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Civil Procedure Law of the People's Republic of China (Revised in 2007)

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(Adopted at the 4th Session of the 7th National People's Congress on April 9, 1991 and amended in accordance with the Decision of the 30th session of the Standing Committee of the National People's Congress on Amending the Civil Procedure Law of the People's Republic of China.)

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DIVISION ONE GENERAL PROVISIONS

第一编 总 则

DIVISION ONE GENERAL PROVISIONS

第一章 任务、适用范围和基本原则

CHAPTER I PURPOSE, SCOPE OF APPLICATION AND BASIC PRINCIPLES

第一条 中华人民共和国民事诉讼法以宪法为根据，结合我国民事审判工作的经验和实际情况制定。

Article 1 The PRC, Civil Procedure Law is formulated on the basis of the Constitution, in the light of the experiences and actual circumstances of China in adjudicating civil cases.

第二条 中华人民共和国民事诉讼法的任务，是保护当事人行使诉讼权利，保证人民法院查明事实，分清是非，正确适用法律，及时审理民事案件，确认民事权利义务关系，制裁民事违法行为，保护当事人的合法权益，教育公民自觉遵守法律，维护社会秩序、经济秩序，保障社会主义建设事业顺利进行。

Article 2 The purpose of the PRC, Civil Procedure Law is to protect the exercise by the parties of their procedural rights, to ensure that the people's courts ascertain the facts, to distinguish right from wrong, to apply the law correctly, to try civil cases promptly, to affirm civil rights and obligations, to impose sanctions for civil offences, to protect the lawful rights and interests of the parties, to educate citizens to observe the law conscientiously, to maintain the social and economic order and to safeguard the smooth progress of socialist construction.

第三条 人民法院受理公民之间、法人之间、其他组织之间以及他们相互之间因财产关系和人身关系提起的民事诉讼，适用本法的规定。

Article 3 The Law shall apply to civil actions heard by people's courts involving relationships concerning property and personal relationships between citizens, between legal persons or between other organizations, and among citizens, legal persons and other organizations.

第四条 凡在中华人民共和国领域内进行民事诉讼，必须遵守本法。

Article 4 All those who are engaged in civil actions within the territory of the People's Republic of China must abide by this Law.

第五条 外国人、无国籍人、

Article 5 Foreign nationals, stateless persons and foreign

外国企业和组织在人民法院起诉、应诉，同中华人民共和国公民、法人和其他组织有同等的诉讼权利和义务。

外国法院对中华人民共和国公民、法人和其他组织的民事诉讼权利加以限制的，中华人民共和国人民法院对该国公民、企业和组织的民事诉讼权利，实行对等原则。

第六条 民事案件的审判权由人民法院行使。

人民法院依照法律规定对民事案件独立进行审判，不受行政机关、社会团体和个人的干涉。

第七条 人民法院审理民事案件，必须以事实为根据，以法律为准绳。

第八条 民事诉讼当事人有平等的诉讼权利。人民法院审理民事案件，应当保障和便利当事人行使诉讼权利，对当事人在适用法律上一律平等。

第九条 人民法院审理民事案件，应当根据自愿和合法的原则进行调解；调解不成的，应当及时判决。

第十条 人民法院审理民事案件，依照法律规定实行合议、回避、公开审判和两审终审制度。

第十一条 各民族公民都有用本民族语言、文字进行民事诉讼的权利。

enterprises and organizations that institute or respond to proceedings in a people's court shall have the same procedural rights and obligations as citizens, legal persons and other organizations of the People's Republic of China.

If the courts of a foreign country impose restrictions on the civil procedural rights of citizens, legal persons and other organizations of the People's Republic of China, the people's courts of the People's Republic of China shall implement the principle of reciprocity regarding the civil procedural rights of citizens, enterprises and organizations of such foreign country.

Article 6 Jurisdiction over civil cases shall be exercised by the people's courts.

A people's court shall try civil cases independently in accordance with the law, and shall not be subject to interference by any administrative authority, social organization or individual.

Article 7 In trying civil cases, a people's court must take the facts as the basis and the law as the standard.

Article 8 The parties to a civil action shall have equal procedural rights. In trying civil cases, a people's court shall safeguard and facilitate the exercise by the parties of their procedural rights, and shall treat the parties equally in the application of law.

Article 9 In trying civil cases, a people's court shall carry out mediation in accordance with the principles of voluntary participation and lawfulness; if mediation fails, a judgment shall be made forthwith.

Article 10 In trying civil cases, a people's court shall, in accordance with the law, implement a system whereby trial is conducted publicly by collegiate bench, adjudication personnel may be challenged, and the judgment at second instance is final.

Article 11 Citizens of all ethnic groups shall have the right to use the spoken and written languages of their own ethnic groups during civil proceedings.

在少数民族聚居或者多民族共同居住的地区，人民法院应当用当地民族通用的语言、文字进行审理和发布法律文书。

人民法院应当对不通晓当地民族通用的语言、文字的诉讼参与人提供翻译。

第十二条 人民法院审理民事案件时，当事人有权进行辩论。

第十三条 当事人有权在法律规定的范围内处分自己的民事权利和诉讼权利。

第十四条 人民检察院有权对民事审判活动实行法律监督。

第十五条 机关、社会团体、企业事业单位对损害国家、集体或者个人民事权益的行为，可以支持受损害的单位或者个人向人民法院起诉。

第十六条 人民调解委员会是在基层人民政府和基层人民法院指导下，调解民间纠纷的群众性组织。

人民调解委员会依照法律规定，根据自愿原则进行调解。当事人对调解达成的协议应当履行；不愿调解、调解不成或者反悔的，可以向人民法院起诉。

人民调解委员会调解民间纠纷，如有违背法律的，人民法院应当予以纠正。

In areas inhabited by relatively large numbers of a minority ethnic group or by several minority ethnic groups, the people's courts shall conduct hearings and issue legal documents in the spoken and written languages commonly used by the local ethnic groups.

The people's courts shall provide interpretation and translation for those participants in an action who are not familiar with the spoken or written languages commonly used by the local ethnic groups.

Article 12 In the trial of civil cases by people's courts, the parties shall have the right to present an argument.

Article 13 The parties shall have the right, within the scope stipulated by the law, to decide matters concerning their own civil and procedural rights.

Article 14 The people's procuratorates shall have the right to exercise legal supervision over civil trials.

Article 15 If the rights and interests of the State, a collective or an individual are violated, government authorities, social organizations, enterprises and institutions may support the injured work unit or individual to institute proceedings in the people's court.

Article 16 People's mediation committees, under the guidance of the basic-level people's governments and the basic-level people's courts, shall be the organizations within the general population that mediate disputes among the people.

A people's mediation committee shall mediate in accordance with the provisions of law and on the basis of the principle of voluntary participation. The parties shall carry out the agreement reached upon mediation. If any party does not wish to enter into mediation, or if mediation has failed, or if any party repudiates the mediation agreement, an action may be instituted in the people's court.

If a people's mediation committee violates the law in mediating civil disputes, the people's court shall correct such violation.

第十七条 民族自治地方的人民代表大会根据宪法和本法的原则，结合当地民族的具体情况，可以制定变通或者补充的规定。自治区的规定，报全国人民代表大会常务委员会批准。自治州、自治县的规定，报省或者自治区的人民代表大会常务委员会批准，并报全国人民代表大会常务委员会备案。

Article 17 The people's congresses of the autonomous regions of the ethnic groups may formulate flexible or supplementary provisions in accordance with the principles of the Constitution and this Law, and in the light of the specific circumstances of local ethnic groups. Such provisions made by an autonomous region shall be submitted to the Standing Committee of the National People's Congress for approval. Provisions made by autonomous prefectures and autonomous counties shall be submitted to the standing committee of the people's congresses of the respective provinces or autonomous regions for approval, and shall be recorded with the Standing Committee of the National People's Congress.

第二章 管 辖

CHAPTER II JURISDICTION

第一节 级别管辖

Section 1 Levels of Jurisdiction

第十八条 基层人民法院管辖第一审民事案件，但本法另有规定的除外。

Article 18 Except where otherwise stipulated in this Law, basic-level people's courts shall have jurisdiction as courts of first instance over all civil cases.

第十九条 中级人民法院管辖下列第一审民事案件：

Article 19 Intermediate people's courts shall have jurisdiction as courts of first instance over the following types of civil cases

- (一) 重大涉外案件；
 - (二) 在本辖区有重大影响的案件；
 - (三) 最高人民法院确定由中级人民法院管辖的案件。
1. major cases involving foreign parties;
 2. cases with significant impact in the areas over which the courts exercise jurisdiction; and
 3. cases determined by the Supreme People's Court to come under the jurisdiction of the intermediate people's courts.

第二十条 高级人民法院管辖在本辖区有重大影响的第一审民事案件。

Article 20 Higher people's courts shall have jurisdiction as courts of first instance over civil cases with significant impact in the areas over which they exercise jurisdiction.

第二十一条 最高人民法院管辖下列第一审民事案件：

Article 21 The Supreme People's Court shall have jurisdiction as the court of first instance over the following types of civil cases

- (一) 在全国有重大影响的案件；
 - (二) 认为应当由本院审理的案件。
1. cases with significant impact on the whole country; and
 2. cases that the Supreme People's Court deems it should try itself.

第二节 地域管辖

Section 2 Territorial Jurisdiction

第二十二条 对公民提起的民事诉讼，由被告住所地人民法院管辖；被告住所地与经常居住地不一致的，由经常居住地人民法院管辖。

对法人或者其他组织提起的民事诉讼，由被告住所地人民法院管辖。

同一诉讼的几个被告住所地、经常居住地在两个以上人民法院辖区的，各该人民法院都有管辖权。

第二十三条 下列民事诉讼，由原告住所地人民法院管辖；原告住所地与经常居住地不一致的，由原告经常居住地人民法院管辖：

（一）对不在中华人民共和国领域内居住的人提起的有关身份关系的诉讼；

（二）对下落不明或者宣告失踪的人提起的有关身份关系的诉讼；

（三）对被劳动教养的人提起的诉讼；

（四）对被监禁的人提起的诉讼。

第二十四条 因合同纠纷提起的诉讼，由被告住所地或者合同履行地人民法院管辖。

第二十五条 合同的双方当事人可以在书面合同中协议选择被告住所地、合同履行地、合同签订地、原告住所地、标的物所在地人民法院管辖，但不得违反本法对级别管辖和专属管辖的规定。

Article 22 A civil action instituted against a citizen shall come under the jurisdiction of the people's court in the place where the defendant is domiciled; if the defendant's place of domicile is different from the place of his habitual residence, the people's court in the place of his habitual residence shall have jurisdiction.

A civil action instituted against a legal person or any other organization shall come under the jurisdiction of the people's court in the place where the defendant is domiciled.

If the places of domicile or habitual residence of several defendants in the same lawsuit come under the jurisdiction of two or more people's courts, all of those people's courts shall have jurisdiction.

Article 23 The following civil actions shall come under the jurisdiction of the people's court of the place where the plaintiff is domiciled; if the plaintiff's place of domicile is different from the place of his habitual residence, the people's court in the place of his habitual residence shall have jurisdiction

1. actions concerning personal relationships instituted against persons not residing within the territory of the People's Republic of China;

2. actions concerning the personal relationships instituted against whose persons whereabouts are unknown or who have been declared missing;

3. actions instituted against persons who are undergoing rehabilitation through labour; and

4. actions instituted against persons who are imprisoned.

Article 24 An action involving a contractual dispute shall come under the jurisdiction of the people's court of the place where the defendant is domiciled or where the contract is performed.

Article 25 The parties to a contract may agree in the written contract to choose the people's court of the place where the defendant is domiciled, where the contract is performed, where the contract is signed, where the plaintiff is domiciled or where the subject matter of the contract is located to be the competent court, provided that the provisions of this Law regarding the level of jurisdiction and exclusive jurisdiction shall not be violated.

第二十六条 因保险合同纠纷提起的诉讼，由被告住所地或者保险标的物所在地人民法院管辖。

Article 26 An action involving a dispute over an insurance contract shall come under the jurisdiction of the people's court of the place where the defendant is domiciled or where the insured object is located.

第二十七条 因票据纠纷提起的诉讼，由票据支付地或者被告住所地人民法院管辖。

Article 27 An action involving a negotiable instrument shall come under the jurisdiction of the people's court of the place where payment on the instrument is made or where the defendant is domiciled.

第二十八条 因铁路、公路、水上、航空运输和联合运输合同纠纷提起的诉讼，由运输始发地、目的地或者被告住所地人民法院管辖。

Article 28 An action involving a dispute over a contract for railway, highway, water, or air transportation or combined transportation shall come under the jurisdiction of the people's court of the place of departure or place of destination or of the place where the defendant is domiciled.

第二十九条 因侵权行为提起的诉讼，由侵权行为地或者被告住所地人民法院管辖。

Article 29 An action involving a tort shall come under the jurisdiction of the people's court of the place where the tort was committed or where the defendant is domiciled.

第三十条 因铁路、公路、水上和航空事故请求损害赔偿提起的诉讼，由事故发生地或者车辆、船舶最先到达地、航空器最先降落地或者被告住所地人民法院管辖。

Article 30 An action involving a claim for damages arising from a railway, highway, water or aviation accident shall come under the jurisdiction of the people's court of the place where the accident took place, or where the vehicle or vessel first arrived, or where the aircraft first landed, or of the place where the defendant is domiciled.

第三十一条 因船舶碰撞或者其他海事损害事故请求损害赔偿提起的诉讼，由碰撞发生地、碰撞船舶最先到达地、加害船舶被扣留地或者被告住所地人民法院管辖。

Article 31 An action involving a claim for damages arising from a collision of vessels or other maritime accident shall come under the jurisdiction of the people's court of the place where the collision took place, or where the vessel collided with first docked, or where the vessel at fault was detained, or where the defendant is domiciled.

第三十二条 因海难救助费用提起的诉讼，由救助地或者被救助船舶最先到达地人民法院管辖。

Article 32 An action involving maritime salvage expenses shall come under the jurisdiction of the people's court of the place of salvage or of the place where the salvaged ship first docked.

第三十三条 因共同海损提起的诉讼，由船舶最先到达地、共同海损理算地或者航程终止地的人民法院管辖。

Article 33 An action involving general average shall come under the jurisdiction of the people's court of the place where the ship first docked, or where the general average was adjusted, or where the voyage ended.

第三十四条 下列案件，由本条规定的人民法院专属管辖：

（一）因不动产纠纷提起的诉讼，由不动产所在地人民法院管辖；

（二）因港口作业中发生纠纷提起的诉讼，由港口所在地人民法院管辖；

（三）因继承遗产纠纷提起的诉讼，由被继承人死亡时住所地或者主要遗产所在地人民法院管辖。

第三十五条 两个以上人民法院都有管辖权的诉讼，原告可以向其中一个人民法院起诉；原告向两个以上有管辖权的人民法院起诉的，由最先立案的人民法院管辖。

第三节 移送管辖和指定管辖

第三十六条 人民法院发现受理的案件不属于本院管辖的，应当移送有管辖权的人民法院，受移送的人民法院应当受理。受移送的人民法院认为受移送的案件依照规定不属于本院管辖的，应当报请上级人民法院指定管辖，不得再自行移送。

第三十七条 有管辖权的人民法院由于特殊原因，不能行使管辖权的，由上级人民法院指定管辖。

人民法院之间因管辖权发生争议，由争议双方协商解决；协商解决不了的，报请它们的共同上级人民法院指定管辖。

第三十八条 人民法院受理案件后，当事人对管辖权有异议的，应当在提交答辩状期间提出。人民

Article 34 The following cases shall come under the exclusive jurisdiction of the people's courts specified in this Article

1. an action involving a dispute over immovable property shall come under the jurisdiction of the people's court of the place where the immovable property is located;

2. an action involving a dispute arising from port operations shall come under the jurisdiction of the people's court of the place where the port is located; and

3. an action involving a dispute over an inheritance shall come under the jurisdiction of the people's court of the place of domicile of the person whose property is inherited or where the major portion of the estate is located.

Article 35 When two or more people's courts have jurisdiction over an action, the plaintiff may institute his action in one of those people's courts; if the plaintiff institutes the action in two or more competent people's courts, the people's court that first puts the case on its trial docket shall have jurisdiction.

Section 3 Referral and Designation of Jurisdiction

Article 36 If a people's court discovers that a case it has accepted is not within its jurisdiction, it shall refer the case to the competent people's court, which shall accept the case. If a people's court to which a case is referred considers that the case does not come under its jurisdiction in accordance with regulations, it shall report to the immediate superior people's court for designation of jurisdiction and shall not further refer the case on its own authority.

Article 37 If a competent people's court is unable to exercise jurisdiction due to special reasons, the immediate superior people's court shall designate jurisdiction.

A dispute over jurisdiction between people's courts shall be resolved by the disputing courts through consultation. If the dispute cannot be resolved through consultation, it shall be submitted to the people's court that is the mutual superior people's court of the disputing courts for a decision concerning jurisdiction.

Article 38 If a party objects to the jurisdiction over a case after its acceptance by a people's court, the party shall raise the objection during the time limit for filing the

法院对当事人提出的异议，应当审查。异议成立的，裁定将案件移送有管辖权的人民法院；异议不成立的，裁定驳回。

第三十九条 上级人民法院有权审理下级人民法院管辖的第一审民事案件，也可以把本院管辖的第一审民事案件交下级人民法院审理。

下级人民法院对它所管辖的第一审民事案件，认为需要由上级人民法院审理的，可以报请上级人民法院审理。

第三章 审判组织

第四十条 人民法院审理第一审民事案件，由审判员、陪审员共同组成合议庭或者由审判员组成合议庭。合议庭的成员人数，必须是单数。

适用简易程序审理的民事案件，由审判员一人独任审理。

陪审员在执行陪审职务时，与审判员有同等的权利义务。

第四十一条 人民法院审理第二审民事案件，由审判员组成合议庭。合议庭的成员人数，必须是单数。

发回重审的案件，原审人民法院应当按照第一审程序另行组成合议庭。

审理再审案件，原来是第一审的，按照第一审程序另行组成合议庭；原来是第二审的或者是上级人民法院提审的，按照第二审程序另行组成合议庭。

第四十二条 合议庭的审判长由院长或者庭长指定审判员一人担

statement of defence. The people's court shall examine such objection. If the objection is tenable, the people's court shall rule that the case be referred to the competent people's court; if the objection is untenable, it shall be overruled.

Article 39 People's courts at higher levels shall have the authority to try civil cases over which inferior people's courts have jurisdiction as courts of first instance; they may also assign civil cases over which they have jurisdiction as courts of first instance to the inferior people's courts for trial.

If an immediate inferior people's court deems it necessary for a civil case of first instance under its jurisdiction to be tried by a people's court at a higher level, it may request that such people's court try the case.

CHAPTER III ADJUDICATION ORGANIZATION

Article 40 When trying a civil case of first instance, a people's court shall form a collegiate bench consisting of both judges and assessors¹ or of judges alone. A collegiate bench must have an odd number of members.

Civil cases to which summary procedure is applied shall be tried by a single judge.

When performing their duties as assessors, the assessors shall have the same powers and obligations as the judges.

Article 41 When trying a civil case at second instance, a people's court shall form a collegiate bench of judges. The collegiate bench must have an odd number of members.

When trying a case remanded for retrial, the people's court that originally tried the case shall form a new collegiate bench in accordance with the procedure at first instance.

If a case to be retried was originally tried at first instance, a new collegiate bench shall be formed in accordance with the procedure at first instance; if the case was originally tried at second instance or was removed to a people's court at a higher level for trial, a new collegiate bench shall be formed in accordance with the procedure at second instance.

Article 42 The court president or the division head shall designate a judge to serve as the presiding judge of the

任；院长或者庭长参加审判的，由院长或者庭长担任。 collegiate bench; if the court president or the division head participates in the trial and adjudication, he shall serve as the presiding judge.

第四十三条 合议庭评议案件，实行少数服从多数的原则。评议应当制作笔录，由合议庭成员签名。评议中的不同意见，必须如实记入笔录。 Article 43 When deliberating over a case, a collegiate bench shall observe the principle by which the minority shall defer to the majority. The deliberations shall be recorded in writing, and the transcript shall be signed by the members of the collegiate bench. Dissenting opinions in the deliberations must be faithfully recorded in the transcript.

第四十四条 审判人员应当依法秉公办案。 Article 44 Adjudication personnel shall handle cases impartially and in accordance with the law.

审判人员不得接受当事人及其诉讼代理人请客送礼。 Adjudication personnel may not accept invitations to meals or gifts from the parties or their agents ad litem.

审判人员有贪污受贿，徇私舞弊，枉法裁判行为的，应当追究法律责任；构成犯罪的，依法追究刑事责任。 If any adjudication personnel commits embezzlement, accepts bribes, practises graft or makes a judgment that perverts the law, their legal liability shall be investigated; if a criminal offence is constituted, such personnel shall be prosecuted in accordance with the law.

第四章 回 避 CHAPTER IV CHALLENGE AND WITHDRAWAL

第四十五条 审判人员有下列情形之一的，必须回避，当事人有权用口头或者书面方式申请他们回避： Article 45 In any one of the following circumstances, a member of the adjudication personnel must withdraw, and a party shall also have the right to challenge him orally or in writing

- (一) 是本案当事人或者当事人、诉讼代理人的近亲属； 1. he is a party or a close relative of a party or a close relative of an agent ad litem;
- (二) 与本案有利害关系； 2. he has an interest in the case; or
- (三) 与本案当事人有其他关系，可能影响对案件公正审理的。 3. he has some other relationship with a party that may influence the impartial handling of the case.

前款规定，适用于书记员、翻译人员、鉴定人、勘验人。 The provisions of the preceding paragraph shall also apply to clerks, interpreters, expert witnesses and inspectors.

第四十六条 当事人提出回避申请，应当说明理由，在案件开始审理时提出；回避事由在案件开始审理后知道的，也可以在法庭辩论终结前提出。 Article 46 When challenging a member of the adjudication personnel, a party shall explain the reasons and shall raise the challenge at the beginning of the trial; if the reason for challenge becomes known after the trial has commenced, the challenge may also be raised prior to the conclusion of the court debate.

被申请回避的人员在人民法院作出是否回避的决定前，应当暂停参与本案的工作，但案件需要采取 Pending a decision on withdrawal by the people's court, challenged personnel shall temporarily suspend their

紧急措施的除外。

participation in the work for the case, except where the circumstances of the case require emergency measures.

第四十七条 院长担任审判长时的回避，由审判委员会决定；审判人员的回避，由院长决定；其他人员的回避，由审判长决定。

Article 47 The challenge or withdrawal of a court president serving as presiding judge shall be decided on by the judicial committee. The challenge or withdrawal of adjudication personnel shall be decided on by the court president. The challenge or withdrawal of other personnel shall be decided on by the presiding judge.

第四十八条 人民法院对当事人提出的回避申请，应当在申请提出的三日内，以口头或者书面形式作出决定。申请人对决定不服的，可以在接到决定时申请复议一次。复议期间，被申请回避的人员，不停止参与本案的工作。人民法院对复议申请，应当在三日内作出复议决定，并通知复议申请人。

Article 48 The decision by a people's court on a challenge raised by a party shall be made orally or in writing within three days after the challenge was raised. If the applicant disagrees with the decision, he may apply once for review upon receipt of the decision. During the period of review, the challenged personnel shall not suspend their participation in the work for the case. The decision by a people's court on an application for review shall be made within three days and the applicant shall be notified of the decision.

第五章 诉讼参加人

CHAPTER V PARTICIPANTS IN AN ACTION

第一节 当事人

Section 1 Parties

第四十九条 公民、法人和其他组织可以作为民事诉讼的当事人。

Article 49 Any citizen, legal person or other organization may be a party to a civil action.

法人由其法定代表人进行诉讼。其他组织由其主要负责人进行诉讼。

Legal persons shall be represented in litigation by their legal representatives. Other organizations shall be represented in litigation by the head of such an organization.

第五十条 当事人有权委托代理人，提出回避申请，收集、提供证据，进行辩论，请求调解，提起上诉，申请执行。

Article 50 Parties shall have the right to appoint agents, to challenge adjudication personnel, to collect and present evidence, to engage in debates, to request mediation, to file appeals and to apply for execution.

当事人可以查阅本案有关材料，并可以复制本案有关材料和法律文书。查阅、复制本案有关材料的范围和办法由最高人民法院规定。

Parties may have access to the materials relating to the case, and may copy the materials and legal documents relating to the case. The scope of materials relating to the case that may be accessed and copied, and the methods of granting access and copying, shall be determined by the Supreme People's Court.

当事人必须依法行使诉讼权利，遵守诉讼秩序，履行发生法律效力的判决书、裁定书和调解书。

Parties must exercise their procedural rights in accordance with the law, observe litigation procedure, and perform the terms of written judgments, rulings or mediation statements that have become legally effective.

第五十一条 双方当事人可以自行和解。 Article 51 The two parties may reach a settlement on their own.

第五十二条 原告可以放弃或者变更诉讼请求。被告可以承认或者反驳诉讼请求，有权提起反诉。 Article 52 A plaintiff may withdraw or modify his claims. A defendant may admit or rebut the claims and shall have the right to institute a counterclaim.

第五十三条 当事人一方或者双方为二人以上，其诉讼标的是共同的，或者诉讼标的是同一种类、人民法院认为可以合并审理并经当事人同意的，为共同诉讼。 Article 53 If one party or both parties consist of two or more persons, the object of the action is the same or of the same category and the people's court considers that the case can be tried as a joint action, the case shall be tried as a joint action, subject to the consent of the parties.

共同诉讼的一方当事人对诉讼标的有共同权利义务的，其中一人的诉讼行为经其他共同诉讼人承认，对其他共同诉讼人发生法律效力；对诉讼标的没有共同权利义务的，其中一人的诉讼行为对其他共同诉讼人不发生法律效力。 If the persons constituting a party to a joint action have common rights and obligations with respect to the object of action, and a procedural act by one member of the party is recognized by the other members of the party, such act shall be effective for all the other members of the party. If the persons constituting a party to a joint action do not have common rights and obligations with respect to the object of action, a procedural act by one of those persons shall not be effective for the other members of the party.

第五十四条 当事人一方人数众多的共同诉讼，可以由当事人推选代表人进行诉讼。代表人的诉讼行为对其所代表的当事人发生法律效力，但代表人变更、放弃诉讼请求或者承认对方当事人的诉讼请求，进行和解，必须经被代表的当事人同意。 Article 54 A joint action in which one party consists of numerous persons may be brought by a representative elected by such persons. The procedural acts of such representative shall be effective for all members of the party he represents. However, the representative's modification or withdrawal of claims, or recognition of the other party's claims or involvement in mediation shall require the consent of the party he represents.

第五十五条 诉讼标的是同一种类、当事人一方人数众多在起诉时人数尚未确定的，人民法院可以发出公告，说明案件情况和诉讼请求，通知权利人在一定期间向人民法院登记。 Article 55 If a party consists of numerous persons and the object of the action is of the same category, and upon institution of the action the number of persons is not determined yet, the people's court may issue a public notice which states the particulars of the case and the claims and requests that the claimant has registered with the people's court within a certain period of time.

向人民法院登记的权利人可以推选代表人进行诉讼；推选不出代表人的，人民法院可以与参加登记的权利人商定代表人。 Claimants who have registered with the people's court may elect a representative to engage in litigation; if no such representative can be elected, the people's court may participate with the registered claimants in determining

代表人的诉讼行为对其所代表的当事人发生法律效力，但代表人变更、 who shall be their representative.

放弃诉讼请求或者承认对方当事人的诉讼请求，进行和解，必须经被代表的当事人同意。

人民法院作出的判决、裁定，对参加登记的全体权利人发生法律效力。未参加登记的权利人在诉讼期间提起诉讼的，适用该判决、裁定。

第五十六条 对当事人双方的诉讼标的，第三人认为有独立请求权的，有权提起诉讼。

对当事人双方的诉讼标的，第三人虽然没有独立请求权，但案件处理结果同他有法律上的利害关系的，可以申请参加诉讼，或者由人民法院通知他参加诉讼。人民法院判决承担民事责任的第三人，有当事人的诉讼权利义务。

第二节 诉讼代理人

第五十七条 无诉讼行为能力人由他的监护人作为法定代理人代为诉讼。法定代理人之间互相推诿代理责任的，由人民法院指定其中一人代为诉讼。

第五十八条 当事人、法定代理人可以委托一至二人作为诉讼代理人。

律师、当事人的近亲属、有关的社会团体或者所在单位推荐的人、经人民法院许可的其他公民，都可以被委托为诉讼代理人。

第五十九条 委托他人代为诉讼，必须向人民法院提交由委托人签名或者盖章的授权委托书。

授权委托书必须记明委托事项和权限。诉讼代理人代为承认、放

The procedural acts of a representative shall be effective for the party he represents. However, the representative's modification or withdrawal of claims, or recognition of the other party's claims or involvement in mediation shall require the consent of the party he represents.

Judgments or rulings rendered by a people's court shall be effective for all the claimants who have registered with the court. Such judgments or rulings shall apply to claimants who have not registered with the court but who institute actions during the limitation period.

Article 56 If a third party considers that it has an independent claim against the object of the action of the two parties, it shall have the right to institute an action.

If a third party has no independent right of claim against the object of the action of the two parties but the outcome of the case will affect his legal interests, he may apply to join in the action, or the people's court shall notify him requesting his joinder. If the people's court judges that a third party shall bear civil liability, such third party shall have the procedural rights and obligations of a party.

Section Two Agents Ad Litem

Article 57 A person with no capacity to engage in litigation shall be represented in an action by his guardians, who shall be his statutory agents. If the statutory agents shift onto one another the responsibility to act as agents, the people's court shall appoint one of them to represent the principal in the action.

Article 58 Party or statutory agent may appoint one or two persons to act as his agent ad litem.

Lawyers, close relatives of the party concerned, persons recommended by relevant social organizations or by the work units of the party concerned, and any other citizens approved by the people's court, may be appointed agents ad litem.

Article 59 When a person appoints another person to represent him in an action, he must submit to the people's court a power of attorney bearing his signature or seal.

A power of attorney must specify the subject matter and limits of authority granted. An agent ad litem must possess

弃、变更诉讼请求，进行和解，提起反诉或者上诉，必须有委托人的特别授权。

侨居在外的中华人民共和国公民从国外寄交或者托交的授权委托书，必须经中华人民共和国驻该国的使领馆证明；没有使领馆的，由与中华人民共和国有外交关系的第三国驻该国的使领馆证明，再转由中华人民共和国驻该第三国使领馆证明，或者由当地的爱国华侨团体证明。

第六十条 诉讼代理人的权限如果变更或者解除，当事人应当书面告知人民法院，并由人民法院通知对方当事人。

第六十一条 代理诉讼的律师和其他诉讼代理人有权调查收集证据，可以查阅本案有关材料。查阅本案有关材料的范围和办法由最高人民法院规定。

第六十二条 离婚案件有诉讼代理人的，本人除不能表达意志的以外，仍应出庭；确因特殊情况无法出庭的，必须向人民法院提交书面意见。

第六章 证 据

第六十三条 证据有下列几种：

- (一) 书证；
- (二) 物证；
- (三) 视听资料；
- (四) 证人证言；
- (五) 当事人的陈述；

special authorization from his principal to recognize, withdraw or modify claims, to become involved in mediation, to file a counterclaim or to lodge an appeal on behalf of his principal.

A power of attorney sent from abroad or delivered care of another by a citizen of the People's Republic of China residing in a foreign country must be certified by the embassy or a consulate of the People's Republic of China in that country. If there is no embassy or consulate of the People's Republic of China in that country, the power of attorney shall be certified by an embassy or a consulate in that country of a third country that has diplomatic relations with the People's Republic of China, and then transferred for authentication to the embassy or a consulate of the People's Republic of China in such third country, or by a local patriotic organization of overseas Chinese.

Article 60 If a party modifies or revokes the authority granted to its agent ad litem, it shall inform the people's court in writing and the people's court shall inform the other party.

Article 61 Lawyers and other agents who serve as persons ad litem shall have the right to investigate and collect evidence, and may have access to the materials relating to the case. The scope of materials relating to the case that may be accessed, and the methods of granting access, shall be determined by the Supreme People's Court.

Article 62 Where a party to a divorce case is represented by an agent ad litem, the party shall still enter an appearance before the court, unless he is incapable of expressing his intentions. A party who is truly unable to appear in court due to special reasons must present his opinion in writing to the people's court.

CHAPTER VI EVIDENCE

Article 63 Evidence shall comprise the following categories

1. documentary evidence;
2. physical evidence;
3. audio-visual materials;
4. testimony of witnesses;
5. statements of the parties;

(六) 鉴定结论;	6. expert conclusions; and
(七) 勘验笔录。	7. records of inquests.
以上证据必须查证属实, 才能作为认定事实的根据。	The above evidence must be verified before it can be taken as a basis for ascertaining the facts.
第六十四条 当事人对自己提出的主张, 有责任提供证据。	Article 64 A party shall be responsible for providing evidence in support of its allegations.
当事人及其诉讼代理人因客观原因不能自行收集的证据, 或者人民法院认为审理案件需要的证据, 人民法院应当调查收集。	Where a party and its agent ad litem are unable to collect the evidence on their own for reasons beyond their control, or where the people's court deems it necessary for the trial of the case, the people's court shall investigate and collect the evidence.
人民法院应当按照法定程序, 全面地、客观地审查核实证据。	The people's court shall thoroughly and objectively investigate and verify evidence in accordance with legal procedure.
第六十五条 人民法院有权向有关单位和个人调查取证, 有关单位和个人不得拒绝。	Article 65 The people's court shall have the right to investigate and take evidence from the relevant work units or individuals, and such work units or individuals may not refuse to cooperate.
人民法院对有关单位和个人提出的证明文书, 应当辨别真伪, 审查确定其效力。	The people's court shall examine and determine the authenticity and validity of documentary evidence provided by relevant work units and individuals.
第六十六条 证据应当在法庭上出示, 并由当事人互相质证。对涉及国家秘密、商业秘密和个人隐私的证据应当保密, 需要在法庭出示的, 不得在公开开庭时出示。	Article 66 Evidence shall be presented in court and examined by the parties. Evidence involving State secrets, trade secrets or private matters of individuals shall be kept confidential. If such evidence must be presented in court, it may not be presented in a public court session.
第六十七条 经过法定程序公证证明的法律行为、法律事实和文书, 人民法院应当作为认定事实的根据。但有相反证据足以推翻公证证明的除外。	Article 67 The people's court shall take the legal acts, legal facts and documents notarized according to legal procedure as its basis for ascertaining the facts, except where there is contrary evidence sufficient to invalidate the notarial certification.
第六十八条 书证应当提交原件。物证应当提交原物。提交原件或者原物确有困难的, 可以提交复制品、照片、副本、节录本。	Article 68 Documentary evidence shall be presented in its original form. When presenting physical evidence, the original object shall be presented. If it is truly difficult to present the original document or object, then reproductions, photographs, duplicates or extracts of the original may be presented.
提交外文书证, 必须附有中文译本。	When documentary evidence in a foreign language is to be

submitted, it must be accompanied by a Chinese translation.

第六十九条 人民法院对视听资料，应当辨别真伪，并结合本案的其他证据，审查确定能否作为认定事实的根据。

Article 69 The people's court shall verify the authenticity of audio-visual materials and investigate and determine, in the light of other evidence in the case, whether they can be taken as a basis for ascertaining the facts.

第七十条 凡是知道案件情况的单位和个人，都有义务出庭作证。有关单位的负责人应当支持证人作证。证人确有困难不能出庭的，经人民法院许可，可以提交书面证言。

Article 70 All work units and individuals that have knowledge of the circumstances of a case shall be obliged to give testimony in court. The persons in charge of the relevant work units shall support the witnesses to testify. If a witness is truly unable to appear in court due to difficulties, he may, with the approval of the people's court, submit written testimony.

不能正确表达意志的人，不能作证。

A person who is unable to express his intentions accurately may not testify.

第七十一条 人民法院对当事人的陈述，应当结合本案的其他证据，审查确定能否作为认定事实的根据。

Article 71 The people's court shall investigate and determine, in the light of other evidence of the case, whether the statements of a party can be taken as a basis for ascertaining the facts.

当事人拒绝陈述的，不影响人民法院根据证据认定案件事实。

Refusal by a party to make a statement shall not affect the ascertainment of the facts of the case by the people's court on the basis of the evidence.

第七十二条 人民法院对专门性问题认为需要鉴定的，应当交由法定鉴定部门鉴定；没有法定鉴定部门的，由人民法院指定的鉴定部门鉴定。

Article 72 When the people's court considers that a special problem requires expert evaluation, it shall refer the problem to an expert evaluation department authorized by law. Where there is no such department, the people's court shall designate an expert evaluation department to conduct the evaluation.

鉴定部门及其指定的鉴定人有权了解进行鉴定所需要的案件材料，必要时可以询问当事人、证人。

An expert evaluation department and the expert witness designated thereby shall have the right to acquaint themselves with case materials necessary for the evaluation, and may direct inquiries to the parties and witnesses when necessary.

鉴定部门和鉴定人应当提出书面鉴定结论，在鉴定书上签名或者盖章。鉴定人鉴定的，应当由鉴定人所在单位加盖印章，证明鉴定人身份。

Expert evaluation departments and expert witness shall present evaluation conclusions in writing and affix their signatures or seals to such evaluations. When an evaluation is conducted by an expert witness, the work unit to which the expert witness belongs shall certify his status by affixing its seal to the expert conclusion.

第七十三条 勘验物证或者现

Article 73 When carrying out an inspection of physical

场，勘验人必须出示人民法院的证件，并邀请当地基层组织或者当事人所在单位派人参加。当事人或者当事人的成年家属应当到场，拒不到场的，不影响勘验的进行。

有关单位和个人根据人民法院的通知，有义务保护现场，协助勘验工作。

勘验人应当将勘验情况和结果制作笔录，由勘验人、当事人和被邀参加人签名或者盖章。

第七十四条 在证据可能灭失或者以后难以取得的情况下，诉讼参加人可以向人民法院申请保全证据，人民法院也可以主动采取保全措施。

第七章 期间、送达

第一节 期 间

第七十五条 期间包括法定期间和人民法院指定的期间。

期间以时、日、月、年计算。期间开始的时和日，不计算在期间内。

期间届满的最后一日是节假日的，以节假日后的第一日为期间届满的日期。

期间不包括在途时间，诉讼文书在期满前交邮的，不算过期。

第七十六条 当事人因不可抗力或者其他正当理由耽误期限的，在障碍消除后的十日内，可以申请顺延期限，是否准许，由人民法院决定。

第二节 送 达

evidence or an on-the-spot inspection, the inspector must show the credentials issued by the people's court and invite local basic-level organizations or the work units of the parties to send persons to participate in the inspection. The party concerned or an adult member of his family shall be present. Such person's refusal to appear on the scene shall not affect the performance of the inspection.

Upon notification by the people's court, relevant work units and individuals shall have an obligation to protect the scene and to assist with the inspection work.

An inspector shall prepare a written record of the circumstances and results of the inspection. Such record shall be signed or sealed by the inspector, the party concerned and the invited participants.

Article 74 Where there is a possibility that evidence may be destroyed or lost or be difficult to obtain at a later time, a participant in an action may apply to the people's court for preservation of the evidence. The people's court may also take measures to preserve such evidence on its own initiative.

CHAPTER VII TIME PERIODS AND SERVICE

Section 1 Time Periods

Article 75 Time periods include statutory time periods and time periods designated by the people's courts.

Time periods shall be calculated in hours, days, months and years. The hour and day from which a time period commences shall not be counted as falling within such time period.

If the expiration date of a time period falls on a holiday, the day immediately following the holiday shall be the expiration date.

A time period shall not include transit time. Procedural documents mailed before the expiration of the time period shall not be deemed overdue.

Article 76 If a party exceeds a time limit due to an event of force majeure or for other proper reasons, he may apply for an extension of the time period within 10 days after the removal of the obstacles. The application for extension shall be decided on by the people's court.

Section 2 Service

第七十七条 送达诉讼文书必须有送达回证，由受送达人在送达回证上记明收到日期，签名或者盖章。

受送达人在送达回证上的签收日期为送达日期。

第七十八条 送达诉讼文书，应当直接送交受送达人。受送达人是公民的，本人不在交他的同住成年家属签收；受送达人是法人或者其他组织的，应当由法人的法定代表人、其他组织的主要负责人或者该法人、组织负责收件的人签收；受送达人有诉讼代理人的，可以送交其代理人签收；受送达人已向人民法院指定代收人的，送交代收人签收。

受送达人的同住成年家属，法人或者其他组织的负责收件的人，诉讼代理人或者代收人在送达回证上签收的日期为送达日期。

第七十九条 受送达人或者他的同住成年家属拒绝接收诉讼文书的，送达人应当邀请有关基层组织或者所在单位的代表到场，说明情况，在送达回证上记明拒收事由和日期，由送达人、见证人签名或者盖章，把诉讼文书留在受送达人的住所，即视为送达。

Article 77 Service of any procedural document must be evidenced by an acknowledgement of service. The person served shall clearly state the date of receipt on the acknowledgement of service, and affix his signature or seal to it.

The date of signature for receipt as entered on the acknowledgement of service by the person served shall be the date of service.

Article 78 A procedural document shall be served directly on the person to be served. If the person to be served is a citizen, the document shall, in case of his absence, be delivered to an adult member of his family living with him, who shall sign for receipt. If the person to be served is a legal person or another organization, the document shall be signed for receipt by the legal representative of the legal person or by the head of the organization, or by the person of the legal person or the organization who is in charge of receiving documents. If the person to be served has an agent ad litem, the document may be served on his agent ad litem; who shall sign for receipt. If the person to be served has designated an agent to receive documents on his behalf and has notified the people's court of the designation, the document may be served on the agent, who shall sign for receipt.

The date of signature for receipt as entered on the acknowledgement of service by an adult family member of the person to be served who is living with such person, or by the person of the legal person or other organization who is in charge of receiving documents, or by the agent ad litem, or the agent designated to receive documents shall be the date of service.

Article 79 If the person to be served or an adult member of his family who is living with him refuses to accept a procedural document, the person serving the document shall invite a representative from the relevant basic-level organization or the work unit of the person to be served to come to the scene, shall explain the situation to him, and shall record on the acknowledgement of service the particulars and date of the refusal. After the person serving the document and the witness have signed or sealed the acknowledgement of the service and the procedural document has been left at the domicile of the person to be served, the document shall be deemed to have been served.

第八十条 直接送达诉讼文书有困难的，可以委托其他人民法院代为送达，或者邮寄送达。邮寄送达的，以回执上注明的收件日期为送达日期。

Article 80 If direct service of a procedural service proves difficult, service of the document may be entrusted to another people's court or effected by post. If a document is served by post, the date as stated on the receipt shall be the date of service.

第八十一条 受送达人是军人的，通过其所在部队团以上单位的政治机关转交。

Article 81 If the person to be served is in the military, the document shall be forwarded to him by the political organ of or above his regiment.

第八十二条 受送达人是被监禁的，通过其所在监所或者劳动改造单位转交。

Article 82 If the person to be served has been imprisoned, the document shall be forwarded to him by his prison or work unit for reform through labour.

受送达人是在被劳动教养的，通过其所在劳动教养单位转交。

If the person to be served is undergoing rehabilitation through labour, the document shall be forwarded to him by his rehabilitation work unit.

第八十三条 代为转交的机关、单位收到诉讼文书后，必须立即交受送达人签收，以在送达回证上的签收日期，为送达日期。

Article 83 A forwarding authority or work unit must, immediately upon receiving a procedural document, deliver the document to the person to be served, who shall sign for receipt. The date of signature for receipt as entered on the acknowledgement of service shall be the date of service.

第八十四条 受送达人下落不明，或者用本节规定的其他方式无法送达的，公告送达。自发出公告之日起，经过六十日，即视为送达。

Article 84 If the whereabouts of the person to be served are unknown, or if a document cannot be served by any other method provided for in this Section, the document shall be served by public announcement. The document shall be deemed to have been served when 60 days have elapsed since the date of the public announcement.

公告送达，应当在案卷中记明原因和经过。

Where service is effected by public announcement, the reason for doing so and the steps taken shall be recorded in the case file.

第八章 调解

CHAPTER VIII MEDIATION

第八十五条 人民法院审理民事案件，根据当事人自愿的原则，在事实清楚的基础上，分清是非，进行调解。

Article 85 In trying civil cases, a people's court shall distinguish right from wrong and conduct mediation in accordance with the principle of voluntary participation of the parties and on the basis of evident facts.

第八十六条 人民法院进行调解，可以由审判员一人主持，也可以由合议庭主持，并尽可能就地进

Article 86 Mediation conducted by a people's court may be presided over by a single judge or by the collegiate bench. Mediation shall be conducted locally whenever possible.

行。

人民法院进行调解，可以用简便方式通知当事人、证人到庭。

When conducting mediation, a people's court may use a simplified method to notify the parties and witnesses that they should appear in court.

第八十七条 人民法院进行调解，可以邀请有关单位和个人协助。被邀请的单位和个人，应当协助人民法院进行调解。

Article 87 When conducting mediation, a people's court may invite the assistance of relevant work units and individuals. The work units and individuals invited shall assist the people's court in conducting mediation.

第八十八条 调解达成协议，必须双方自愿，不得强迫。调解协议的内容不得违反法律规定。

Article 88 A mediation agreement must be reached by the parties voluntarily, and may not be coerced. The contents of a mediation agreement may not violate the law.

第八十九条 调解达成协议，人民法院应当制作调解书。调解书应当写明诉讼请求、案件的事实和调解结果。

Article 89 When a mediation agreement is reached, the people's court shall prepare a written mediation statement. The written mediation statement shall clearly state the claims, the facts of the case and the result of the mediation.

调解书由审判人员、书记员署名，加盖人民法院印章，送达双方当事人。

The written mediation statement shall be signed by the adjudication personnel and the court clerk, and the seal of the people's court shall be affixed to it. After a mediation agreement has been so signed and sealed, it shall be served on both parties.

调解书经双方当事人签收后，即具有法律效力。

A written mediation statement shall become legally effective immediately after both CHAPTERies have signed to indicate receipt of the statement.

第九十条 下列案件调解达成协议，人民法院可以不制作调解书：

Article 90 The people's court need not prepare a written mediation statement in the following types of cases when an agreement is reached through mediation

- (一) 调解和好的离婚案件；
- (二) 调解维持收养关系的案件；
- (三) 能够即时履行的案件；
- (四) 其他不需要制作调解书的案件。

- 1. divorce cases in which the parties have become reconciled through mediation;
- 2. cases in which an adoptive relationship has been maintained through mediation;
- 3. cases in which the agreements can be performed immediately; and
- 4. other cases that do not require written mediation statements.

对不需要制作调解书的协议，应当记入笔录，由双方当事人、审判人员、书记员签名或者盖章后，即具有法律效力。

An agreement that does not require a written mediation statement shall be entered into the written record and shall become legally effective immediately after being signed or sealed by both parties, the adjudication personnel and the court clerk.

第九十一条 调解未达成协议或者调解书送达前一方反悔的，人民法院应当及时判决。

Article 91 If no agreement is reached through mediation or if one party repudiates the agreement prior to service of the mediation settlement, the people's court shall promptly make a judgment.

第九章 财产保全和先予执行 CHAPTER VIII PRESERVATION OF PROPERTY AND PRELIMINARY EXECUTION

第九十二条 人民法院对于可能因当事人一方的行为或者其他原因，使判决不能执行或者难以执行的案件，可以根据对方当事人的申请，作出财产保全的裁定；当事人没有提出申请的，人民法院在必要时也可以裁定采取财产保全措施。

Article 92 If a judgment might be impossible or difficult to execute due to an act of a party or for other reasons, a people's court may, at the request of the other party, make a ruling for preservation of property. In the absence of such request, the people's court may, when necessary, also rule to adopt measures for the preservation of property.

人民法院采取财产保全措施，可以责令申请人提供担保；申请人不提供担保的，驳回申请。

When a people's court adopts measures for the preservation of property, it may order the applicant to provide security. If the applicant fails to provide security, his application shall be rejected.

人民法院接受申请后，对情况紧急的，必须在四十八小时内作出裁定；裁定采取财产保全措施的，应当立即开始执行。

After accepting an application from a party, the people's court must, if the case is urgent, make a ruling within 48 hours. If the people's court rules to adopt measures for the preservation of property, the implementation of such ruling shall be commenced immediately.

第九十三条 利害关系人因情况紧急，不立即申请财产保全将会使其合法权益受到难以弥补的损害的，可以在起诉前向人民法院申请采取财产保全措施。申请人应当提供担保，不提供担保的，驳回申请。

Article 93 Where, due to urgent circumstances, the lawful rights and interests of an interested party would be irreparably harmed if he did not immediately apply for preservation of property, such person may apply to the people's court requesting measures for the preservation of property prior to the institution of an action. The applicant shall provide security. If the applicant fails to provide security, his application shall be rejected.

人民法院接受申请后，必须在四十八小时内作出裁定；裁定采取财产保全措施的，应当立即开始执行。

After accepting an application, the people's court must make a ruling within 48 hours. If the people's court rules to adopt measures for the preservation of property, the implementation of such ruling shall be commenced immediately.

申请人在人民法院采取保全措施后十五日内不起诉的，人民法院应当解除财产保全。

If the applicant fails to institute an action within 15 days after the people's court has adopted preservation measures, the people's court shall cancel the property preservation order.

第九十四条 财产保全限于请求的范围，或者与本案有关的财物。

Article 94 Preservation of property shall be limited to the scope of the claim or to the property relevant to the case.

Preservation of property shall be carried out by sealing up,

财产保全采取查封、扣押、冻结或者法律规定的其他方法。人民法院冻结财产后，应当立即通知被冻结财产的人。财产已被查封、冻结的，不得重复查封、冻结。

distraining, freezing or other methods as provided by law. Immediately after freezing property, a people's court shall notify the person whose property has been frozen. Property that has already been sealed up or frozen shall not be sealed up or frozen again.

第九十五条 被申请人提供担保的，人民法院应当解除财产保全。

Article 95 If the person against whom an application is made provides security, the people's court shall cancel the property preservation order.

第九十六条 申请有错误的，申请人应当赔偿被申请人因财产保全所遭受的损失。

Article 96 If an application is made wrongfully, the applicant shall compensate the person against whom the application is made for any loss incurred as a result of the preservation of property.

第九十七条 人民法院对下列案件，根据当事人的申请，可以裁定先予执行：

Article 97 Upon the request of a party, a people's court may make a ruling for preliminary execution in the following cases

- (一) 追索赡养费、扶养费、抚育费、抚恤金、医疗费用的；
 - (二) 追索劳动报酬的；
 - (三) 因情况紧急需要先予执行的。
1. those involving claims for overdue alimony, maintenance, child support, pensions for the disabled or the family of the deceased, or medical expenses;
 2. those involving claims for remuneration for labour; and
 3. those involving urgent circumstances that require preliminary execution.

第九十八条 人民法院裁定先予执行的，应当符合下列条件：

Article 98 Cases in which a people's court makes a ruling for preliminary execution shall meet the following conditions

- (一) 当事人之间权利义务关系明确，不先予执行将严重影响申请人的生活或者生产经营的；
 - (二) 被申请人有履行能力。
1. the relationship of rights and obligations between the parties is evident and, without preliminary execution, the life, production activities or business operations of the applicant would be seriously affected; and
 2. the person against whom the application is made is capable of performing the ruling for preliminary execution.

人民法院可以责令申请人提供担保，申请人不提供担保的，驳回申请。申请人败诉的，应当赔偿被申请人因先予执行遭受的财产损失。

The people's court may order the applicant to provide security. If the applicant fails to provide security, his application shall be rejected. If the applicant loses the action, he shall compensate the person against whom the application is made for any loss of property incurred from the preliminary execution.

第九十九条 当事人对财产保全或者先予执行的裁定不服的，可以申请复议一次。复议期间不停止裁定的执行。

Article 99 If a party is dissatisfied with a ruling for preservation of property or preliminary execution, he may apply once for review. Execution of the ruling shall not be suspended during the period of review.

第十章 对妨害民事诉讼的强制措施

CHAPTER X COMPULSORY MEASURES AGAINST OBSTRUCTION OF CIVIL ACTIONS

第一百条 人民法院对必须到庭的被告，经两次传票传唤，无正当理由拒不到庭的，可以拘传。

Article 100 If a defendant who must appear in court has been served a summons twice but refuses to appear before the court without proper cause, the people's court may summon him by means of arrest.

第一百零一条 诉讼参与人和其他人应当遵守法庭规则。

Article 101 Participants in actions and other persons shall comply with court rules.

人民法院对违反法庭规则的人，可以予以训诫，责令退出法庭或者予以罚款、拘留。

Persons who violate court rules may be reprimanded, ordered to leave the court, fined or detained by the people's court.

人民法院对哄闹、冲击法庭，侮辱、诽谤、威胁、殴打审判人员，严重扰乱法庭秩序的人，依法追究刑事责任；情节较轻的，予以罚款、拘留。

Persons who seriously disrupt court order by making noises or creating an uproar in the courtroom, or by insulting, slandering, threatening, or battering adjudication personnel, shall be prosecuted by the people's court in accordance with the law. In less serious cases, such persons may be fined or detained.

第一百零二条 诉讼参与人或者其他有下列行为之一的，人民法院可以根据情节轻重予以罚款、拘留；构成犯罪的，依法追究刑事责任：

Article 102 If a participant in an action or another person commits any of the following acts, the people's court may fine him or detain him according to the seriousness of the case; if the act constitutes a criminal offence, the person shall be prosecuted in accordance with the law

(一) 伪造、毁灭重要证据，妨碍人民法院审理案件的；

1. forging or destroying important evidence, thereby obstructing the trial of the case by the people's court;

(二) 以暴力、威胁、贿买方法阻止证人作证或者指使、贿买、胁迫他人作伪证的；

2. using violence, threats or subornation to prevent a witness from giving testimony, or instigating, suborning, or coercing others to commit perjury;

(三) 隐藏、转移、变卖、毁损已被查封、扣押的财产，或者已被清点并责令其保管的财产，转移已被冻结的财产的；

3. concealing, removing, selling off or destroying property that has been sealed up or distrained, or that has been inventoried and placed in his custody by order, or moving assets that have been frozen;

(四) 对司法工作人员、诉讼参加人、证人、翻译人员、鉴定人、勘验人、协助执行的人，进行侮辱、诽谤、诬陷、殴打或者打击报复的；

4. insulting, slandering, falsely incriminating, battering or retaliating against judicial personnel, participants in the action, witnesses, interpreters, expert witnesses, inspectors, or personnel assisting in execution;

(五) 以暴力、威胁或者其他

5. using violence, threats or other methods to obstruct judicial personnel from performing their duties; or

方法阻碍司法工作人员执行职务的；

(六) 拒不履行人民法院已经发生法律效力判决、裁定的。

人民法院对有前款规定的行为之一的单位，可以对其主要负责人或者直接责任人员予以罚款、拘留；构成犯罪的，依法追究刑事责任。

第一百零三条 有义务协助调查、执行的单位有下列行为之一的，人民法院除责令其履行协助义务外，并可以予以罚款：

(一) 有关单位拒绝或者妨碍人民法院调查取证的；

(二) 银行、信用合作社和其他有储蓄业务的单位接到人民法院协助执行通知书后，拒不协助查询、冻结或者划拨存款的；

(三) 有关单位接到人民法院协助执行通知书后，拒不协助扣留被执行人的收入、办理有关财产权证照转移手续、转交有关票证、证照或者其他财产的；

(四) 其他拒绝协助执行的。

人民法院对有前款规定的行为之一的单位，可以对其主要负责人或者直接责任人员予以罚款；对仍不履行协助义务的，可以予以拘留；并可以向监察机关或者有关机关提出予以纪律处分的司法建议。

第一百零四条 对个人的罚款金额，为人民币一万元以下。对单位的罚款金额，为人民币一万元以上三十万元以下。

拘留的期限，为十五日以下。

被拘留的人，由人民法院交公

6. refusing to perform a legally effective judgment or ruling of the people's court.

Where a work unit commits any of the acts listed in the preceding paragraph, the people's court may impose a fine or period of detention on the head of the work unit or the person directly responsible for the act. If the act constitutes a criminal offence, such person shall be prosecuted according to law.

Article 103 If any of the following work units under an obligation to assist with investigation and execution commits any of the listed acts, the people's court may, in addition to ordering it to perform its obligation to assist, impose a fine:

1. relevant work units that refuse to cooperate with or that obstruct the investigation or collection of evidence by the people's court;

2. banks, credit cooperatives and other saving units that, after receiving a notice from the people's court to assist with execution, refuse to assist with inquiries concerning deposits or to assist in freezing or transferring deposits;

3. relevant work units that, after receiving a notice from the people's court to assist with execution, refuse to assist in withholding the revenue of the person subject to execution, or in transferring the relevant title deeds, or in passing on the relevant negotiable instruments, certificates, or other property; or

4. other work units that refuse to assist with execution.

A people's court may fine the principally responsible person or any other person directly responsible for an work unit that commits any of the acts described in the preceding paragraph; the people's court may detain any person that refuses to carry out his duty to assist and submit a judicial proposal to the supervisory authorities or other relevant authorities suggesting the imposition of disciplinary sanctions.

Article 104 A fine imposed on an individual shall not exceed RMB 10,000 and a fine imposed on an work unit shall be no less than RMB 10,000 but shall not exceed RMB 300,000.

A period of detention shall not be longer than 15 days.

The people's court shall deliver detainees to the custody of the public security authority. If a detainee admits and

安机关看管。在拘留期间，被拘留人承认并改正错误的，人民法院可以决定提前解除拘留。 corrects his wrongdoings during the period of detention, the people's court may decide to grant an early release.

第一百零五条 拘传、罚款、拘留必须经院长批准。 Article 105 Summoning a person by means of arrest, the imposition of a fine and detention shall be subject to approval by the president of the people's court.

拘传应当发拘传票。

罚款、拘留应当用决定书。对决定不服的，可以向上一级人民法院申请复议一次。复议期间不停止执行。 Summoning a person by means of arrest shall require the issue of an arrest warrant.

Written decisions shall be issued for the imposition of fines and detention. If an offender is dissatisfied with a decision, he may apply once to the immediate superior people's court for review. Execution of the decision shall not be suspended during the period of review.

第一百零六条 采取对妨害民事诉讼的强制措施必须由人民法院决定。任何单位和个人采取非法拘禁他人或者非法私自扣押他人财产追索债务的，应当依法追究刑事责任，或者予以拘留、罚款。 Article 106 Decisions on the adoption of compulsory measures against obstruction of civil actions must be made by the people's court. Any work unit or individual that seeks performance of an obligation by illegal detention of a person or by illegal, private distraintment of another's property shall be prosecuted in accordance with the law, or shall be detained or fined.

第十一章 诉讼费用

CHAPTER XI COURT COSTS

第一百零七条 当事人进行民事诉讼，应当按照规定交纳案件受理费。财产案件除交纳案件受理费外，并按照规定交纳其他诉讼费用。 Article 107 Parties engaged in civil litigation shall pay a case acceptance fee in accordance with regulations. In property cases, the parties shall also pay other court costs in addition to the case acceptance fee.

当事人交纳诉讼费用确有困难的，可以按照规定向人民法院申请缓交、减交或者免交。 If a party truly has difficulty in paying court costs, it may, in accordance with regulations, apply to the people's court for deferment, reduction or exemption of payment.

收取诉讼费用的办法另行制定。 The methods for charging costs shall be formulated separately.

第二编 审判程序

DIVISION TWO TRIAL PROCEDURE

第十二章 第一审普通程序

CHAPTER XII ORDINARY PROCEDURE AT FIRST INSTANCE

第一节 起诉和受理

Section 1 Institution and Acceptance of Actions

第一百零八条 起诉必须符合下列条件： Article 108 To institute an action, the following conditions must be satisfied

(一) 原告是与本案有直接利 1. the plaintiff must be a citizen, legal person or other

害关系的公民、法人和其他组织； organization with a direct interest in the case;

(二) 有明确的被告； 2. there must be a specific defendant;

(三) 有具体的诉讼请求和事实、理由； 3. there must be a specific claim and a specific factual basis and grounds; and

(四) 属于人民法院受理民事诉讼的范围和受诉人民法院管辖。 4. the suit must fall within the range of civil actions accepted by the people's courts and within the jurisdiction of the people's court with which it is filed.

第一百零九条 起诉应当向人民法院递交起诉状，并按照被告人数提出副本。 Article 109 When instituting an action, a statement of claim shall be submitted to the people's court, together with a number of copies corresponding to the number of defendants.

书写起诉状确有困难的，可以口头起诉，由人民法院记入笔录，并告知对方当事人。 If a plaintiff truly has difficulty in writing a statement of claim, he may lodge the claim verbally. The people's court shall transcribe such verbal complaint and notify the opposing party.

第一百一十条 起诉状应当记明下列事项： Article 110 A statement of claim shall specify the following:

(一) 当事人的姓名、性别、年龄、民族、职业、工作单位和住所，法人或者其他组织的名称、住所和法定代表人或者主要负责人的姓名、职务； 1. the name, sex, age, ethnic group, occupation, work unit and domicile of the party, or the name and domicile of the legal person or other organization and the name and position of its legal representative or head;

(二) 诉讼请求和所根据的事实与理由； 2. the claim and its supporting facts and grounds; and

(三) 证据和证据来源，证人姓名和住所。 3. evidence and the source thereof, and the names and domiciles of witnesses.

第一百一十一条 人民法院对符合本法第一百零八条的起诉，必须受理；对下列起诉，分别情形，予以处理： Article 111 People's courts must accept actions brought in accordance with Article 108 hereof. The following types of actions shall be handled using the methods listed, in accordance with the specific circumstances of the individual cases:

(一) 依照行政诉讼法的规定，属于行政诉讼受案范围的，告知原告提起行政诉讼； 1. where an action falls within the scope of cases that may be accepted as administrative actions under the Administrative Litigation Law, the plaintiff shall be notified that he should institute administrative litigation;

(二) 依照法律规定，双方当事人对合同纠纷自愿达成书面仲裁协议向仲裁机构申请仲裁、不得向人民法院起诉的，告知原告向仲裁机构申请仲裁； 2. if the parties to a contract dispute have voluntarily and lawfully concluded a written arbitration agreement stipulating that disputes must be taken to an arbitration institution and that an action may not be initiated in the people's court, the plaintiff shall be informed that he

(三) 依照法律规定，应当由其他机关处理的争议，告知原告向

有关机关申请解决；

（四）对不属于本院管辖的案件，告知原告向有管辖权的人民法院起诉；

（五）对判决、裁定已经发生法律效力效力的案件，当事人又起诉的，告知原告按照申诉处理，但人民法院准许撤诉的裁定除外；

（六）依照法律规定，在一定期限内不得起诉的案件，在不得起诉的期限内起诉的，不予受理；

（七）判决不准离婚和调解和好的离婚案件，判决、调解维持收养关系的案件，没有新情况、新理由，原告在六个月内又起诉的，不予受理。

should apply for arbitration to the arbitration institution;

3. if the law provides that the dispute shall be handled by another authority, the plaintiff shall be notified that he should apply for settlement of the dispute to the relevant authority;

4. if the action does not come under the jurisdiction of the court with which it is filed, the plaintiff shall be informed that he should file the action with the competent people's court;

5. if a party to a case in which the judgment or ruling has become legally effective files a new action for the same case, the plaintiff shall be notified that the case will be handled as a petition for a review, except if the ruling in question was a ruling by the people's court permitting withdrawal of the action;

6. if the law provides that no actions may be filed within a specified period and the action is filed within such period, it shall not be accepted; and

7. in divorce cases, where a judgment has been made denying divorce or where the parties have become reconciled after mediation, and in cases where a judgment has been made to maintain an adoptive relationship or an adoptive relationship is maintained upon mediation, a new action filed for the same case by the plaintiff within six months shall not be accepted without new developments or grounds.

第一百一十二条 人民法院收到起诉状或者口头起诉，经审查，认为符合起诉条件的，应当在七日内立案，并通知当事人；认为不符合起诉条件的，应当在七日内裁定不予受理；原告对裁定不服的，可以提起上诉。

Article 112 When a people's court receives a statement of claim or a verbal claim and, upon examination, finds it satisfies the conditions for the institution of actions, it shall place the case on its trial docket within seven days and notify the parties. If the people's court finds that the bill of complaint or verbal complaint does not satisfy the conditions for the institution of actions, it shall rule within seven days not to accept the action. The plaintiff may appeal against such ruling if he is dissatisfied with the ruling.

第二节 审理前的准备

Section 2 Pretrial Preparations

第一百一十三条 人民法院应当在立案之日起五日内将起诉状副本发送被告，被告在收到之日起十五日内提出答辩状。

Article 113 The people's court shall send the copy of the statement of claim to the defendant within five days after the date of placing the action on the trial docket, and the defendant shall submit a defence within 15 days after the date of receiving a copy of the bill of complaint.

被告提出答辩状的，人民法院

应当在收到之日起五日内将答辩状副本发送原告。被告不提出答辩状的，不影响人民法院审理。

If the defendant submits a statement of defence, the people's court shall send a copy of the statement to the plaintiff within five days after the date of receipt of the statement of defence. Failure on the part of the defendant to submit a statement of defence shall not affect the trial of the case by the people's court.

第一百一十四条 人民法院对决定受理的案件，应当在受理案件通知书和应诉通知书中向当事人告知有关的诉讼权利义务，或者口头告知。

Article 114 In cases that it has decided to accept, a people's court shall advise the parties orally, or in the notice of acceptance of the case and the notice of response to the action, of their procedural rights and obligations.

第一百一十五条 合议庭组成人员确定后，应当在三日内告知当事人。

Article 115 The parties shall be notified within three days after the members of the collegiate bench have been determined.

第一百一十六条 审判人员必须认真审核诉讼材料，调查收集必要的证据。

Article 116 Adjudication personnel must conscientiously examine the materials relating to the action and examine and collect the necessary evidence.

第一百一十七条 人民法院派出人员进行调查时，应当向被调查人出示证件。

Article 117 Personnel sent by a people's court to conduct an investigation shall show their credentials to the person under investigation.

调查笔录经被调查人校阅后，由被调查人、调查人签名或者盖章。

The written record of the investigation shall be checked by the person under investigation and be subsequently signed or sealed by the person under investigation and the investigator.

第一百一十八条 人民法院在必要时可以委托外地人民法院调查。

Article 118 When necessary, a people's court may entrust a people's court in another locality with an investigation.

委托调查，必须提出明确的项目和要求。受委托人民法院可以主动补充调查。

When entrusting such other people's court, the entrusting people's court must clearly set out the matter to be investigated and its requirements. The entrusted people's court may conduct supplementary investigations on its own initiative.

受委托人民法院收到委托书后，应当在三十日内完成调查。因故不能完成的，应当在上述期限内函告委托人民法院。

An entrusted people's court shall complete its investigation within 30 days after receipt of the letter of entrustment. If it cannot complete the investigation for any reason, it shall notify the entrusting people's court in writing within the above time limit.

第一百一十九条 必须共同进行诉讼的当事人没有参加诉讼的，

Article 119 If a party who must participate in a joint action fails to participate in the action, the people's court shall

人民法院应当通知其参加诉讼。

notify him that he should participate in the action.

第三节 开庭审理

Section 3 Trial in Court

第一百二十条 人民法院审理民事案件，除涉及国家秘密、个人隐私或者法律另有规定的以外，应当公开进行。

Article 120 People's courts shall try civil cases in public, except for cases that involve State secrets or private matters of individuals or for which the law provides differently.

离婚案件，涉及商业秘密的案件，当事人申请不公开审理的，可以不公开审理。

Divorce cases and cases that involve trade secrets may not be tried in camera if a party so requests.

第一百二十一条 人民法院审理民事案件，根据需要进行巡回审理，就地办案。

Article 121 In trying civil cases, people's court shall conduct circuit trials to handle cases on the spot when necessary.

第一百二十二条 人民法院审理民事案件，应当在开庭三日前通知当事人和其他诉讼参与人。公开审理的，应当公告当事人姓名、案由和开庭的时间、地点。

Article 122 When trying a civil case, the people's court shall notify the parties and other participants in the action three days prior to the hearing. If the case is to be tried in public, the names of the parties, the cause of action and the time and place of the hearing shall be publicly announced.

第一百二十三条 开庭审理前，书记员应当查明当事人和其他诉讼参与人是否到庭，宣布法庭纪律。

Article 123 Before a trial hearing is opened, the court clerk shall ascertain the presence of the parties and the other participants in the action and announce the rules of court discipline.

开庭审理时，由审判长核对当事人，宣布案由，宣布审判人员、书记员名单，告知当事人有关的诉讼权利义务，询问当事人是否提出回避申请。

At the opening of a trial hearing, the presiding judge shall check the parties present, announce the cause of action, the names of the adjudication personnel and the name of the court clerk, advise the parties of their procedural rights and obligations and inquire whether the parties wish to challenge any adjudication personnel.

第一百二十四条 法庭调查按照下列顺序进行：

Article 124 Investigation before the court shall be conducted in accordance with the following procedure

- (一) 当事人陈述；
- (二) 告知证人的权利义务，证人作证，宣读未到庭的证人证言；
- (三) 出示书证、物证和视听资料；
- (四) 宣读鉴定结论；
- (五) 宣读勘验笔录。

1. statements by the parties are presented;
2. witnesses are advised of their rights and obligations, and give testimony; the depositions of witnesses not present are read;
3. documentary evidence, physical evidence and audio-visual information are exhibited;
4. expert conclusions are read out; and
5. the record of the inquest is read out.

第一百二十五条 当事人在法庭上可以提出新的证据。 Article 125 The parties may introduce new evidence in court.

当事人经法庭许可，可以向证人、鉴定人、勘验人发问。 With the permission of the court, the parties may question the witnesses, experts and inspectors.

当事人要求重新进行调查、鉴定或者勘验的，是否准许，由人民法院决定。 If a party requests a new investigation, a new expert evaluation or a new inquest, the people's court shall decide on such request.

第一百二十六条 原告增加诉讼请求，被告提出反诉，第三人提出与本案有关的诉讼请求，可以合并审理。 Article 126 If the plaintiff presents an additional claim, or the defendant brings a counterclaim or a third party presents a claim related to the case, such claim or counterclaim may be tried together with the original action.

第一百二十七条 法庭辩论按照下列顺序进行： Article 127 Court debates shall be conducted in accordance with the following procedure

(一) 原告及其诉讼代理人发言； 1. presentation of oral statements by the plaintiff and his agent ad litem;

(二) 被告及其诉讼代理人答辩； 2. presentation of oral response by the defendant and his agent ad litem;

(三) 第三人及其诉讼代理人发言或者答辩； 3. presentation of oral statement or response by the third party and his agent ad litem;

(四) 互相辩论。 4. debate between the parties.

法庭辩论终结，由审判长按照原告、被告、第三人的先后顺序征询各方最后意见。 At the conclusion of the court debate, the presiding judge shall first ask the plaintiff, then the defendant and finally the third party to make their final comments.

第一百二十八条 法庭辩论终结，应当依法作出判决。判决前能够调解的，还可以进行调解，调解不成的，应当及时判决。 Article 128 At the conclusion of the court debate, a judgment shall be made according to law. If possible, mediation may be conducted prior to making a judgment. If mediation is unsuccessful, a judgment shall promptly be made.

第一百二十九条 原告经传票传唤，无正当理由拒不到庭的，或者未经法庭许可中途退庭的，可以按撤诉处理；被告反诉的，可以缺席判决。 Article 129 If a plaintiff has been served a summons but refuses without proper cause to appear before the court, or if a plaintiff leaves the courtroom during the trial without the court's permission, he may be deemed to have withdrawn his suit and, if the defendant has brought a counterclaim, a judgment by default may be made.

第一百三十条 被告经传票传唤，无正当理由拒不到庭的，或者未经法庭许可中途退庭的，可以缺席判决。 Article 130 If a defendant has been served a summons, but refuses without proper cause to appear before the court or if a defendant leaves the courtroom during the trial without

席判决。

the court's permission, a judgment by default may be made.

第一百三十一条 宣判前，原告申请撤诉的，是否准许，由人民法院裁定。

Article 131 If a plaintiff applies for withdrawal of action before judgment is pronounced, the people's court shall rule on such request.

人民法院裁定不准许撤诉的，原告经传票传唤，无正当理由拒不到庭的，可以缺席判决。

If the people's court has overruled a request for withdrawal of action and the plaintiff, having been served a summons, refuses without proper cause to appear before the court, a judgment by default may be made.

第一百三十二条 有下列情形之一的，可以延期开庭审理：

Article 132 A trial hearing may be adjourned in any of the following circumstances:

（一）必须到庭的当事人和其他诉讼参与人有正当理由没有到庭的；

1. a party or another participant in the action who must appear before the court fails to do so with proper cause;

（二）当事人临时提出回避申请的；

2. a party extemporarily challenges adjudication personnel;

（三）需要通知新的证人到庭，调取新的证据，重新鉴定、勘验，或者需要补充调查的；

3. a new witness must be requested to appear before the court, new evidence must be taken, a new expert evaluation is required, a new inquest is required or a supplementary investigation must be conducted; or

（四）其他应当延期的情形。

4. other circumstances that require adjournment have arisen.

第一百三十三条 书记员应当将法庭审理的全部活动记入笔录，由审判人员和书记员签名。

Article 133 The court clerk shall make a written record of all the activities during a trial hearing. Such record shall be signed by the adjudication personnel and the court clerk.

法庭笔录应当当庭宣读，也可以告知当事人和其他诉讼参与人当庭或者在五日内阅读。当事人和其他诉讼参与人认为对自己的陈述记录有遗漏或者差错的，有权申请补正。如果不予补正，应当将申请记录在案。

The court record shall be read out in court. Alternatively, the parties and other participants in the action may be notified that they should read the court record in the courtroom or within five days. If a party or another participant in the case considers the record to have omitted

法庭笔录由当事人和其他诉讼参与人签名或者盖章。拒绝签名盖章的，记明情况附卷。

CHAPTER of his statements or to contain errors in respect of his statements, he shall have the right to request correction. If the correction is not made, the application shall be recorded in the case file.

The court record shall be signed or sealed by the parties and the other participants in the case. Any refusal to sign or seal the court record shall be recorded in a note to be attached to the file.

第一百三十四条 人民法院对公开审理或者不公开审理的案件，一律公开宣告判决。

Article 134 People's courts shall publicly pronounce their judgments in all cases, whether tried in public or in camera.

当庭宣判的，应当在十日内发送判决书；定期宣判的，宣判后立

If judgment is pronounced in court, the written judgment shall be dispatched within 10 days. If judgment is

即发给判决书。

宣告判决时，必须告知当事人上诉权利、上诉期限和上诉的法院。

宣告离婚判决，必须告知当事人在判决发生法律效力前不得另行结婚。

第一百三十五条 人民法院适用普通程序审理的案件，应当在立案之日起六个月内审结。有特殊情况需要延长的，由本院院长批准，可以延长六个月；还需要延长的，报请上级人民法院批准。

第四节 诉讼中止和终结

第一百三十六条 有下列情形之一的，中止诉讼：

（一）一方当事人死亡，需要等待继承人表明是否参加诉讼的；

（二）一方当事人丧失诉讼行为能力，尚未确定法定代理人的；

（三）作为一方当事人的法人或者其他组织终止，尚未确定权利义务承受人的；

（四）一方当事人因不可抗力事由，不能参加诉讼的；

（五）本案必须以另一案的审理结果为依据，而另一案尚未审结的；

（六）其他应当中止诉讼的情形。

中止诉讼的原因消除后，恢复诉讼。

第一百三十七条 有下列情形之一的，终结诉讼：

（一）原告死亡，没有继承人，

pronounced on a fixed date, the written judgment shall be issued immediately after pronouncement.

Upon pronouncement of judgment, the parties must be advised of their right to appeal, the time limit for appeal and the court with which an appeal should be lodged.

Upon pronouncement of a divorce judgment, the parties must be advised that they may not remarry before the judgment becomes legally effective.

Article 135 When handling a case according to ordinary procedure, a people's court shall conclude the case within six months from the date of putting it on its trial docket. Where there are special circumstances requiring an extension of such time limit, the time limit may be extended by six months subject to approval by the president of the court. If any further extension is required, approval shall be requested from the immediate superior people's court.

Section Four Suspension and Conclusion of Actions

Article 136 The proceedings in an action shall be suspended in any of the following circumstances

1. one of the parties dies and it is necessary to wait for his successor to state whether he wishes to participate in the action;

2. one of the parties has lost the capacity to engage in litigation, and his statutory agent has not been determined yet;

3. the legal person or other organization acting as one of the parties has terminated, and the successor to its rights and obligations has not been determined yet;

4. one of the parties is unable to participate in the action due to an event of force majeure;

5. the case in question is dependent upon the outcome of the trial of another case that has not been concluded; or

6. other circumstances require the suspension of proceedings.

Proceedings shall be resumed after the cause of suspension has been eliminated.

Article 137 An action shall be concluded in any of the following circumstances

1. the plaintiff dies without a successor, or the successor

或者继承人放弃诉讼权利的； waives his procedural rights;

(二) 被告死亡，没有遗产，也没有应当承担义务的人的； 2. the defendant dies without estate and there is no person to assume his obligations;

(三) 离婚案件一方当事人死亡的； 3. one of the parties in a divorce case dies; or

(四) 追索赡养费、抚养费、抚育费以及解除收养关系案件的一方当事人死亡的。 4. one of the parties in a case involving claims for overdue alimony, maintenance, child support or the termination of an adoptive relationship dies.

第五节 判决和裁定

Section 5 Judgment and Rulings

第一百三十八条 判决书应当写明： Article 138 A written judgment shall clearly state the following:

(一) 案由、诉讼请求、争议的事实和理由； 1. the cause of action, the claims, the facts of the dispute and the grounds;

(二) 判决认定的事实、理由和适用的法律依据； 2. the facts and reasons ascertained in the judgment and the applicable law on which the judgment is based;

(三) 判决结果和诉讼费用的负担； 3. the result of the judgment and the apportionment of court costs; and

(四) 上诉期间和上诉的法院。 4. the time limit for appeal and the court with which an appeal should be lodged.

判决书由审判人员、书记员署名，加盖人民法院印章。 A written judgment shall be signed by the adjudication personnel and the court clerk, and the seal of the people's court shall be affixed to it.

第一百三十九条 人民法院审理案件，其中一部分事实已经清楚，可以就该部分先行判决。 Article 139 If some of the facts of a case being tried are evident already, the people's court may make a judgment on those facts first.

第一百四十条 裁定适用于下列范围： Article 140 Rulings shall be applicable to the following:

(一) 不予受理； 1. rejection of a case;

(二) 对管辖权有异议的； 2. objection to the jurisdiction of a court;

(三) 驳回起诉； 3. dismissal of a complaint;

(四) 财产保全和先予执行； 4. preservation of property and preliminary execution;

(五) 准许或者不准许撤诉； 5. approval or disapproval of withdrawal of an action;

(六) 中止或者终结诉讼； 6. suspension or conclusion of an action;

(七) 补正判决书中的笔误； 7. correction of clerical errors in a written judgment;

(八) 中止或者终结执行； 8. stay or termination of execution;

(九) 不予执行仲裁裁决； 9. refusal to execute an arbitral award;

(十) 不予执行公证机关赋予 10. refusal to execute a document on creditor's rights that has been rendered enforceable by a notary public; and

11. other matters to be settled by a ruling.

Rulings made on matters under Items 1, 2 and 3 of the preceding paragraph may be appealed.

强制执行效力的债权文书；
(十一) 其他需要裁定解决的事项。
对前款第(一)、(二)、(三)项裁定，可以上诉。

A written ruling shall be signed by the adjudication personnel and the court clerk, and the seal of the people's court shall be affixed to it. A verbal ruling shall be entered in the written record.

裁定书由审判人员、书记员署名，加盖人民法院印章。口头裁定的，记入笔录。

第一百四十一条 最高人民法院的判决、裁定，以及依法不准上诉或者超过上诉期没有上诉的判决、裁定，是发生法律效力、发生法律效力的判决、裁定。

Article 141 Judgments and rulings made by the Supreme People's Court, and judgments and rulings that may not be appealed according to the law or that have not been appealed within the prescribed time limit shall be legally effective.

第十三章 简易程序

CHAPTER XIII SUMMARY PROCEDURE

第一百四十二条 基层人民法院和它派出的法庭审理事实清楚、权利义务关系明确、争议不大的简单的民事案件，适用本章规定。

Article 142 This Chapter shall apply to the trial by basic-level people's courts and the tribunals dispatched by them of simple civil cases in which the facts are evident, the relationships of rights and obligations are definite and the disputes are minor.

第一百四十三条 对简单的民事案件，原告可以口头起诉。

Article 143 In simple civil cases, the plaintiff may institute actions verbally.

当事人双方可以同时到基层人民法院或者它派出的法庭，请求解决纠纷。基层人民法院或者它派出的法庭可以当即审理，也可以另定日期审理。

Both parties may simultaneously appear before a people's court or a tribunal dispatched by it to request settlement of their dispute. The basic-level people's court or the tribunal dispatched by it may try the case immediately or set a date for trial.

第一百四十四条 基层人民法院和它派出的法庭审理简单的民事案件，可以用简便方式随时传唤当事人、证人。

Article 144 In trying a simple civil case, the basic-level people's court or a tribunal dispatched by it may at any time use a simplified method to summon the parties and witnesses.

第一百四十五条 简单的民事案件由审判员一人独任审理，并不受本法第一百二十二条、第一百二十四条、第一百二十七条规定的限制。

Article 145 Simple civil cases shall be tried by a single judge, and the trial of such cases shall not be restricted by Articles 122, 124 and 127 hereof.

第一百四十六条 人民法院适用简易程序审理案件，应当在立案之日起三个月内审结。

Article 146 When trying a case according to summary procedure, a people's court shall conclude the trial within three months from the date of entering it on its trial docket.

第十四章 第二审程序 CHAPTER XIV PROCEDURE AT SECOND INSTANCE

第一百四十七条 当事人不服地方人民法院第一审判决的，有权在判决书送达之日起十五日内向上一级人民法院提起上诉。

Article 147 If a party disagrees with a judgment made by a local people's court of first instance, he shall have the right to lodge an appeal with the immediate superior people's court within 15 days from the date on which the written judgment was served.

当事人不服地方人民法院第一审裁定的，有权在裁定书送达之日起十日内向上一级人民法院提起上诉。

If a party disagrees with a ruling made by a local people's court of first instance, he shall have the right to lodge an appeal with the immediate superior people's court within 10 days from the date on which the written ruling was served.

第一百四十八条 上诉应当递交上诉状。上诉状的内容，应当包括当事人的姓名，法人的名称及其法定代表人的姓名或者其他组织的名称及其主要负责人的姓名；原审人民法院名称、案件的编号和案由；上诉的请求和理由。

Article 148 To lodge an appeal, an appeal petition shall be submitted. The contents of an appeal petition shall include the names of the parties, the names of the legal persons and their legal representatives or the names of the other organizations and their principally responsible persons; the name of the people's court that originally tried the case, the file number of the case and the cause of action; and the claims and grounds of the appeal.

第一百四十九条 上诉状应当通过原审人民法院提出，并按照对方当事人或者代表人的人数提出副本。

Article 149 An appeal petition shall be submitted through the people's court that originally tried the case, together with a number of copies corresponding to the number of respondents or the number of representatives of the respondents.

当事人直接向第二审人民法院上诉的，第二审人民法院应当在五日内将上诉状移交原审人民法院。

If a party appeals directly to a people's court of second instance, such court shall transfer the appeal petition to the people's court that originally tried the case within five days.

第一百五十条 原审人民法院收到上诉状，应当在五日内将上诉状副本送达对方当事人，对方当事人在收到之日起十五日内提出答辩状。人民法院应当在收到答辩状之日起五日内将副本送达上诉人。对方当事人不提出答辩状的，不影响人民法院审理。

Article 150 Within five days after receiving an appeal petition, the people's court that originally tried the case shall serve the copy of the appeal petition on the other party, who shall, within 15 days from the date of receipt, submit a statement of defence. The people's court shall, within five days after receiving the statement of defence, serve a copy of the statement on the appellant. Failure on the part of the respondent to submit a statement of defence shall not affect the trial of the case by the people's court.

原审人民法院收到上诉状、答

辩状，应当在五日内连同全部案卷和证据，报送第二审人民法院。

Within five days after receiving the appeal petition and the defence, the people's court that originally tried the case shall deliver the documents to the people's court of second instance together with the entire case file and all the evidence.

第一百五十一条 第二审人民法院应当对上诉请求的有关事实和适用法律进行审查。

Article 151 A people's court of second instance shall investigate the relevant facts and the applicable law pertaining to the appeal.

第一百五十二条 第二审人民法院对上诉案件，应当组成合议庭，开庭审理。经过阅卷和调查，询问当事人，在事实核对清楚后，合议庭认为不需要开庭审理的，也可以径行判决、裁定。

Article 152 When handling an appeal case, a people's court of second instance shall form a collegiate bench and conduct a hearing. If, after reviewing the case file, conducting investigations and questioning the parties, and the facts of the case are verified clearly, the collegiate bench may, if it deems it unnecessary to hold a hearing, render an immediate judgment or ruling without a hearing.

第二审人民法院审理上诉案件，可以在本院进行，也可以到案件发生地或者原审人民法院所在地进行。

A people's court of second instance may try an appeal case in its own court or in the court of the place where the case originated or where the people's court that originally tried the case is located.

第一百五十三条 第二审人民法院对上诉案件，经过审理，按照下列情形，分别处理：

Article 153 After hearing an appeal case, a people's court of second instance shall handle the case according to the specific circumstances, as follows:

（一）原判决认定事实清楚，适用法律正确的，判决驳回上诉，维持原判决；

1. if, during the original adjudication, the facts were ascertained clearly and the law was applied correctly, a judgment shall be made to dismiss the appeal and uphold the original judgment;

（二）原判决适用法律错误的，依法改判；

2. if, during the original adjudication, the law was applied incorrectly, a judgment amending the original judgment shall be made according to law;

（三）原判决认定事实错误，或者原判决认定事实不清，证据不足，裁定撤销原判决，发回原审人民法院重审，或者查清事实后改判；

3. if, during the original adjudication, the facts were ascertained incorrectly or unclearly or the evidence was insufficient, a ruling shall be made to quash the original judgment and to remand the case to the people's court that originally tried it for retrial; or, after the facts have been clarified, a judgment amending the original judgment shall be made; and

（四）原判决违反法定程序，可能影响案件正确判决的，裁定撤销原判决，发回原审人民法院重审。

4. if, during the original adjudication, statutory procedure was violated and the correctness of the judgment in the case may have been influenced by such violation, a ruling shall be made to quash the original judgment and to

当事人对重审案件的判决、裁定，可以上诉。

remand the case to the people's court that originally tried it for retrial.

A party may appeal against the judgment or ruling made in a retried case.

第一百五十四条 第二审人民法院对不服第一审人民法院裁定的上诉案件的处理，一律使用裁定。 Article 154 In handling an appeal against a ruling made by a people's court of first instance, the people's court of second instance shall in all cases use rulings.

第一百五十五条 第二审人民法院审理上诉案件，可以进行调解。调解达成协议，应当制作调解书，由审判人员、书记员署名，加盖人民法院印章。调解书送达后，原审人民法院的判决即视为撤销。 Article 155 In trying an appeal case, a people's court of second instance may conduct mediation. If an agreement is reached upon mediation, a written mediation statement shall be prepared. Such written mediation statement shall be signed by the adjudication personnel and the court clerk, and the seal of the people's court shall be affixed to it. Immediately upon service of the written mediation statement, the judgment of the people's court that originally tried the case shall be deemed to have been quashed.

第一百五十六条 第二审人民法院判决宣告前，上诉人申请撤回上诉的，是否准许，由第二审人民法院裁定。 Article 156 If an appellant applies for withdrawal of his appeal prior to the pronouncement of judgment by the people's court of second instance, the people's court of second instance shall rule on the application.

第一百五十七条 第二审人民法院审理上诉案件，除依照本章规定外，适用第一审普通程序。 Article 157 In trying an appeal case, the people's court of second instance shall, in addition to complying with the provisions of this CHAPTER, apply the ordinary procedure at first instance.

第一百五十八条 第二审人民法院的判决、裁定，是终审的判决、裁定。 Article 158 The judgments and rulings of people's court of second instance shall be final.

第一百五十九条 人民法院审理对判决的上诉案件，应当在第二审立案之日起三个月内审结。有特殊情况需要延长的，由本院院长批准。 Article 159 In trying a case of an appeal against a judgment, a people's court shall conclude the case within three months from the date of putting it on its trial docket as a case of second instance. Any extension of the time limit necessitated by special circumstances shall be subject to approval by the president of the court.

人民法院审理对裁定的上诉案件，应当在第二审立案之日起三十日内作出终审裁定。 In trying a case of an appeal against a judgment, a people's court shall make a final ruling within 30 days from the date of putting it on its trial docket as a case of second instance.

第十五章 特别程序

CHAPTER XV SPECIAL PROCEDURE

第一节 一般规定

Section 1 General Provisions

第一百六十条 人民法院审理选民资格案件、宣告失踪或者宣告死亡案件、认定公民无民事行为能力或者限制民事行为能力案件和认定财产无主案件，适用本章规定。本章没有规定的，适用本法和其他法律的有关规定。

Article 160 This Chapter shall apply to the trial by people's court of cases concerning voter qualifications, the declaration of a person as missing or dead, the determination of a citizen as having no capacity for civil acts or as having limited capacity for civil acts, or the determination of ownerless property. Where matters are not addressed in this Chapter, the relevant provisions of this Law and of other laws shall apply.

第一百六十一条 依照本章程序审理的案件，实行一审终审。选民资格案件或者重大、疑难的案件，由审判员组成合议庭审理；其他案件由审判员一人独任审理。

Article 161 Where a case is tried in accordance with the procedure set forth in this Chapter, the judgment of first instance shall be the final judgment. The trial of cases concerning voter qualifications and of major or difficult cases shall be conducted by a collegiate bench of judges. Other cases shall be tried by a single judge.

第一百六十二条 人民法院在依照本章程序审理案件的过程中，发现本案属于民事权益争议的，应当裁定终结特别程序，并告知利害关系人可以另行起诉。

Article 162 If, in the course of trying a case in accordance with the procedure set forth in this Chapter, a people's court discovers that the case involves a dispute over civil rights and interests, it shall rule to terminate the special procedure, and shall inform the interested parties that they may institute a separate action.

第一百六十三条 人民法院适用特别程序审理的案件，应当在立案之日起三十日内或者公告期满后三十日内审结。有特殊情况需要延长的，由本院院长批准。但审理选民资格案件除外。

Article 163 A people's court shall conclude a case tried according to special procedure within 30 days from the date of entering it on its trial docket or within 30 days from the expiration of the time limit set forth in the public notice. Any extension of the time limit necessitated by special circumstances shall be subject to approval by the president of the court in question, except for cases concerning voter qualifications.

第二节 选民资格案件

Section 2 Cases Concerning Voter Qualifications

第一百六十四条 公民不服选举委员会对选民资格的申诉所作的处理决定，可以在选举日的五日以前向选区所在地基层人民法院起诉。

Article 164 If a citizen disagrees with the decision of an election committee on his petition for a review concerning his qualifications to be a voter, he may institute an action at the basic-level people's court of his election district five days before election day.

第一百六十五条 人民法院受理选民资格案件后，必须在选举日前审结。

Article 165 After accepting a case concerning voter qualifications, a people's court must conclude the trial before election day.

审理时，起诉人、选举委员会的代表和有关公民必须参加。 The suitor, representatives of the election committee and the citizens concerned must attend the trial.

人民法院的判决书，应当在选举日前送达选举委员会和起诉人，并通知有关公民。 The written judgment of the people's court shall be served on the election committee and the suitor before election day, and the citizens concerned shall be notified of the judgment.

第三节 宣告失踪、宣告死亡案件 Section 3 Cases Concerning the Declaration of a Person as Missing or Dead

第一百六十六条 公民下落不明满二年，利害关系人申请宣告其失踪的，向下落不明人住所地基层人民法院提出。 Article 166 To apply to have declared as missing a citizen whose whereabouts have been unknown for two years, an interested party shall submit an application to the basic-level people's court of the place where the missing person is domiciled.

申请书应当写明失踪的事实、时间和请求，并附有公安机关或者其他有关机关关于该公民下落不明的书面证明。 The application shall clearly state the facts and time of the disappearance and the request, and shall be accompanied by a written certificate concerning the disappearance of the said citizen issued by a public security authority or other relevant authorities.

第一百六十七条 公民下落不明满四年，或者因意外事故下落不明满二年，或者因意外事故下落不明，经有关机关证明该公民不可能生存，利害关系人申请宣告其死亡的，向下落不明人住所地基层人民法院提出。 Article 167 To apply to have declared dead a citizen whose whereabouts have been unknown for four years, or whose whereabouts have been unknown for two years as a result of an accident, or whose whereabouts have been unknown as a result of an accident which, as certified by the relevant authorities, he could not have survived, an interested party shall submit an application to the basic-level people's court of the place where the missing citizen is domiciled.

申请书应当写明下落不明的事实、时间和请求，并附有公安机关或者其他有关机关关于该公民下落不明的书面证明。 The application shall clearly state the facts and time of the disappearance and the request, and shall be accompanied by a written certificate concerning the disappearance of the said citizen issued by a public security authority or other relevant authorities.

第一百六十八条 人民法院受理宣告失踪、宣告死亡案件后，应当发出寻找下落不明人的公告。宣告失踪的公告期间为三个月，宣告死亡的公告期间为一年。因意外事故下落不明，经有关机关证明该公民不可能生存的，宣告死亡的公告期间为三个月。 Article 168 After accepting a case concerning the declaration of a citizen as missing or dead, a people's court shall issue a public notice in search of the citizen whose whereabouts are unknown. The period for the notice of declaration of a person as missing shall be three months, and the period for the notice of declaration of a person as dead shall be one year. If the whereabouts of a citizen are unknown as a result of an accident which, as certified by the relevant authorities, the citizen could not have survived, the period of notice for the declaration of the citizen's death shall be three months.

公告期间届满，人民法院应当根据被宣告失踪、宣告死亡的事实是否得到确认，作出宣告失踪、宣

告死亡的判决或者驳回申请的判决。

Upon the expiration of the time limit of the public notice, the people's court shall, depending on whether the facts about the absence or death of the person have been confirmed, make a judgment declaring the person missing or dead or make a judgment to reject the application for such a declaration.

第一百六十九条 被宣告失踪、宣告死亡的公民重新出现，经本人或者利害关系人申请，人民法院应当作出新判决，撤销原判决。

Article 169 If a citizen who has been declared missing or dead reappears, the people's court shall, upon the application of that person or an interested party, make a new judgment to quash the original judgment.

第四节 认定公民无民事行为能力、限制民事行为能力案件

Section 4 Cases Concerning the Determination of a Citizen as Having No Capacity for Civil Acts or as Having Limited Capacity for Civil Acts

第一百七十条 申请认定公民无民事行为能力或者限制民事行为能力，由其近亲属或者其他利害关系人向该公民住所地基层人民法院提出。

Article 170 To apply to have a citizen determined as having no capacity for civil acts or as having limited capacity for civil acts, a close relative of the citizen or another interested party shall submit an application to the basic-level people's court of the place where the citizen is domiciled.

申请书应当写明该公民无民事行为能力或者限制民事行为能力的事实和根据。

The application shall clearly state the facts and grounds on which the citizen's lack of capacity for civil acts or his limited capacity for civil acts is asserted.

第一百七十一条 人民法院受理申请后，必要时应当对被请求认定为无民事行为能力或者限制民事行为能力的公民进行鉴定。申请人已提供鉴定结论的，应当对鉴定结论进行审查。

Article 171 After accepting such an application, the people's court shall, when necessary, carry out an expert evaluation of the citizen who is requested to be declared as having no capacity for civil acts or having limited capacity for civil acts. If the applicant has already provided an expert conclusion, the people's court shall examine such expert conclusion.

第一百七十二条 人民法院审理认定公民无民事行为能力或者限制民事行为能力的案件，应当由该公民的近亲属为代理人，但申请人除外。近亲属互相推诿的，由人民法院指定其中一人为代理人。该公民健康情况许可的，还应当询问本人的意见。

Article 172 When a people's court tries a case for the determining a citizen as having no capacity for civil acts or as having limited capacity for civil acts, a close relative of the citizen, with the exception of the applicant, shall be his agent ad litem. If the close relative shifts onto one another the responsibility to act as agent ad litem, the people's court shall appoint one of them as the agent ad litem. If the health of the citizen permits, his opinion shall also be solicited.

人民法院经审理认定申请有事实根据的，判决该公民为无民事行为能力或者限制民事行为能力人；

If, by trying the case, the people's courts determine that the application is based on facts, it shall make a judgment

认定申请没有事实根据的，应当判决予以驳回。 determining the citizen to have no capacity for civil acts or to have limited capacity for civil acts. If the people's court determines that the application is not based on facts, it shall make a judgment to reject the application.

第一百七十三条 人民法院根据被认定为无民事行为能力人、限制民事行为能力人或者他的监护人的申请，证实该公民无民事行为能力或者限制民事行为能力的原因为已经消除的，应当作出新判决，撤销原判决。 Article 173 If, upon the application of a citizen who has been determined to have no capacity for civil acts or to have limited capacity for civil acts or upon the application of such citizen's guardian, a people's court verifies that the cause of that person's lack of capacity for civil acts or limited capacity for civil acts has been eliminated, it shall make a new judgment to quash the original judgment.

第五节 认定财产无主案件 Section 5 Cases Concerning the Determination of Property as Ownerless

第一百七十四条 申请认定财产无主，由公民、法人或者其他组织向财产所在地基层人民法院提出。 Article 174 To apply to have property determined ownerless, a citizen, legal person or other organization shall submit an application to the basic-level people's court of the place where the property is located.

申请书应当写明财产的种类、数量以及要求认定财产无主的根据。 The application shall clearly state the type and quantity of the property and the grounds on which the request for determination of the property as ownerless is made.

第一百七十五条 人民法院受理申请后，经审查核实，应当发出财产认领公告。公告满一年无人认领的，判决认定财产无主，收归国家或者集体所有。 Article 175 After accepting such an application, the people's court shall, upon examination and verification, issue a public notice requesting that the property be claimed. If no one claims the property after one year, the people's court shall make a judgment determining that the property is ownerless, whereupon the property shall become the property of the State or the collective.

第一百七十六条 判决认定财产无主后，原财产所有人或者继承人出现，在民法通则规定的诉讼时效期间可以对财产提出请求，人民法院审查属实后，应当作出新判决，撤销原判决。 Article 176 If, after a property has been determined ownerless by judgment, the owner of the property or his successor appears, he may file a claim to the property within the statute of limitation specified in the Civil Law General Principles. The people's court shall, after examination and verification, make a new judgment to quash the original judgment.

第十六章 审判监督程序 CHAPTER XVI PROCEDURE FOR ADJUDICATION SUPERVISION

第一百七十七条 各级人民法院院长对本院已经发生法律效力 finds an error in a legally effective judgment or ruling and

判决、裁定，发现确有错误，认为需要再审的，应当提交审判委员会讨论决定。

最高人民法院对地方各级人民法院已经发生法律效力的判决、裁定，上级人民法院对下级人民法院已经发生法律效力的判决、裁定，发现确有错误的，有权提审或者指令下级人民法院再审。

第一百七十八条 当事人对已经发生法律效力的判决、裁定，认为有错误的，可以向上一级人民法院申请再审，但不停止判决、裁定的执行。

第一百七十九条 当事人的申请符合下列情形之一的，人民法院应当再审：

（一）有新的证据，足以推翻原判决、裁定的；

（二）原判决、裁定认定的基本事实缺乏证据证明的；

（三）原判决、裁定认定事实的主要证据是伪造的；

（四）原判决、裁定认定事实的主要证据未经质证的；

（五）对审理案件需要的证据，当事人因客观原因不能自行收集，书面申请人民法院调查收集，人民法院未调查收集的；

（六）原判决、裁定适用法律确有错误的；

（七）违反法律规定，管辖错误的；

（八）审判组织的组成不合法或者依法应当回避的审判人员没有回避的；

（九）无诉讼行为能力人未经法定代理人代为诉讼或者应当参加诉讼的当事人，因不能归责于本人或者其诉讼代理人的事由，未参加诉讼的；

deems it necessary to have the case retried, he shall refer it to the judicial committee for discussion and decision.

If the Supreme People's Court finds an error in a legally effective judgment or ruling of a local people's court at any level, or if a people's court at a higher level finds a real error in a legally effective judgment or ruling of an inferior people's court, it shall have the power to remove the case for trial or instruct an inferior people's court to conduct a retrial.

Article 178 Any party that considers a legally effective judgment or ruling to be faulty may apply to the immediate superior people's court for retrial; nevertheless, execution of the judgment or ruling shall not be suspended in the meantime.

Article 179 The people's court shall retry any case in which the relevant party's application satisfies any of the following conditions

1. there is new evidence that is sufficient to overturn the original judgment or ruling;

2. the evidence used as a basis for ascertaining the essential facts in the original judgment or ruling was insufficient;

3. the main evidence used as a basis for ascertaining the facts in the original judgment or ruling was falsified;

4. the main evidence used as a basis for ascertaining the facts in the original judgment or ruling was not challenged;

5. with regard to the evidence required to try the case, the party was unable to collect the evidence himself or herself for objective reasons, and the people's court failed to investigate or collect such evidence after the party submitted a written application to the people's court for the investigation and collection of evidence;

6. an error was made in the application of the law in the original judgment or ruling;

7. jurisdiction was wrongly asserted in breach of the law;

8. the judicial organization was not composed in accordance with the law or a member of the adjudication personnel who should have withdrawn in accordance with the law did not do so;

9. in the event that the statutory agent of a party with no

(十) 违反法律规定, 剥夺当事人辩论权利的;

(十一) 未经传票传唤, 缺席判决的;

(十二) 原判决、裁定遗漏或者超出诉讼请求的;

(十三) 据以作出原判决、裁定的法律文书被撤销或者变更的。

对违反法定程序可能影响案件正确判决、裁定, 或者审判人员在审理该案件时有贪污受贿, 徇私舞弊, 枉法裁判行为的, 人民法院应当再审。

第一百八十条 当事人申请再审的, 应当提交再审申请书等材料。人民法院应当自收到再审申请书之日起五日内将再审申请书副本发送对方当事人。对方当事人应当自收到再审申请书副本之日起十五日内提交书面意见; 不提交书面意见的, 不影响人民法院审查。人民法院可以要求申请人和对方当事人补充有关材料, 询问有关事项。

第一百八十一条 人民法院应当自收到再审申请书之日起三个月内审查, 符合本法第一百七十九条规定情形之一的, 裁定再审; 不符合本法第一百七十九条规定的, 裁定驳回申请。有特殊情况需要延长的, 由本院院长批准。

因当事人申请裁定再审的案件由中级人民法院以上的人民法院审理。最高人民法院、高级人民法院裁定再审的案件, 由本院再审或者交其他人民法院再审, 也可以交原审人民法院再审。

capacity to bring a case failed to act as an agent in the relevant case or where a party required to participate in the case failed to do so for reasons outside the control of the party or his or her litigation agent;

10. where the party was deprived of his or her right to argue the case in breach of the law;

11. where a default judgment was entered without serving a summons;

12. where the original judgment or ruling omitted or exceeded the relief sought in the case; or

13. where the legal documentation relating to the original judgment or ruling has been cancelled or amended.

In any case in which the people's court has violated any statutory procedure and may thereby have affected the correctness of the judgment or ruling or where the judicial panel in trying the case acted corruptly, accepted bribes, practiced graft or made a judgment that perverted the law, the people's court shall retry the case.

Article 180 Any party that applies for a retrial shall submit retrial request and other relevant materials. The people's court shall give a copy of the retrial request to the other party within five days of the date on which it is received. The other party shall submit a written response within 15 days of the date on which it receives its copy of the retrial request; where the other party fails to submit a written response, the people's court review of the case shall proceed notwithstanding. The people's court may require the applicant and the other party to submit additional relevant materials and may inquire about relevant issues.

Article 181 The people's court shall carry out an examination within three months of the date on which it receives a retrial request. Where the circumstances of the case satisfy any of the circumstances described in Article 179, a new ruling shall be made; where the circumstances of the case do not satisfy any of the circumstances described in Article 179, a ruling dismissing the request shall be made. Any extension of the time limit necessitated by special circumstances shall be subject to the approval of the president of the court.

In any case that is to be retried following a party's application for a retrial, the case shall be tried by the Intermediate People's Court or by a people's court at a higher level. Where the Supreme People's Court or the

Higher People's Court determines that a case should be retried, the case may be retried by that court, may be assigned to another people's court, or may be referred back to the people's court that made the original judgment or ruling to retry the case.

第一百八十二条 当事人对已经发生法律效力调解书, 提出证据证明调解违反自愿原则或者调解协议的内容违反法律的, 可以申请再审。经人民法院审查属实的, 应当再审。

Article 182 In a case where there is a legally effective mediation statement, a party may apply for a retrial if it can present evidence that the mediation violates the principle of voluntary participation or that the content of the mediation agreement violates the law. If the people's court finds the evidence to be true upon examination, it shall retry the case.

第一百八十三条 当事人对已经发生法律效力的解除婚姻关系的判决, 不得申请再审。

Article 183 Parties may not apply for retrial of cases in which a legally effective judgment has been made to dissolve a marriage.

第一百八十四条 当事人申请再审, 应当在判决、裁定发生法律效力后二年内提出; 二年后据以作出原判决、裁定的法律文书被撤销或者变更, 以及发现审判人员在审理该案件时有贪污受贿, 徇私舞弊, 枉法裁判行为的, 自知道或者应当知道之日起三个月内提出。

Article 184 A party shall apply for a retrial within two years of the date on which the judgment or ruling becomes legally effective; where the legal documentation relating to the original judgment or ruling is invalidated or amended after the two year time limit, and the judicial panel has acted corruptly, accepted bribes, practiced graft or made a judgment that perverted the law, a retrial request may be submitted within three months of the date on which the party knew or should have known the relevant facts.

第一百八十五条 按照审判监督程序决定再审的案件, 裁定中止原判决的执行。裁定由院长署名, 加盖人民法院印章。

Article 185 When a decision is made to retry a case in accordance with the procedure for adjudication supervision, a ruling shall be made to suspend execution of the original judgment. The ruling shall be signed by the president of the court, and the seal of the people's court shall be affixed to it.

第一百八十六条 人民法院按照审判监督程序再审的案件, 发生法律效力的判决、裁定是由第一审法院作出的, 按照第一审程序审理, 所作的判决、裁定, 当事人可以上诉; 发生法律效力的判决、裁定是由第二审法院作出的, 按照第二审程序审理, 所作的判决、裁定, 是发生法律效力的判决、裁定; 上级人民法

Article 186 Where a case is to be retried by a people's court in accordance with the procedure for adjudication supervision, if the legally effective judgment or ruling was made by a court of first instance, the case shall be retried in accordance with the procedure at first instance, and the parties may appeal against the judgment or ruling made. If the legally effective judgment or ruling was made by a court of second instance, it shall be retried in accordance with the procedure at second instance, and the judgment or ruling made shall be legally effective. If the case was

院按照审判监督程序提审的，按照第二审程序审理，所作的判决、裁定是发生法律效力判决、裁定。

人民法院审理再审案件，应当另行组成合议庭。

第一百八十七条 最高人民检察院对各级人民法院已经发生法律效力判决、裁定，上级人民检察院对下级人民法院已经发生法律效力判决、裁定，发现有本法第一百七十九条规定情形之一的，应当提出抗诉。

地方各级人民检察院对同级人民法院已经发生法律效力判决、裁定，发现有本法第一百七十九条规定情形之一的，应当提请上级人民检察院向同级人民法院提出抗诉。

第一百八十八条 人民检察院提出抗诉的案件，接受抗诉的人民法院应当自收到抗诉书之日起三十日内作出再审的裁定；有本法第一百七十九条第一款第（一）项至第（五）项规定情形之一的，可以交下一级人民法院再审。

第一百八十九条 人民检察院决定对人民法院的判决、裁定提出抗诉的，应当制作抗诉书。

第一百九十条 人民检察院提出抗诉的案件，人民法院再审时，应当通知人民检察院派员出席法庭。

第十七章 督促程序

removed for trial by a people's court at a higher level in accordance with the procedure for adjudication supervision, it shall be tried in accordance with the procedure of second instance, and the judgment or ruling made shall be legally effective.

When retrying cases, the people's court shall form a new collegiate bench.

Article 187 Where the Supreme People's Procuratorate discovers that a legally effective judgment or ruling made by a people's court at any level involves any of the circumstances described in Article 179 or where a superior people's procuratorate finds that a legally effective judgment or ruling made by an inferior people's court involves any of the circumstances described in Article 179, it shall lodge an objection.

Where a local people's procuratorate at any level discovers that a legally effective judgment or ruling made by the people's court at the same level involves any of the circumstances described in Article 179, it shall refer the case to its immediate superior people's procuratorate to lodge an objection with the people's court at the same level.

Article 188 In any case in which a people's procuratorate lodges an protest, the people's court that accepts the protest shall make a retrial ruling within 30 days from the date on which it receives the Protest Letter; in any of the circumstances described in Paragraphs 1 to 5 of Item 1, Article 179, the people's court shall transfer the case to an immediate inferior people's court.

Article 189 When a people's procuratorate decides to lodge a protest against a judgment or ruling made by a people's court, it shall prepare a written protest.

Article 190 When trying a case that is protested against a people's procuratorate, a people's court shall notify the people's procuratorate that it should send personnel to appear in court.

CHAPTER XVII PROCEDURE FOR THE RECOVERY OF DEBTS

第一百九十一条 债权人请求债务人给付金钱、有价证券，符合下列条件的，可以向有管辖权的基层人民法院申请支付令：

（一）债权人与债务人没有其他债务纠纷的；

（二）支付令能够送达债务人的。

申请书应当写明请求给付金钱或者有价证券的数量和所根据的事实、证据。

第一百九十二条 债权人提出申请后，人民法院应当在五日内通知债权人是否受理。

第一百九十三条 人民法院受理申请后，经审查债权人提供的事实、证据，对债权债务关系明确、合法的，应当在受理之日起十五日内向债务人发出支付令；申请不成立的，裁定予以驳回。

债务人应当自收到支付令之日起十五日内清偿债务，或者向人民法院提出书面异议。

债务人在前款规定的期间不提出异议又不履行支付令的，债权人可以向人民法院申请执行。

第一百九十四条 人民法院收到债务人提出的书面异议后，应当裁定终结督促程序，支付令自行失效，债权人可以起诉。

第十八章 公示催告程序

第一百九十五条 按照规定可以背书转让的票据持有人，因票据被盗、遗失或者灭失，可以向票据

Article 191 When a creditor requests payment of money or delivery of a negotiable instrument from a debtor, he may apply to the competent basic-level people's court for a payment order provided that:

1. the creditor and the debtor are not involved in any other dispute over obligations; and

2. the payment order can be served on the debtor.

The written application shall clearly state the requested amount of money or quantity of the negotiable instruments and the facts and evidence on the basis of which the application is made.

Article 192 A people's court shall, within five days after a creditor has submitted his application, notify the creditor whether it has accepted the case.

Article 193 After accepting an application for a payment order, a people's court, having found the relationship of debtor and creditor to be definite and lawful upon examination of the facts and evidence presented by the creditor, shall issue a payment order to the debtor within 15 days from the date of acceptance of the application. If the application is untenable, a ruling shall be made to reject it.

The debtor shall, within 15 days from the date of receipt of the payment order, settle his debt or submit a written objection to the people's court.

If the debtor neither submits an objection nor performs the payment order within the time limit specified in the preceding paragraph, the creditor may apply to the people's court for execution.

Article 194 Upon receipt of a written objection submitted by the debtor, the people's court shall rule to terminate the procedure for recovery of a debt, whereupon the payment order shall automatically become void and the creditor may institute an action.

CHAPTER XVIII PROCEDURE FOR PUBLIC INVITATION TO ASSERT CLAIMS

Article 195 If a negotiable instrument that regulations permit to be assigned by endorsement is stolen, lost, or destroyed, its holder may apply for a public invitation to

支付地的基层人民法院申请公示催告。依照法律规定可以申请公示催告的其他事项，适用本章规定。

申请人应当向人民法院递交申请书，写明票面金额、发票人、持票人、背书人等票据主要内容和申请的理由、事实。

第一百九十六条 人民法院决定受理申请，应当同时通知支付人停止支付，并在三日内发出公告，催促利害关系人申报权利。公示催告期间，由人民法院根据情况决定，但不得少于六十日。

第一百九十七条 支付人收到人民法院停止支付的通知，应当停止支付，至公示催告程序终结。

公示催告期间，转让票据权利的行为无效。

第一百九十八条 利害关系人应当在公示催告期间向人民法院申报。

人民法院收到利害关系人的申报后，应当裁定终结公示催告程序，并通知申请人和支付人。

申请人或者申报人可以向人民法院起诉。

第一百九十九条 没有人申报的，人民法院应当根据申请人的申请，作出判决，宣告票据无效。判决应当公告，并通知支付人。自判决公告之日起，申请人有权向支付人请求支付。

assert claims to the basic-level people's court of the place where payment on the negotiable instrument is to be made.

This Chapter shall apply to other matters for which, according to the law, applications may be submitted for a public invitation to assert claims.

An applicant shall submit to the people's court a written application clearly stating the main particulars of the negotiable instrument such as its face amount, drawer, holder and endorser, and the reasons and facts pertaining to the application.

Article 196 When a people's court decides to accept an application, it shall simultaneously notify the drawee that he should suspend payment, and within three days issue a public notice to invite interested parties to assert their claims. The period of the public invitation to assert claims shall be decided by the people's court according to the circumstances, provided that it shall not be less than 60 days.

Article 197 Upon receipt of a notice from the people's court to suspend payment, the drawee shall act accordingly until the conclusion of the procedure for public invitation to assert claims.

During the period of the public invitation to assert claims, any act relating to the assignment of rights in the negotiable instrument shall be invalid.

Article 198 Interested parties as claimants shall submit an application to the people's court during the period of the public invitation to assert claims.

After receiving an application from an interested party, the people's court shall rule to conclude the procedure for public invitation to assert claims, and shall notify the applicant and the drawee.

The applicant or the claimant may institute an action in the people's court.

Article 199 If no one assert claims, the people's court shall make a judgment to declare the negotiable instrument void on the basis of the application of the applicant. Judgment shall be pronounced in a public notice, and the drawee shall be notified of it. As from the date of public pronouncement of the judgment, the applicant shall have the right to claim payment from the drawee.

第二百条 利害关系人因正当理由不能在判决前向人民法院申报的，自知道或者应当知道判决公告之日起一年内，可以向作出判决的人民法院起诉。

Article 200 If an interested party was unable for proper cause to report to the people's court prior to judgment, he shall, within one year from the day he knew or ought to have known of the public announcement of the judgment, institute an action at the people's court that made the judgment.

第三编 执行程序

DIVISION THREE EXECUTION PROCEDURES

第十九章 一般规定

CHAPTER XX GENERAL PROVISIONS

第二百零一条 发生法律效力的民事判决、裁定，以及刑事判决、裁定中的财产部分，由第一审人民法院或者与第一审人民法院同级的被执行的财产所在地人民法院执行。

Article 201 A legally effective civil judgment or ruling, or that portion of a legally effective criminal judgment or ruling that pertains to property, shall be enforced by the people's court of first instance or the people's court at the same level as the people's court where the property subject to execution is located.

法律规定由人民法院执行的其他法律文书，由被执行人住所地或者被执行的财产所在地人民法院执行。

Other legal documents that shall be enforced by the people's courts as provided for by law shall be enforced by the people's court of the place where the person subject to execution is domiciled or where the property subject to execution is located.

第二百零二条 当事人、利害关系人认为执行行为违反法律规定的，可以向负责执行的人民法院提出书面异议。当事人、利害关系人提出书面异议的，人民法院应当自收到书面异议之日起十五日内审查，理由成立的，裁定撤销或者改正；理由不成立的，裁定驳回。当事人、利害关系人对裁定不服的，可以自裁定送达之日起十日内向上一级人民法院申请复议。

Article 202 Any party or interested party may submit a written objection to the people's court responsible for executing a judgment if he or she considers execution of the judgment to be contrary to the provisions of the law. Where any party or interested party raises a written objection, the people's court shall examine the circumstances of the case within 15 days of the date on which it receives the written objection. Where the objection is tenable, a ruling shall be made that the judgment be quashed or amended; where the objection is untenable, it shall be overruled. Where the party or interested party concerned disagrees with the ruling, he or she may make one application for review to the immediate superior people's court within 10 days of the date on which he or she receives the ruling.

第二百零三条 人民法院自收到申请执行书之日起超过六个月未执行的，申请执行人可以向上一级人民法院申请执行。上一级人民法院经审查，可以责令原人民法院在一定期限内执行，也可以决定由本院执行或者指令其他人民法院执

Article 203 Where the people's court does not execute a judgment within 6 months of the date on which it receives an application for execution, the applicant may make an application for execution to the immediate superior people's court. After examining the case, the immediate superior court may order the original people's court to execute the judgment within a specified period of time,

行。

第二百零四条 执行过程中，案外人对执行标的提出书面异议的，人民法院应当自收到书面异议之日起十五日内审查，理由成立的，裁定中止对该标的的执行；理由不成立的，裁定驳回。案外人、当事人对裁定不服，认为原判决、裁定错误的，依照审判监督程序办理；与原判决、裁定无关的，可以自裁定送达之日起十五日内向人民法院提起诉讼。

第二百零五条 执行工作由执行人员进行。

采取强制执行措施时，执行人员应当出示证件。执行完毕后，应当将执行情况制作笔录，由在场的有关人员签名或者盖章。

人民法院根据需要可以设立执行机构。

第二百零六条 被执行人或者被执行的财产在外地的，可以委托当地人民法院代为执行。受委托人民法院收到委托函件后，必须在十五日内开始执行，不得拒绝。执行完毕后，应当将执行结果及时函复委托人民法院；在三十日内如果还未执行完毕，也应当将执行情况函告委托人民法院。

受委托人民法院自收到委托函件之日起十五日内不执行的，委托人民法院可以请求受委托人民法院的上级人民法院指令受委托人民法院执行。

may determine to execute the judgment itself, or may instruct another people's court to execute the judgment.

Article 204 Where, in the course of executing a judgment, a person who is not a party to the case raises a written objection to the execution of the judgment against certain property, the people's court shall examine the objection within 15 days of receiving it. Where the objection is tenable, the court shall rule that execution be suspended; where the objection is untenable, the court shall rule that it be rejected. Where the person who is not a party to the case or any party to the case is not satisfied with the ruling and considers the original judgment or ruling to be erroneous, the case shall be handled in accordance with the procedure for adjudication supervision; where the original judgment or ruling is considered to be irrelevant, the relevant party may lodge a case with the people's court within 15 days of receiving the ruling.

Article 205 Execution shall be carried out by execution officers.

An execution officer shall show his credentials when taking enforcement measures. After execution is completed, a record shall be made of its particulars, which shall be signed and sealed by the persons present.

The people's court may establish execution authorities as needed.

Article 206 If the person or the property subject to execution is in another locality, the people's court of that locality may be entrusted with execution. The entrusted people's court must commence execution within 15 days after receipt of the letter of entrustment and shall not refuse to comply. After execution is completed, the entrusted people's court shall promptly reply to the entrusting people's court by letter, setting forth the result of the execution. If execution is not completed within 30 days, the entrusted people's court shall also inform the entrusting people's court by letter of the particulars of execution.

If the entrusted people's court does not execute the judgment or ruling within 15 days from the date of receipt of the letter of entrustment, the entrusting people's court may request the immediate superior people's court than the

entrusted people's court to instruct it to execute the judgment or ruling.

第二百零七条 在执行中，双方当事人自行和解达成协议的，执行员应当将协议内容记入笔录，由双方当事人签名或者盖章。

Article 207 Where, in the course of execution, the parties reach an agreement upon mediation at their own initiative, the execution officer shall make a record of the contents of the agreement and both parties shall sign or seal such record.

一方当事人不履行和解协议的，人民法院可以根据对方当事人的申请，恢复对原生效法律文书的执行。

Where a party fails to perform the mediation agreement, the people's court may, upon application by the other party, resume execution of the original effective legal document.

第二百零八条 在执行中，被执行人向人民法院提供担保，并经申请执行人同意的，人民法院可以决定暂缓执行及暂缓执行的期限。被执行人逾期仍不履行的，人民法院有权执行被执行人的担保财产或者担保人的财产。

Article 208 Where, in the course of execution, the person subject to execution provides security to the people's court, the people's court may decide to stay the execution and decide the term of such stay, subject to the consent of the person applying for execution. If the person subject to execution fails to perform within the specified term, the people's court shall have the power to execute the judgment or ruling against the security provided by the person subject to execution or the property of his guarantor.

第二百零九条 作为被执行人的公民死亡的，以其遗产偿还债务。作为被执行人的法人或者其他组织终止的，由其权利义务承受人履行义务。

Article 209 When a citizen subject to execution dies, his debts shall be repaid from his estate. When a legal person or another organization subject to execution is terminated, the person that inherits its rights and obligations shall perform the obligation.

第二百一十条 执行完毕后，据以执行的判决、裁定和其他法律文书确有错误，被人民法院撤销的，对已被执行的财产，人民法院应当作出裁定，责令取得财产的人返还；拒不返还的，强制执行。

Article 210 Where, after execution is completed, an error is discovered in a judgment, ruling or other legal document on which execution is based and such judgment, ruling or other legal document is quashed by the people's court, the people's court shall make a ruling ordering the person who has obtained property subject to execution to return the property. If such person refuses to return the property, the ruling ordering the return of the property shall be enforced.

第二百一十一条 人民法院制作的调解书的执行，适用本编的规定。

Article 211 This Division shall apply to the execution of written mediation statements prepared by a people's court.

第二十章 执行的申请和移送 CHAPTER XXI APPLICATION FOR AND REFERRAL

OF EXECUTION

第二百一十二条 发生法律效力民事判决、裁定，当事人必须履行。一方拒绝履行的，对方当事人可以向人民法院申请执行，也可以由审判员移送执行员执行。

调解书和其他应当由人民法院执行的法律文书，当事人必须履行。一方拒绝履行的，对方当事人可以向人民法院申请执行。

第二百一十三条 对依法设立的仲裁机构的裁决，一方当事人不履行的，对方当事人可以向有管辖权的人民法院申请执行。受申请的人民法院应当执行。

被申请人提出证据证明仲裁裁决有下列情形之一的，经人民法院组成合议庭审查核实，裁定不予执行：

（一）当事人在合同中没有订有仲裁条款或者事后没有达成书面仲裁协议的；

（二）裁决的事项不属于仲裁协议的范围或者仲裁机构无权仲裁的；

（三）仲裁庭的组成或者仲裁的程序违反法定程序的；

（四）认定事实的主要证据不足的；

（五）适用法律确有错误的；

（六）仲裁员在仲裁该案时有贪污受贿，徇私舞弊，枉法裁决行为的。

人民法院认定执行该裁决违背社会公共利益的，裁定不予执行。

裁定书应当送达双方当事人和仲裁机构。

仲裁裁决被人民法院裁定不予执行的，当事人可以根据双方达成

Article 212 Parties must perform civil judgments or rulings that have become legally effective. Where a party refuses to perform a ruling or judgment, the other party may apply to the people's court for execution. Alternatively, a judge may refer such judgment or ruling to an execution officer for execution.

The parties must perform any written mediation agreement or other legal document that is enforceable by the people's courts. Where a party refuses to perform such a document, the other party may apply to the people's court for execution.

Article 213 Where a party fails to perform an award of an arbitration institution established according to law, the other party may apply for execution to the competent people's court. The people's court to which an application is made shall execute the award.

Where the party against whom the application is made presents evidence that proves that the arbitral award involves any of the following circumstances, the people's court shall, after examination and verification by a collegiate bench formed by the people's court, rule to deny execution:

1. the parties have neither included an arbitration clause in their contract, nor subsequently reached a written arbitration agreement;
2. matters decided in the award exceed the scope of the arbitration agreement or are beyond the arbitral authority of the arbitration institution;
3. the composition of the arbitral tribunal or the arbitration procedure did not conform to statutory procedure;
4. the main evidence for ascertaining the facts was insufficient;
5. the law was applied incorrectly; or
6. one or several arbitrators acts corruptly, accepted bribes or practised graft or made an award that perverted the law.

Where the people's court determines that the execution of the award would be against the public interest, it shall rule to deny execution.

The written ruling shall be served on both parties and on the arbitration institution.

Where a people's court rules to deny execution of an

的书面仲裁协议重新申请仲裁，也可以向人民法院起诉。

第二百一十四条 对公证机关依法赋予强制执行效力的债权文书，一方当事人不履行的，对方当事人可以向有管辖权的人民法院申请执行，受申请的人民法院应当执行。

公证债权文书确有错误的，人民法院裁定不予执行，并将裁定书送达双方当事人和公证机关。

第二百一十五条 申请执行的期间为二年。申请执行时效的中止、中断，适用法律有关诉讼时效中止、中断的规定。

前款规定的期间，从法律文书规定履行期间的最后一日起计算；法律文书规定分期履行的，从规定的每次履行期间的最后一日起计算；法律文书未规定履行期间的，从法律文书生效之日起计算。

第二百一十六条 执行员接到申请执行书或者移交执行书，应当向被执行人发出执行通知，责令其在指定的期间履行，逾期不履行的，强制执行。

被执行人不履行法律文书确定的义务，并有可能隐匿、转移财产的，执行员可以立即采取强制执行措施。

arbitral award, a party may, in accordance with the written arbitration agreement between the two parties, re-apply to the arbitration institution for arbitration or institute an action in a people's court.

Article 214 Where a party fails to perform its obligations pursuant to a document that has been lawfully rendered enforceable by a notary public, the other party may apply to the competent people's court for execution. The people's court to which the application is made shall execute the document.

Where a notarized document of obligation contains an error, the people's court shall rule to deny execution and shall serve the written ruling on both parties and on the notary public.

Article 215 The time limit applicable to applications to execute a judgment is two years. The provisions relating to the suspension or discontinuance of the litigation limitation period shall be applicable to the suspension or discontinuance of the limitation period for applications to execute a judgment.

The time limit referred to in the preceding paragraph shall commence from the last day of the time limit for satisfaction of the judgment specified in the legal documentation; where the legal documentation provides for satisfaction of the judgment in stages, the time limit shall commence from the last day of the period for satisfaction of the judgment at each stage; where the legal documentation does not provide a time limit for satisfaction of the judgment, the time limit shall commence from the effective date of the legal documentation.

Article 216 Upon receiving an application for execution or a document for referral of execution, an execution officer shall send a notice of execution to the person subject to execution, ordering such person to perform the obligation within the specified time limit. If such person fails to perform the obligation within the specified time limit, performance shall be enforced.

In the event that any individual required to assist in the execution of a judgment fails to perform the duties required of him as set out in the legal documentation, and it is possible for him to conceal or remove the relevant

assets, the execution officer may proceed to instigate enforcement measures.

第二十一章 执行措施

CHAPTER XXII EXECUTION MEASURES

第二百一十七条 被执行人未按执行通知履行法律文书确定的义务，应当报告当前以及收到执行通知之日前一年的财产情况。被执行人拒绝报告或者虚假报告的，人民法院可以根据情节轻重对被执行人或者其法定代理人、有关单位的主要负责人或者直接责任人员予以罚款、拘留。

Article 217 Where the person subject to execution fails to perform the duties required of him as set out in the legal documentation in accordance with the execution notice, he or she shall provide a report on the circumstances relating to the assets concerned during the current period or in the year prior to the date on which he receives the execution notice. Where the person subject to execution refuses to provide such a report or makes a false report, the people's court may fine or detain that person subject to execution, its statutory agent, principally responsible person or the directly responsible person in the relevant work unit, according to the seriousness of the case.

第二百一十八条 被执行人未按执行通知履行法律文书确定的义务，人民法院有权向银行、信用合作社和其他有储蓄业务的单位查询被执行人的存款情况，有权冻结、划拨被执行人的存款，但查询、冻结、划拨存款不得超出被执行人应当履行义务的范围。

Article 218 Where a person subject to execution fails to perform the obligation specified in the legal document in accordance with the notice of execution, the people's court shall have the power to direct inquiries to banks, credit cooperatives and other savings units about the deposits of the person subject to execution, and shall have the power to freeze or transfer the deposits of such person, provided that such inquiries, freezing or transfer does not exceed the scope of the obligation to be performed by the person subject to execution.

人民法院决定冻结、划拨存款，应当作出裁定，并发出协助执行通知书，银行、信用合作社和其他有储蓄业务的单位必须办理。

When deciding to freeze or transfer deposits, a people's court shall make a ruling and issue a notice requesting assistance with execution, which must be complied with by the banks, credit cooperatives and other savings units.

第二百一十九条 被执行人未按执行通知履行法律文书确定的义务，人民法院有权扣留、提取被执行人应当履行义务部分的收入。但应当保留被执行人及其所扶养家属的生活必需费用。

Article 219 If a person subject to execution fails to perform the obligation specified in the legal document in accordance with the notice of execution, the people's court shall have the power to withhold or garnish a portion of the revenue of the person subject to execution that is sufficient to cover the obligation he should perform, provided that such measures leave enough revenue to cover the necessary living expenses of the person subject to execution and of his dependants.

人民法院扣留、提取收入时，应当作出裁定，并发出协助执行通知书，被执行人所在单位、银行、信用合作社和其他有储蓄业务的单位必须办理。

When deciding to withhold or garnish revenue, a people's court shall make a ruling and issue a notice requesting assistance with execution. Such notice must be complied with by the work unit of the person subject to execution,

banks, credit cooperatives and other savings units.

第二百二十条 被执行人未按执行通知履行法律文书确定的义务，人民法院有权查封、扣押、冻结、拍卖、变卖被执行人应当履行义务部分的财产。但应当保留被执行人及其所扶养家属的生活必需品。

采取前款措施，人民法院应当作出裁定。

第二百二十一条 人民法院查封、扣押财产时，被执行人是公民的，应当通知被执行人或者他的成年家属到场；被执行人是法人或者其他组织的，应当通知其法定代表人或者主要负责人到场。拒不到场的，不影响执行。被执行人是公民的，其工作单位或者财产所在地的基层组织应当派人参加。

对被查封、扣押的财产，执行员必须造具清单，由在场人签名或者盖章后，交被执行人一份。被执行人是公民的，也可以交他的成年家属一份。

第二百二十二条 被查封的财产，执行员可以指定被执行人负责保管。因被执行人的过错造成的损失，由被执行人承担。

第二百二十三条 财产被查封、扣押后，执行员应当责令被执行人在指定期间履行法律文书确定的义务。被执行人逾期不履行的，

Article 220 If a person subject to execution fails to perform the obligation specified in the legal document in accordance with the notice of execution, the people's court shall have the power to seal up, distrain, freeze, auction off or sell off a portion of the property of the person subject to execution sufficient to cover the obligation he should perform, provided that such action does not deprive the person subject to execution and his dependents of daily necessities.

When adopting any of the foregoing measures, a people's court shall make a ruling.

Article 221 When a people's court seals up or distrains property and the person subject to execution is a citizen, the court shall notify the person subject to execution or an adult member of his family that he should come to the scene. If the person subject to execution is a legal person or another organization, the court shall notify the legal representative or principally responsible person of the person subject to execution that he should come to the scene. Refusal on the part of the notified person to come to the scene shall not affect the execution. If the person subject to execution is a citizen, his work unit or the basic-level organization in the place where his property is located shall send representatives to attend the execution.

An execution officer must prepare a list of the property sealed up or distrained. A copy of the list shall be delivered to the person subject to execution after the persons present at the scene have signed and sealed the list. If the person subject to execution is a citizen, his copy may alternatively be delivered to an adult member of his family.

Article 222 An execution officer may designate the person subject to execution to take custody of the property sealed-up. The person subject to execution shall bear any losses incurred due to his fault.

Article 223 After property has been sealed up or distrained, the execution officer shall order the person subject to execution to perform the obligation specified in the legal document within the specified time limit. If such

人民法院可以按照规定交有关单位拍卖或者变卖被查封、扣押的财产。国家禁止自由买卖的物品，交有关单位按照国家规定的价格收购。

第二百二十四条 被执行人不履行法律文书确定的义务，并隐匿财产的，人民法院有权发出搜查令，对被执行人及其住所或者财产隐匿地进行搜查。

采取前款措施，由院长签发搜查令。

第二百二十五条 法律文书指定交付的财物或者票证，由执行员传唤双方当事人当面交付，或者由执行员转交，并由被交付人签收。

有关单位持有该项财物或者票证的，应当根据人民法院的协助执行通知书转交，并由被交付人签收。

有关公民持有该项财物或者票证的，人民法院通知其交出。拒不交出的，强制执行。

第二百二十六条 强制迁出房屋或者强制退出土地，由院长签发公告，责令被执行人在指定期间履行。被执行人逾期不履行的，由执行员强制执行。

强制执行时，被执行人是公民的，应当通知被执行人或者他的成年家属到场；被执行人是法人或者其他组织的，应当通知其法定代表人或者主要负责人到场。拒不到场的，不影响执行。被执行人是公民的，其工作单位或者房屋、土地所在地的基层组织应当派人参加。执

person does not perform such obligation within the specified time limit, the people's court may, according to regulations, deliver the property sealed up or distrained to the relevant work units for auction or sale. Goods that the State has prohibited to be traded freely shall be delivered to the relevant work units for purchase at the prices stipulated by the State.

Article 224 Where a person subject to execution fails to perform the obligations specified in the legal document and conceals property, the people's court shall have the power to issue a search warrant and to search the place of residence of the person subject to execution or the place where the property is concealed.

The president of the court shall issue a search warrant when adopting any of the foregoing measures.

Article 225 Where a legal document stipulates that property or a negotiable instrument must be delivered, the execution officer shall either summon both CHAPTERies before him to effect delivery or deliver the item himself. The person taking delivery shall sign for receipt.

If the relevant work unit is holding such property or negotiable instrument, it shall deliver the item in accordance with the notice requesting assistance with execution issued by the people's court and the person taking delivery shall sign for receipt.

If the citizen concerned is holding such property or negotiable instrument, the people's court shall order him to release the item. If he refuses to do so, the people's court shall enforce such release.

Article 226 To evict a person subject to execution from a house or a piece of land, the president of a people's court shall issue a public notice to order him to perform within the specified time limit. If the person subject to execution fails to perform within the specified time limit, an execution officer shall enforce the order.

At the time of eviction, if the person subject to execution is a citizen, he or an adult member of his family shall be notified that he should come to the scene. If the person subject to execution is a legal person or another organization, the legal representative or the head of the organization subject to execution shall be notified that he should come to the scene. Refusal on the CHAPTER of

行员应当将强制执行情况记入笔录，由在场人签名或者盖章。

强制迁出房屋被搬出的财物，由人民法院派人运至指定处所，交给被执行人。被执行人是公民的，也可以交给他的成年家属。因拒绝接收而造成的损失，由被执行人承担。

第二百二十七条 在执行中，需要办理有关财产权证照转移手续的，人民法院可以向有关单位发出协助执行通知书，有关单位必须办理。

第二百二十八条 对判决、裁定和其他法律文书指定的行为，被执行人未按执行通知履行的，人民法院可以强制执行或者委托有关单位或者其他人员完成，费用由被执行人承担。

第二百二十九条 被执行人未按判决、裁定和其他法律文书指定的期间履行给付金钱义务的，应当加倍支付迟延履行期间的债务利息。被执行人未按判决、裁定和其他法律文书指定的期间履行其他义务的，应当支付迟延履行金。

第二百三十条 人民法院采取本法第二百一十八条、第二百一十九条、第二百二十条规定的执行措

the notified person to come to the scene shall not affect the execution. If the person subject to execution is a citizen, his work unit or the basic-level organization of the place where the house or land is located shall send representatives to attend the execution. The execution officer shall make a record of the particulars of the execution, which shall be signed or sealed by the persons at the scene.

The people's court shall send personnel to transport the property removed from the house from which the person subject to execution was evicted to a designated location for delivery to the person subject to execution. If such person is a citizen, such property and belongings may also be delivered to an adult member of his family. The person subject to execution shall bear any losses arising from the refusal to accept the property and belongings on the CHAPTER of himself or the adult member of his family.

Article 227 If procedures for the transfer of title deeds must be carried out in the course of execution, the people's court may issue a notice requesting assistance with execution to the relevant work units, which must comply with such notice.

Article 228 If a person subject to execution fails to perform the act specified in a judgment, ruling or other legal document in accordance with the notice of execution, the people's court may compel performance or entrust a relevant work unit or other person with such performance, at the expense of the person subject to execution.

Article 229 If a person subject to execution fails to perform his obligations to pay within the time limit specified in a judgment, ruling or other legal document, he shall pay twice the amount of interest on the debt for the period during which the performance is deferred. If a person subject to execution fails to perform any other obligations within the time limit specified in a judgment, ruling or other legal document, he shall pay a fine for deferred performance.

Article 230 If a person subject to execution is still unable to repay his debts after a people's court has adopted any of the execution measures provided for in Articles 218, 219

施后,被执行人仍不能偿还债务的,应当继续履行义务。债权人发现被执行人有其他财产的,可以随时请求人民法院执行。

第二百三十一条 被执行人不履行法律文书确定的义务的,人民法院可以对其采取或者通知有关单位协助采取限制出境,在征信系统记录、通过媒体公布不履行义务信息以及法律规定的其他措施。

第二十二章 执行中止和终结

第二百三十二条 有下列情形之一的,人民法院应当裁定中止执行:

- (一) 申请人表示可以延期执行的;
- (二) 案外人对执行标的提出确有理由的异议的;
- (三) 作为一方当事人的公民死亡,需要等待继承人继承权利或者承担义务的;
- (四) 作为一方当事人的法人或者其他组织终止,尚未确定权利义务承受人的;
- (五) 人民法院认为应当中止执行的其他情形。

中止的情形消失后,恢复执行。

第二百三十三条 有下列情形之一的,人民法院裁定终结执行:

- (一) 申请人撤销申请的;
- (二) 据以执行的法律文书被撤销的;
- (三) 作为被执行人的公民死亡,无遗产可供执行,又无义务承担人的;

and 220 hereof, he shall continue to perform his obligation. If a creditor finds that the person subject to execution has other property, he may request execution by the people's court at any time.

Article 231 Where any person fails to perform the duties required of him as set out in the legal documentation, the people's court may take steps towards or seek the assistance of his employer in the imposition of restrictions on him leaving the country, record or publicize the fact that he has failed to perform his duties through the public credit system, or adopt other measures provided by the law.

CHAPTER XXII SUSPENSION AND TERMINATION OF EXECUTION

Article 232 Under any of the following circumstances, the people's court may rule to suspend execution:

1. the applicant indicates that the execution may be deferred;
2. a person who is not a participant in the case raises an objection on reasonable grounds with respect to the object of execution;
3. a citizen, being one of the parties, dies and it is necessary to wait for his successor to succeed to his rights or to assume his obligations;
4. a legal person or another organization, being one of the parties, is terminated and the person that will inherit to its rights and obligations has not yet been determined; or
5. other circumstances which the people's court deems to call for suspension of execution.

Execution shall be resumed when the circumstances calling for suspension of execution cease.

Article 233 Under any of the following circumstances, a people's court shall rule to terminate execution:

1. the applicant withdraws his application;
2. the legal document on which the execution is based is quashed or revoked;
3. the person subject to execution is a citizen, who dies without an estate against which execution can be effected and without a person to assume his obligations;
4. the person who has the right to claim payment of

(四) 追索赡养费、扶养费、
抚育费案件的权利人死亡的;
(五) 作为被执行人的公民因
生活困难无力偿还借款, 无收入来
源, 又丧失劳动能力的;
(六) 人民法院认为应当终结
执行的其他情形。

overdue alimony, maintenance or child support dies;
5. the person subject to execution is a citizen who has lost
his ability to work and is unable to repay a loan due to
poor financial circumstances and lack of a source of
revenue; or
6. other circumstances occur that the people's court deems
to require the termination of execution.

第二百三十四条 中止和终结
执行的裁定, 送达当事人后立即生
效。

Article 234 A ruling of suspension or termination of
execution shall become effective immediately after it has
been served on the parties.

第四编 涉外民事诉讼程序的
特别规定

DIVISION FOUR SPECIAL PROVISIONS FOR CIVIL
ACTIONS INVOLVING FOREIGN PARTIES

第二十三章 一般原则

CHAPTER XXIII GENERAL PROVISIONS

第二百三十五条 在中华人民
共和国领域内进行涉外民事诉讼,
适用本编规定。本编没有规定的,
适用本法其他有关规定。

Article 235 This Division shall apply to civil actions
within the territory of the People's Republic of China
involving foreign parties. For matters not addressed in this
Division, the other relevant provisions of this Law shall
apply.

第二百三十六条 中华人民共
和国缔结或者参加的国际条约同本
法有不同规定的, 适用该国际条约
的规定, 但中华人民共和国声明保
留的条款除外。

Article 236 If an international treaty that the People's
Republic of China has concluded or acceded to contains
provisions that are inconsistent with this Law, the
provisions of the international treaty shall prevail, except
for those provisions to which the People's Republic of
China has declared its reservations.

第二百三十七条 对享有外交
特权与豁免的外国人、外国组织或
者国际组织提起的民事诉讼, 应当
依照中华人民共和国有关法律和中
华人民共和国缔结或者参加的国际
条约的规定办理。

Article 237 Civil actions instituted against foreigners,
foreign organizations or international organizations that
enjoy diplomatic privileges and immunities shall be
handled in accordance with the relevant laws of the
People's Republic of China and the relevant international
treaties concluded or acceded to by the People's Republic
of China.

第二百三十八条 人民法院审
理涉外民事案件, 应当使用中华人
民共和国通用的语言、文字。当事
人要求提供翻译的, 可以提供, 费
用由当事人承担。

Article 238 In trying civil cases involving foreign parties,
a people's court shall use the written and spoken language
commonly used in the People's Republic of China. At the
request of a party, translation may be provided at the
expense of such party.

第二百三十九条 外国人、无

Article 239 If a foreigner, stateless person or foreign

国籍人、外国企业和组织在人民法院起诉、应诉，需要委托律师代理诉讼的，必须委托中华人民共和国的律师。

enterprise or foreign organization that sues or is sued in a people's court is required to appoint a lawyer as his or its agent ad litem, he or it must entrust a lawyer of the People's Republic of China.

第二百四十条 在中华人民共和国领域内没有住所的外国人、无国籍人、外国企业和组织委托中华人民共和国律师或者其他代理人代理诉讼，从中华人民共和国领域外寄交或者托交的授权委托书，应当经所在国公证机关证明，并经中华人民共和国驻该国使领馆认证，或者履行中华人民共和国与该所在国订立的有关条约中规定的证明手续后，才具有效力。

Article 240 When a foreigner, stateless person or foreign enterprise or foreign organization without a domicile within the territory of the People's Republic of China appoints a lawyer or another person of the People's Republic of China as his or its agent ad litem, the power of attorney sent or forwarded from outside the territory of the People's Republic of China shall become effective only after it has been notarized by a notary public of his or its state and either has been authenticated by the embassy or a consulate of the People's Republic of China in that state or certification procedures provided for in the relevant treaty between the People's Republic of China and that state have been carried out.

第二十四章 管 辖

CHAPTER XXIV JURISDICTION

第二百四十一条 因合同纠纷或者其他财产权益纠纷，对在中华人民共和国领域内没有住所的被告提起的诉讼，如果合同在中华人民共和国领域内签订或者履行，或者诉讼标的物在中华人民共和国领域内，或者被告在中华人民共和国领域内有可供扣押的财产，或者被告在中华人民共和国领域内设有代表机构，可以由合同签订地、合同履行地、诉讼标的物所在地、可供扣押财产所在地、侵权行为地或者代表机构住所地人民法院管辖。

Article 241 Where an action is instituted against a defendant without a domicile inside the territory of the People's Republic of China concerning a dispute over a contract or rights and interests in property, if the contract was executed or performed within the territory of the People's Republic of China, or the subject matter of the action is located within the territory of the People's Republic of China, or the defendant has distrainable property within the territory of the People's Republic of China, or the defendant maintains a representative office within the territory of the People's Republic of China, the action may come under the jurisdiction of the people's court of the place where the contract was executed, the place where the contract was performed, the place where the object of action is located, the place where the distrainable property is located, the place where the tort was committed or the place where the representative office is domiciled.

第二百四十二条 涉外合同或者涉外财产权益纠纷的当事人，可以用书面协议选择与争议有实际联系的地点的法院管辖。选择中华人民共和国人民法院管辖的，不得违

Article 242 The parties to a dispute involving a foreign party over a contract or over rights and interests in property may, by written agreement, select the jurisdiction of the court of the place with a real connection with the dispute. If they elect to come under the jurisdiction of the

反本法关于级别管辖和专属管辖的规定。

第二百四十三条 涉外民事诉讼的被告对人民法院管辖不提出异议，并应诉答辩的，视为承认该人民法院为有管辖权的法院。

第二百四十四条 因在中华人民共和国履行中外合资经营企业合同、中外合作经营企业合同、中外合作勘探开发自然资源合同发生纠纷提起的诉讼，由中华人民共和国人民法院管辖。

第二十五章 送达、期间

第二百四十五条 人民法院对在中华人民共和国领域内没有住所的当事人送达诉讼文书，可以采用下列方式：

（一）依照受送达人所在国与中华人民共和国缔结或者共同参加的国际条约中规定的方式送达；

（二）通过外交途径送达；

（三）对具有中华人民共和国国籍的受送达人，可以委托中华人民共和国驻受送达人所在国的使领馆代为送达；

（四）向受送达人委托的有权代其接受送达的诉讼代理人送达；

（五）向受送达人在中华人民共和国领域内设立的代表机构或者有权接受送达的分支机构、业务代办人送达；

（六）受送达人所在国的法律允许邮寄送达的，可以邮寄送达，自邮寄之日起满六个月，送达回证没有退回，但根据各种情况足以认定已经送达的，期间届满之日视为送达；

（七）不能用上述方式送达的，

people's court of the People's Republic of China, such selection may not violate the provisions of this Law concerning jurisdiction by level and exclusive jurisdiction.

Article 243 If a defendant in a civil action involving a foreign CHAPTERy does not object to the jurisdiction of a people's court and responds to the suit by filing a bill of defence, he shall be deemed to have recognized the jurisdiction of such people's court.

Article 244 An action instituted for a dispute arising from the performance in the People's Republic of China of a Sino-foreign equity joint venture contract, a Sino-foreign cooperative joint venture contract or a contract for Sino-foreign cooperative exploration and development of natural resources shall come under the jurisdiction of the people's courts of the People's Republic of China.

CHAPTER XXV SERVICE AND TIME PERIODS

Article 245 A people's court may serve procedural documents on a party without a domicile within the territory of the People's Republic of China in the following ways:

1. service in the way specified in an international treaty concluded between or acceded to by the state of the person to be served and the People's Republic of China;

2. service through diplomatic channels;

3. if the person to be served is a national of the People's Republic of China, entrustment of the embassy or a consulate of the People's Republic of China in the state where such person is located with service on its behalf;

4. service on the agent ad litem appointed by the person to be served and authorized to accept service on his behalf;

5. service on the representative office, or the branch or business agent authorized to accept service, established within the territory of the People's Republic of China by the person to be served;

6. service by post, if permitted by the law of the state of the person to be served. If the acknowledgment of service is not returned within six months from the date of posting, but various circumstances justify the assumption that the documents have been served, the documents shall be deemed to have been served on the date of expiry of the time limit; or

7. if the documents cannot be served by any of the above

公告送达,自公告之日起满六个月,即视为送达。

methods, service may be effected by public announcement. The documents shall be deemed to have been served when six months have elapsed since the date of the public announcement.

第二百四十六条 被告在中华人民共和国领域内没有住所的,人民法院应当将起诉状副本送达被告,并通知被告在收到起诉状副本后三十日内提出答辩状。被告申请延期的,是否准许,由人民法院决定。

Article 246 If a defendant does not have a domicile within the territory of the People's Republic of China, the people's court shall serve a copy of the statement of claim on the defendant and notify the defendant that he should submit a statement of defence within 30 days of receipt of the copy of the bill of defence. If the defendant applies for an extension of the time limit, the people's court shall decide on the application.

第二百四十七条 在中华人民共和国领域内没有住所的当事人,不服第一审人民法院判决、裁定的,有权在判决书、裁定书送达之日起三十日内提起上诉。被上诉人在收到上诉状副本后,应当在三十日内提出答辩状。当事人不能在法定期间提起上诉或者提出答辩状,申请延期的,是否准许,由人民法院决定。

Article 247 If a party without a domicile within the territory of the People's Republic of China disagrees with the judgment or ruling rendered by the people's court of first instance, he shall have the right to lodge an appeal within 30 days from the date on which the judgment or ruling is served. The respondent shall file a statement of defence within 30 days after the date of receipt of the copy of the appeal petition. If a party is unable to lodge an appeal or to submit a defence within the statutory time limit and applies for an extension of the time limit, the people's court shall decide on the application.

第二百四十八条 人民法院审理涉外民事案件的期间,不受本法第一百三十五条、第一百五十九条规定的限制。

Article 248 The period for the trial by the people's court of civil cases involving foreign parties shall not be subject to the restrictions of Articles 135 and 159 hereof.

第二十六章 财产保全

CHAPTER XXVI PRESERVATION OF PROPERTY

第二百四十九条 当事人依照本法第九十二条的规定可以向人民法院申请财产保全。

Article 249 A party may apply to a people's court for preservation of property in accordance with Article 92 of this Law.

利害关系人依照本法第九十三条的规定可以在起诉前向人民法院申请财产保全。

An interested party may apply to a people's court for preservation of property prior to the institution of an action in accordance with Article 93 hereof.

第二百五十条 人民法院裁定准许诉前财产保全后,申请人应当在三十日内提起诉讼。逾期不起诉的,人民法院应当解除财产保全。

Article 250 After the people's court has ruled to allow preservation of property prior to the institution of an action, the applicant shall institute an action within 30 days. If the applicant fails to institute an action within the time limit, the people's court shall cancel the preservation

of property.

第二百五十一条 人民法院裁定准许财产保全后，被申请人提供担保的，人民法院应当解除财产保全。

Article 251 Where, after the people's court has rendered a ruling to allow preservation of property prior to the institution of an action, the person against whom the application is made provides security, the people's court shall cancel the preservation of property.

第二百五十二条 申请有错误的，申请人应当赔偿被申请人因财产保全所遭受的损失。

Article 252 If an application for preservation of property is made wrongfully, the applicant shall compensate the person against whom the application is made for any loss incurred as a result of the ruling for the preservation of property.

第二百五十三条 人民法院决定保全的财产需要监督的，应当通知有关单位负责监督，费用由被申请人承担。

Article 253 If a people's court decides that the preserved property needs to be kept under surveillance, it shall notify the relevant work unit that it should take charge of surveillance. The surveillance expenses shall be borne by the person against whom the application is made.

第二百五十四条 人民法院解除保全的命令由执行员执行。

Article 254 An order of a people's court to cancel preservation shall be carried out by an execution officer.

第二十七章 仲裁

CHAPTER XXVII ARBITRATION

第二百五十五条 涉外经济贸易、运输和海事中发生的纠纷，当事人在合同中订有仲裁条款或者事后达成书面仲裁协议，提交中华人民共和国涉外仲裁机构或者其他仲裁机构仲裁的，当事人不得向人民法院起诉。

Article 255 Where disputes that arise from economic, trade, transport or maritime activities involve foreign parties, if the parties have included an arbitration clause in their contract or subsequently reach a written arbitration agreement that provides that such disputes shall be submitted for arbitration to an arbitration institution of the People's Republic of China for foreign-related disputes or to another arbitration institution, no party may institute an action in a people's court.

当事人在合同中订有仲裁条款或者事后没有达成书面仲裁协议的，可以向人民法院起诉。

If the parties have neither included an arbitration clause in their contract nor subsequently reached a written arbitration agreement, an action may be instituted in a people's court.

第二百五十六条 当事人申请采取财产保全的，中华人民共和国的涉外仲裁机构应当将当事人的申请，提交被申请人住所地或者财产所在地的中级人民法院裁定。

Article 256 If a party applies for preservation of property, the arbitration institution of the People's Republic of China for foreign-related disputes shall submit the application to the intermediate people's court of the place where the domicile of the person against whom the application is made is located or where the property is located.

第二百五十七条 经中华人民

Article 257 After an award has been made by an

共和国涉外仲裁机构裁决的，当事人不得向人民法院起诉。一方当事人不履行仲裁裁决的，对方当事人可以向被申请人住所地或者财产所在地的中级人民法院申请执行。

第二百五十八条 对中华人民共和国涉外仲裁机构作出的裁决，被申请人提出证据证明仲裁裁决有下列情形之一的，经人民法院组成合议庭审查核实，裁定不予执行：

（一）当事人在合同中没有订有仲裁条款或者事后没有达成书面仲裁协议的；

（二）被申请人没有得到指定仲裁员或者进行仲裁程序的通知，或者由于其他不属于被申请人负责的原因未能陈述意见的；

（三）仲裁庭的组成或者仲裁的程序与仲裁规则不符的；

（四）裁决的事项不属于仲裁协议的范围或者仲裁机构无权仲裁的。

人民法院认定执行该裁决违背社会公共利益的，裁定不予执行。

第二百五十九条 仲裁裁决被人民法院裁定不予执行的，当事人可以根据双方达成的书面仲裁协议重新申请仲裁，也可以向人民法院起诉。

第二十八章 司法协助

第二百六十条 根据中华人民共和国缔结或者参加的国际条约，或者按照互惠原则，人民法院和外国法院可以相互请求，代为送达文

arbitration institution of the People's Republic of China for foreign-related disputes, no party may institute an action in a people's court. If a party fails to perform the arbitral award, the other party may apply for execution to the intermediate people's court of the place where the domicile of the person against whom an application is made is located or where the property is located.

Article 258 If the person against whom the application is made presents evidence that proves that the arbitral award made by an arbitration institution of the People's Republic of China for foreign-related disputes involves any of the following circumstances, the people's court shall, after examination and verification by a collegiate bench formed by the people's court, rule to deny execution of the award

1. the parties have neither included an arbitration clause in their contract nor subsequently reached a written arbitration agreement;

2. the person against whom the application is made was not requested to appoint an arbitrator or take part in the arbitration proceedings or the person was unable to state his opinions due to reasons for which he is not responsible;

3. the composition of the arbitration tribunal or the arbitration procedure was not in conformity with the rules of arbitration; or

4. matters decided in the award exceed the scope of the arbitration agreement or are beyond the arbitral authority of the arbitration institution.

If the people's court determines that the execution of the said award would be against public interest, it shall rule to deny execution.

Article 259 If a people's court rules to deny execution of an arbitral award, a party may, in accordance with a written arbitration agreement between the two parties, re-apply to the arbitration institution for arbitration, or institute an action in a people's court.

CHAPTER XXVIII JUDICIAL ASSISTANCE

Article 260 Pursuant to international treaties concluded or acceded to by the People's Republic of China or in accordance with the principle of reciprocity, people's courts and foreign courts may request mutual assistance in

书、调查取证以及进行其他诉讼行为。

外国法院请求协助的事项有损于中华人民共和国的主权、安全或者社会公共利益的，人民法院不予执行。

第二百六十一条 请求和提供司法协助，应当依照中华人民共和国缔结或者参加的国际条约所规定的途径进行；没有条约关系的，通过外交途径进行。

外国驻中华人民共和国的使领馆可以向该国公民送达文书和调查取证，但不得违反中华人民共和国的法律，并不得采取强制措施。

除前款规定的情况外，未经中华人民共和国主管机关准许，任何外国机关或者个人不得在中华人民共和国领域内送达文书、调查取证。

第二百六十二条 外国法院请求人民法院提供司法协助的请求书及其所附文件，应当附有中文译本或者国际条约规定的其他文字文本。

人民法院请求外国法院提供司法协助的请求书及其所附文件，应当附有该国文字译本或者国际条约规定的其他文字文本。

第二百六十三条 人民法院提供司法协助，依照中华人民共和国法律规定的程序进行。外国法院请求采用特殊方式的，也可以按照其请求的特殊方式进行，但请求采用的特殊方式不得违反中华人民共和国法律。

the service of legal documents, investigation, collection of evidence, and other acts in connection with litigation, on each other's behalf.

If any matter in which a foreign court requests assistance would harm the sovereignty, security or public interest of the People's Republic of China, the people's court shall refuse to comply with the request.

Article 261 The request for and provision of judicial assistance shall be conducted through the channels stipulated in the international treaties concluded or acceded to by the People's Republic of China. Where no treaty relations exist, the request for and provision of judicial assistance shall be conducted through diplomatic channels.

The embassy or a consulate in the People's Republic of China of a foreign state may serve documents on, investigate, and take evidence from its citizens, provided that the law of the People's Republic of China is not violated and that no compulsory measures are adopted.

Except for the circumstances set forth in the preceding paragraph, no foreign agency or individual may, without the consent of the competent authorities of the People's Republic of China, serve documents, carry out an investigation or collect evidence within the territory of the People's Republic of China.

Article 262 The letter of request for judicial assistance and its annexes submitted to a people's court by a foreign court shall be accompanied by a Chinese translation or a text in another language as specified in the relevant international treaty.

The letter of request for judicial assistance and its annexes submitted to a foreign court by a people's court shall be accompanied by a translation in the language of that state or a text in another language as specified in the relevant international treaty.

Article 263 The judicial assistance provided by a people's court shall be carried out in accordance with the procedure prescribed by the law of the People's Republic of China. If a special method is requested by a foreign court, judicial assistance may also be provided using the special method requested, provided that such special method is not inconsistent with the law of the People's Republic of

China.

第二百六十四条 人民法院作出的发生法律效力判决、裁定，如果被执行人或者其财产不在中华人民共和国领域内，当事人请求执行的，可以由当事人直接向有管辖权的外国法院申请承认和执行，也可以由人民法院依照中华人民共和国缔结或者参加的国际条约的规定，或者按照互惠原则，请求外国法院承认和执行。

中华人民共和国涉外仲裁机构作出的发生法律效力的仲裁裁决，当事人请求执行的，如果被执行人或者其财产不在中华人民共和国领域内，应当由当事人直接向有管辖权的外国法院申请承认和执行。

第二百六十五条 外国法院作出的发生法律效力判决、裁定，需要中华人民共和国人民法院承认和执行的，可以由当事人直接向中华人民共和国有管辖权的中级人民法院申请承认和执行，也可以由外国法院依照该国与中华人民共和国缔结或者参加的国际条约的规定，或者按照互惠原则，请求人民法院承认和执行。

第二百六十六条 人民法院对申请或者请求承认和执行的外国法院作出的发生法律效力判决、裁定，依照中华人民共和国缔结或者参加的国际条约，或者按照互惠原则进行审查后，认为不违反中华人民共和国法律的基本原则或者国家主权、安全、社会公共利益的，裁定承认其效力，需要执行的，发出执行令，依照本法的有关规定执行。违反中华人民共和国法律的基本原

Article 264 If a party applies for execution of a legally effective judgment or ruling made by a people's court and the party subject to execution or his property is not located within the territory of the People's Republic of China, the applicant may directly apply for recognition and execution to the competent foreign court. Alternatively, the people's court may, pursuant to an international treaty concluded or acceded to by the People's Republic of China or in accordance with the principle of reciprocity, request the foreign court to recognize and execute the judgment or ruling.

If a party applies for execution of a legally effective arbitral award made by an arbitration institution of the People's Republic of China for foreign-related disputes and the party subject to execution or its property is not located within the territory of the People's Republic of China, it shall directly apply for recognition and execution to the competent foreign court.

Article 265 If a legally effective judgment or ruling made by a foreign court requires recognition and execution by a people's court of the People's Republic of China, the CHAPTERy concerned may directly apply for recognition and execution to the competent intermediate people's court of the People's Republic of China. Alternatively, the foreign court may, pursuant to the provisions of an international treaty concluded between or acceded to by the foreign state and the People's Republic of China, or in accordance with the principle of reciprocity, request the people's court to recognize and execute the judgment or ruling.

Article 266 Having received an application or a request for recognition and execution of a legally effective judgment or ruling of a foreign court, a people's court shall review such judgment or ruling pursuant to international treaties concluded or acceded to by the People's Republic of China or in accordance with the principle of reciprocity. If, upon such review, the people's court considers that such judgment or ruling neither contradicts the basic principles of the law of the People's Republic of China nor violates State sovereignty, security and the public interest, it shall rule to recognize its effectiveness. If execution is

则或者国家主权、安全、社会公共利益的，不予承认和执行。

necessary, it shall issue an order of execution, which shall be implemented in accordance with the relevant provisions of this Law. If such judgment or ruling contradicts the basic principles of the law of the People's Republic of China or violates State sovereignty, security or the public interest, the people's court shall refuse to recognize and execute the judgment or ruling.

第二百六十七条 国外仲裁机构的裁决，需要中华人民共和国人民法院承认和执行的，应当由当事人直接向被执行人住所地或者其财产所在地的中级人民法院申请，人民法院应当依照中华人民共和国缔结或者参加的国际条约，或者按照互惠原则办理。

Article 267 If an award made by a foreign arbitration institution must be recognized and executed by a people's court of the People's Republic of China, the party concerned shall directly apply to the intermediate people's court of the place where the party subject to execution is domiciled or where his property is located. The people's court shall handle the matter pursuant to international treaties concluded or acceded to by the People's Republic of China or in accordance with the principle of reciprocity.

第二百六十八条 本法自公布之日起施行，《中华人民共和国民事诉讼法（试行）》同时废止。

Article 268 This Law shall be implemented as of the date of promulgation. The PRC, Civil Procedure Law (Trial Implementation) shall be repealed simultaneously.