

Act No. 142/1950 Coll., on Proceedings in Civil Legal Matters (Civil Procedure Code)

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

PART ONE GENERAL PROVISIONS. CHAPTER ONE BASIC PROVISIONS.

Section 1 Purpose of the Act.

(1) The Act on Proceedings in Civil Legal Matters regulates proceedings before civil courts, their decision-making, and the execution of their decisions in such a way as to ensure quick and effective protection of property and personal rights of citizens as well as property rights and legal interests of the State and socialist legal entities.

(2) While performing these acts, the court shall proceed without redundant formalities. The court shall make every effort to establish true state of affairs, and by making fair decisions, it shall consolidate socialist legality and educate citizens to fulfil their civic duties.

[keywords: civil courts proceedings]

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Section 3 Jurisdiction of ordinary courts.

In civil legal matters, unless they are exempted from the jurisdiction of ordinary courts, the district courts decide in the first instance, and the regional courts in the second instance. The Supreme Court shall decide in matters established by law.

[keywords: jurisdiction]

Section 4 Senate. Single Judge.

(1) The courts usually implement judicial power in senates.

(2) If, according to the law, a single judge (hereinafter referred to as the "judge") leads the proceedings, they have rights and obligations of the senate and of the chairman of the senate.

[keywords: court composition]

Section 5 Participants.

A proceeding participant is a person whose rights or obligations are to be established in the proceedings, or a person who may be directly affected by the court's decision in their rights, or a person being participant based on the law.

[keywords: proceeding participant]

Section 6 Prosecutor.

(1) If the prosecutor believes that it is necessary to protect interests of the State or workers, they can join the proceedings at any point and subsequently shall be entitled to do all procedural acts pertaining to the participant based on the state of the proceedings.

(2) The court shall notify the prosecutor, who joined the proceedings, of each hearing, of which the court notifies the participants, and shall deliver all the documents to be delivered to the participants also to the prosecutor.

(3) Special provisions establish when the prosecutor may file a motion to initiate proceedings.

[keywords: prosecutor]

Section 7 Guiding and advising participants.

The court shall provide workers the necessary guidance to perform their acts in court, advise them on legal consequences associated with such acts or their omission, and shall make sure they do not suffer damage to their rights due to a lack of general or legal education.

[keywords: guiding and advising participants]

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Part Two. Special provisions.

Chapter One. Matrimonial issues and other matters concerning spouses .

Section One. Matrimonial issues.

Section 230 Jurisdiction.

(1) The court in the district of which the spouses last lived together has jurisdiction for proceedings on divorce, annulment of marriage, and determination of whether marriage exists or not (marital issues).

(2) If the spouses did not have their last joint residence in the Czechoslovak Republic, the general court of the defendant has jurisdiction for the proceedings; if there is no such court, the general court of the petitioner has jurisdiction.

(3) If the annulment of the marriage is to be declared ex officio and if the spouses did not have a joint residence in the Czechoslovak Republic, the general court of either of the spouses has jurisdiction for the proceedings.

[keywords: jurisdiction, marital issues]

Proceedings.

Section 231 The spouses are proceedings participants.

[keywords: spouses]

Section 232 One counterpart of the motion to initiate proceedings shall be delivered to the attention to the defendant (in their own hands). The notification on commencement of the proceedings shall be delivered to attention of both spouses (in their own hands).

[keywords: delivery of counterpart motion]

Section 233 As a rule, the court shall hear both spouses personally, right at the first oral hearing.

[keywords: personal hearing of parties]

Section 234 A motion to initiate proceedings can be withdrawn even during the appeal process, and the validity of the withdrawal motion does not require confirmation of the court.

[keywords: appeal]

Section 235 Except for the marriage annulment proceedings, a stay of proceedings is permissible (Section 421).

[keywords: stay of proceedings]

Section 236 The court cannot accept validity to the recognition of the claim (Section 74).

[keywords: recognition of claim]

Special provisions for marriage nullity proceedings.

Section 237 The issue of marriage invalidity cannot be resolved within another proceeding, not even as a preliminary issue.

[keywords: marriage invalidity, separate case]

Section 238 If one of the spouses dies before the decision becomes final, the court shall stop the proceedings and cancel decision already announced by resolution, unless the law allows the proceedings to continue.

[keywords: death of spouse]

Special provisions for divorce proceedings.

Section 239 If the second spouse joins the motion for divorce and if the motions of both spouses concur on the issue of fault in the divorce, the court may limit itself to interrogate participants just to establish the breakup and fault in it.

[keywords: joint motion for divorce]

Section 240 If there are minor children, the court shall arrange for the general court for minor children to conditionally - in the case the divorce is pronounced - adjust the rights and obligations of the parents towards their minor children and their property before the divorce is pronounced.

[keywords: minor children, divorce]

Section 241 If one of the spouses dies before the decision becomes final, the court shall stop the proceedings and cancel decision already pronounced by a resolution.

[keywords: death of spouse]

Section Two. Other matters concerning spouses.

Section 242 In other matters concerning spouses, as regulated in the Family Law Act, decisions are made by resolution after an oral hearing.

[keywords: judicial decision, oral hearing]

Section 243 If the motion for divorce or annulment of marriage is accompanied by a motion for alimony for personal needs or if such proceedings have been combined, the court will also decide on the alimony for personal needs in form of a judgment.

[keywords: motion for alimony]

Chapter Two. Matters of guardianship, curatorship, matters of children under parental authority and matters of adoption.

Section One. Matters of guardianship, curatorship, matters of children under parental authority.

Jurisdiction.

Section 244 The court having jurisdiction for matters of guardianship, curatorship, and for matters of children under parental authority is the general court of the ward.

If such court is unknown or if it cannot intervene in time without causing harm to the ward, the court in whose district the ward resides shall intervene; however, as soon as possible, such court shall refer the matter to the competent court.

[keywords: jurisdiction]

Section 245 In the interests of the ward, the court may pass its jurisdiction to another court based on a motion or ex officio. If the other court does not agree with the transfer, decision pertains to its superior regional court.

[keywords: ward]

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Proceedings.

Section 247 Proceedings is started ex officio, unless it arises from the nature of the matter that it should be initiated only based on a motion.

[keywords: ex officio proceedings]

Section 248 (1) The senate shall decide by a resolution after oral hearing.
(2) The judge shall decide without oral hearing.

[keywords: oral hearing]

Section 249 (1) In important or doubtful cases, the court shall also hear the ward, as long as the latter is able to judge their interests; the court shall also hear the ward's closest relatives or other persons familiar with the circumstances, if it can be expected this helps with clarifying and assessing necessity or appropriateness of the proposed or intended measure.

(2) As a rule, the court should, especially with regard to minors, act in cooperation with public authorities and facilities for protection or benefit of wards.

[keywords: ward, circumstances]

Section 250 Decision on parental authority.

If the parents fail to agree on the exercise of parental authority, the court shall decide how the parental authority should be exercised, in particular which of the parents shall represent the minor.

[keywords: decision on parental authority]

Section 251 Education and sustenance of children.

(1) If the parents of a minor child do not live together, the court shall decide on who

shall be entrusted with the education of the child and how each of the parents shall contribute to their sustenance; if necessary, the court shall also establish the relationship between the parents and the child. The decision can be replaced by agreement of parents; however, court's approval is required in such case.

(2) The court shall determine the scope of sustenance obligation, even if the parents live together, if one of them fails their obligations voluntarily.

[keywords: sustenance of children]

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Section Two. Adoption matters.

Section 263 Jurisdiction.

(1) The court having jurisdiction to decide on adoption is the adoptee's general court, and if the adoptee is a ward, the guardianship court.

(2) If there is no such court in the Czechoslovak Republic, the general court of the adopter has jurisdiction to decide.

[keywords: jurisdiction]

Section 264 The senate shall decide by resolution after oral hearing.

[keywords: oral hearing]

Section 265 Before making a decision on adoption, the court shall hear - if possible, in person - the adopter and their spouse, if their consent is required, the adoptee's legal representatives, the public youth care authority, the adoptee, if they are able to judge consequences of the adoption, and the parents, even if they are not adoptee's legal representatives.

[keywords: personal hearing]

Section 266 In its resolution on adoption the court shall decide what surname the adoptee shall use. The resolution is enforceable as soon as it becomes final. One counterpart of the final resolution shall be separately filed with the court.

Annulment of adoption.

[keywords: adoptee's surname]

Section 267 The court having jurisdiction to decide on annulment of the adoption relationship is the court that decided on the adoption. For such annulment of adoption, the provisions of Sections 264 to 266 shall apply accordingly.

[keywords: annulment of adoption]

Section 268 The agreement on annulment of adoption between the adopter and the adult adoptee can be drafted by a judge of any court; such judge shall send a copy of the record on annulment of adoption to the court that decided on the adoption to file it separately and to mark the annulment in the adoption files

[keywords: agreement on annulment of adoption]