acknowledges receipt of notification of a default judgment or a decision deemed to be made in the presence of the parties.

The litigant who files a request for cassation must pay a fee in accordance with the laws and regulations.

The request for cassation or objection must be filed with the People's Supreme Court through the relevant court of appeal. The court of appeal must inform the person who has submitted the request for cassation about the timeframe for cassation, the [pleadings to be submitted in the] cassation, fees in relation to such cassation and other rights of such person. The court of appeal must accept a request for cassation even if the timeframe has expired.

After the receipt of the cassation or objection request, the court of appeal must inform the other litigant [of the request] within seven days from the date of such receipt. When the allocated timeframe for cassation or objection expires, the court of appeal must send the request for cassation or objection as well as the case-file to the People's Supreme Court within three days.

### **Chapter 2**

#### **Consideration of a Case by the Court of Cassation**

#### **Article 109. Scope of Consideration**

The court of cassation shall consider:

- The implementation of the law on procedures;
- The assessment of the facts; [and]

- The application of the laws<sup>52</sup> to the facts of a case.

#### **Article 110. Effect of the Submission of a Request for Cassation**

The request for cassation or objection submitted to the People's Supreme Court shall suspend the execution of the court decision which is the subject of such request for cassation or objection, except when there is court decision on partial execution as provided in Article 94 of this law.

#### **Article 111. Decision Made Based on the File**

Facts, [in terms of the] information and evidence [in the case], that have been considered by the court of appeal are final.

The court of cassation shall adjudicate the case based on law only, without performing any additional investigation or taking any additional testimony. If necessary, the court of cassation shall summon the litigants to participate in the proceedings at the court of cassation or shall check the facts by itself.

#### **Article 112. Rules Relating to Consideration of a Case at the Court of Cassation**

The rules relating to the consideration of a case at the court of cassation are provided in Article 103 of this law.

The court of cassation must begin its consideration of the case within sixty days from the date of receipt of the case-file.

After the presiding judge of the judicial tribunal declares the opening of the hearing, and after the responsible member of the judicial tribunal reports on the case, the presiding judge of the judicial tribunal shall allow the person who submitted the request for cassation or the public prosecutor who filed the objection to give reasons for such request for cassation or objection, in the case where litigants are summoned to participate in the court hearing.

In the case where litigants are not summoned to participate in the court hearing, after hearing the report from the responsible member and the statement of the public prosecutor, the court shall declare a temporary recess of the hearing in order to make a decision in private. Thereafter, the decision shall be read out in the court hearing.

#### **Article 113. Types of Decisions of the Court of Cassation**

The types of decision that the court of cassation may issue are as follows:

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<sup>52</sup> The literal translation would be “the articles, laws”.

- To decline to consider a request for cassation or objection [if the request or objection] is inconsistent with the regulations regarding cassation;
- To dismiss a request for cassation or objection and confirm the entire decision of the court of appeal;
- To amend the decision of the court of appeal in part or in its entirety and have a new adjudication;
- To nullify a decision [on appeal] and send the case to a new tribunal at the court of appeal in order to consider the case or to send the case back to the original tribunal of the court of appeal to reconsider if the original tribunal has not considered a certain claim of the litigant or [a certain] request of the public prosecutor; [and]
- To nullify the decision of the court of appeal without sending the case to any court to reconsider.

**Article 114. Decision [on Reconsideration] based on the Decision of the Court of Cassation**

After the court of cassation nullifies the decision [on appeal] and sends the case to the court of appeal for reconsideration, the reconsideration must be in accordance with the provisions of Article 103 of this law.

In the event that the reconsideration of the case by a new judicial tribunal of the court of appeal is inconsistent with the decision of the court of cassation, [but] neither litigant submits a request for cassation [in respect of such] reconsideration, the Supreme Public Prosecutor shall file an objection to the People's Supreme Court in accordance with its duties.

In reconsidering the case, if the court of cassation makes the same decision and sends the case to the court of appeal for a second time, the new judicial tribunal of the court of appeal must strictly follow the decision of the court of cassation.

**Part VIII  
Re-Opening of a Case**

**Article 115. Acceptance for Consideration of a Re-Opened Case**

Only the People's Supreme Court has the right to consider a re-opened case.

A final instruction, order or decision may be re-opened.

The People's Supreme Court shall accept a case for consideration at the level of a re-opening only if there is a request from the Supreme Public Prosecutor based on new information and evidence.

The re-opening of a case shall take place upon a request of the litigants [through the Office of the Supreme Public Prosecutor] or of the Supreme

Public Prosecutor under its duties. The Supreme Public Prosecutor's request to re-open a case is made to ensure compliance with the laws.

#### **Article 116. Reasons for Re-opening a Case**

The reasons for re-opening a case in the event that new information or evidence is discovered are as follows:

1. The witnesses gave inaccurate testimony, an expert gave an inaccurate opinion, the translation was inaccurate or the evidence presented was false, which lead to a wrong decision;
2. The judge or the public prosecutor was not impartial, which lead to a wrong decision;
3. There is new information or evidence relating to the case which was not presented in the case and the person filing the request to re-open the case could not have known about this new information or evidence at the time of the decision; [and]
4. There are other facts which indicate new information and evidence of which the court was not aware when deciding or adjudicating.

#### **Article 117. Request for Re-opening of the Case**

The litigants or third parties have the right, within one year from the date of the final decision of the court, to file a request with the Supreme Public Prosecutor to re-open a case in the event that new information or evidence has been found.

The litigant who has filed a request to re-open the case must pay a fee in accordance with the laws and regulations.

The People's Supreme Court shall consider a case at the level of a re-opening in a court hearing, based on the request of the Supreme Public Prosecutor to re-open a case, and must follow the rules regarding hearings at the court of cassation.

#### **Article 118. Types of Decision in a Re-Opened Case**

The types of decision that the People's Supreme Court can issue in respect of a re-opened case are:

- To dismiss the request to re-open the case made by the Supreme Public Prosecutor; [or]
- To nullify the final decision of the court and send the case-file to a new judicial tribunal of the court of first instance which shall have the authority to consider the case in accordance with rules regarding trials at courts of first instance.

### **Part IX**

## **Compulsory Measures of the Court**

### **Article 119. Use of Urgent and Temporary Court Measures**

A court may use compulsory measures in cases where disputed assets need to be managed or where a decision<sup>53</sup> must be made urgently because the asset is perishable or subject to degradation before a court decision can be reached.

A court may issue an order assigning the right of management or decision making over such assets to any litigant or any individual.

### **Article 120. The Use of Court Measures against Incompetent Persons**

The court may order treatment for a person who has caused damage, who is responsible in a civil case, or who is paying compensation, and who is [determined] to be mentally incompetent before or after the court issues its decision at first instance or decision on appeal, by sending [such person] for treatment in psychiatric hospitals or special medical care centres.

After treatment, the person who has caused damage, who is responsible in a civil case, or who is responsible for paying compensation, shall be brought to trial to continue [the proceedings] or brought back to execute the decision at first instance or decision on appeal.

### **Article 121. The Use of Court Measures against Legal Entities which have been Dissolved**

The court may use measures to seize or sequester the assets of a legal entity which is responsible in a civil case, or which is paying compensation, and which has been dissolved before or after the court has issued its decision at first instance or on appeal.

Where an order to seize or sequester assets has been issued, the problem must be resolved with the person responsible for the assets of the legal entity which has been dissolved, within a period not exceeding thirty days from the date of the court decision.

The liquidation of a bankrupt enterprise must comply with the Bankruptcy Law.

### **Article 122. Use of Court Measures against Spouse**

After issuing a decision that [a couple shall be] divorced, the court may issue an order to cut the salary or personal income or to seize or sequester the assets of one spouse for the purpose of applying it to the obligation to support

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<sup>53</sup> Here, the word “decision” does not refer to a court decision but to a generic decision that may be urgently required in order to preserve assets.

the other spouse or their children under eighteen years of age who are in the custody of such other spouse in accordance with such court decision.

#### **Article 123. Use of Measures by Juvenile Chamber**

The court may use measures by issuing an order to the protector of a child under eighteen years of age, except those who are married in conformity with the laws:

- To monitor the child's behaviour;
- To protect and control the child during the proceedings;
- To bring the child for medical check-ups and treatment;
- To educate and care for the child during the proceedings;
- To report the truth as well as give opinions to the juvenile chamber; [and]
- To prohibit the use of forced child labour or other work which may be detrimental to the health of the child, as provided in the Labour Law.

#### **Article 124. Execution of Court Measures**

A court order regarding the use of temporary urgent measures or other compulsory measures must be immediately executed, except measures against a husband or wife who has the right to appeal such court order.

Such order shall terminate once the court issues a final decision at first instance or on appeal. An asset which is under management, or which has been seized or sequestered by an order, shall be used to compensate the damage in accordance with the court decision at first instance or on appeal.

### **Part X**

#### **International Cooperation in Civil Proceedings**

#### **Article 125. Principles of International Cooperation in Civil Proceedings**

Civil proceedings between the people's courts of the Lao People's Democratic Republic and foreign courts must comply with the principles of respect for the independence and territorial sovereignty of states, non interference in the domestic affairs of one another, equality and mutual benefit, and must comply with [international] agreements that the Lao People's Democratic Republic has signed or entered into.

In the event that the Lao People's Democratic Republic and a foreign country have not entered into an agreement, the Lao People's Democratic Republic may consider a case on the basis of mutual cooperation, but [such consideration] shall not contradict with the laws of the Lao People's Democratic Republic.

#### **Article 126. Proceedings Involving Foreign Elements**

Individuals, organisations or enterprises in the Lao People's Democratic Republic wishing to submit a claim against individuals, organisations or enterprises residing in other countries or individuals, organisations or enterprises in foreign countries wishing to submit a claim against individuals, organisations or enterprises in the Lao People's Democratic Republic must comply with treaties relating to judicial cooperation. In the event that such treaties do not exist, the claim must be submitted through the Ministry of Foreign Affairs to the concerned authority in the country where the defendant resides for consideration.

#### **Article 127. Acknowledgement of a Decision of a Foreign Court**

The Lao People's Democratic Republic acknowledges and executes<sup>54</sup> the decisions of foreign courts through its embassy, or the consular or representative offices of the Lao People's Democratic Republic in such foreign country. The following decisions shall be translated into the Lao language and certified by the People's Court of the Lao People's Democratic Republic:

- Decisions of those countries which are signatories to treaties to which the Lao People's Democratic Republic is also a signatory or party;
- Cases that do not impact [adversely] on the sovereignty or contradict the laws of the Lao People's Democratic Republic; [and]
- Decisions that do not violate the regulations on [civil] procedures and do not contradict the laws and regulations relating to security and social order.

### **Part XI Final Provisions**

#### **Article 128. Implementation**

The government of the Lao People's Democratic Republic shall issue regulations to implement this law.

The People's Courts and the Public Prosecutor of the Lao People's Democratic Republic shall implement this law.

#### **Article 129. Entry into Force**

This law enters into force on the date of the promulgating decree issued by the President of the Lao People's Democratic Republic.

This law replaces the Law on Civil Procedure No. 09/90/SPA, dated 29 November 1990.

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<sup>54</sup> This is a literal translation. The translators believe that the term intended is “accepts for execution”.

All regulations and provisions which conflict with this law are null and void.

Vientiane, 6 May 2003  
President of the National Assembly

*[Seal and Signature]*

Samane VIYAKHET