

The New Code of Civil Procedure

Legislative Decree No. 90/83

Selected Articles

Book 1 The Code of Procedure

Preliminary Provisions General Principles

Article 1- The judiciary is an independent authority that institutes proceedings and rules on them, and is subject to no restrictions but those stipulated by the Constitution.

Article 2- The courts shall comply with the principle of the rules of hierarchy.

In the event of conflict between the provisions of international treaties and those of ordinary law, the former shall take precedence over the latter.

Courts shall not declare null the legislative authority's activities on the grounds of inconsistency of ordinary laws with the Constitution or international treaties.

Article 3- A judge shall not render judgments in the form of legislation.

Article 4- A judge shall be liable for a denial of justice if he:

- 1- Refrains from ruling on the pretext of obscurity or lacunae in the law.
- 2- Delays the rendering of a judgment for no reason.

If the law is obscure, the judge shall interpret it in a manner consistent with its purpose and with other texts.

In the absence of a law, the judge shall apply the general principles of law, customs, and the principles of justice.

Article 5- The new Code of Civil Procedure shall take effect immediately in respect of cases still pending or proceedings that took place before its entry into force, except for:

- 1- Laws amending jurisdiction, when they have become effective after the conclusion of the trial or the rendering of a judgment in a related matter.
- 2- Laws amending time-limits, when the time-limit has started before those laws have become effective.
- 3- Laws governing remedies for rulings or arbitration decisions issued before those laws became effective, when those laws annul or create one of those remedies.

Chapter I- The case

Section 1- General Provisions

Article 10- The right to make a claim or present a defence shall be subject to the proper use of that right. Therefore, any arbitrary motion, defence or opposition shall be rejected and the party responsible for it shall be held liable to the payment of compensation for the resulting damage.

Section 5: Defence, Procedural Objection and Objection to admissibility

Part 3: Objection to admissibility

Article 62 - This article was repealed by Act No. 96/529 and replaced with the following text¹:

Objection to admissibility designates all grounds by virtue of which the party declares the inadmissibility of the request of the opposing party without examining its substance, in order to extinguish the lawsuit.

¹ The original text of Article 62: Objection of inadmissibility designates all grounds by virtue of which the party declares the inadmissibility of the request of the opposing party without examining its substance, in order to extinguish the lawsuit

Objection of inadmissibility includes objection to capacity or jurisdiction, or objection on the grounds of the prescription period, *res judicata* or expiry of the time limits of the judicial proceedings.

Objection to admissibility includes objection to capacity or jurisdiction, or objection on the grounds of *res judicata* or expiry of the time limits of the judicial proceedings. Objection to the prescription period is considered an objection to admissibility in accordance with special provisions such as the provisions of Article 361 of the Code of Obligations and Contract.

Section 6: Estimation of the amount of the dispute

Article 69 - The criterion used for estimating the amount of the dispute resides in the grounds mentioned in the petition and subsequent submissions.

Chapter II

Section 8

Disqualification or withdrawal of the Judge

Article 120: The litigant(s) may request the disqualification of the judge on one of the following grounds:

1. If the judge, or his spouse or fiancée, has a direct or indirect interest in the case, even after the dissolution of such marriage or engagement.
2. If the judge is related to one of the litigants or the attorney or guardian thereof by blood, marriage, lineal or collateral descent, up to the fourth degree of kinship, even after the dissolution of the marriage on which such kinship was based.
3. If the judge is related by blood or marriage, up to the fourth degree of kinship, to a board member of a litigant company, or to a director of such a company, if that board member or director has a personal interest in the case.
4. If the judge is, or had been, the attorney or legal representative of one of the litigants, or if one of the litigants chose him as an arbitrator in a previous case.

5. If the judge, or one of his relatives by blood or marriage, up to the fourth degree of kinship, had examined the case as a judge, expert, or arbitrator, or had given a testimony in the case. This does not include circumstances in which the judge examined an objection, an objection filed by a third party, or a retrial against a judgment in which the judge or one of his relatives by blood or marriage, as described above, had participated.
6. If the judge had pronounced an opinion on the same case, even if that opinion was given before he was appointed to the judiciary. This can be proved only by written evidence or by the confession of the judge.
7. If amicability or enmity between the judge and one of the litigants is likely to make the judge unable to render an unbiased judgment. Contempt of the judge by a litigant, however, may not lead to the disqualification of the judge.
8. **The present paragraph is hereby abolished by virtue of Law 529/96 and is replaced by²:** If one of the litigants is a creditor, debtor, servant, or relative of the judge, up to the second degree of kinship.

Article 123 - A motion for withdrawal or disqualification relating to judges of courts of first instance shall be submitted to the Court of Appeal with jurisdiction over those courts. The Court of Appeal shall consider the motion *in camera* and the decision rendered thereby shall not be subject to appeal.

A motion for withdrawal or disqualification relating to judges of the Court of Appeal shall be submitted to the Court of Appeal itself, and shall be considered by one of the chambers thereof, appointed by the First President of the Court. The decision, rendered *in camera*, shall not be subject to appeal.

A motion for withdrawal or disqualification relating to judges of the Court of Cassation shall be submitted to the Court of Cassation and shall be considered by one of the chambers thereof, appointed by the First President of the Court of Cassation.

² The previous text of paragraph 8 reads: If one of the litigants is a creditor or servant of the judge.

Chapter IV: The Trial

Section 1: General Provisions

Article 372 - Under no circumstances may judgement be rendered against a party without him being heard or given the opportunity to present his defence.

Article 373 - In any event, the judge shall comply with the adversarial principle and impose it on the parties.

He may not adopt in his judgment grounds and explications given by one of the parties, or documents submitted by said party, unless the other parties are given the opportunity to discuss them *inter partes*.

He may not base his judgment on legal grounds he has provided *proprio motu* without first inviting the parties to submit their observations in this regard.

Article 374 - When the law allows or necessity dictates the adoption of a measure without informing the party concerned, the latter may appeal against a decision which harms him through the appropriate channels.

Article 375 - Reconciling the parties is considered to be one of the Judge's tasks.

Article 376 - The judicial proceedings shall be public unless the law requires or allows them to be held *in camera*.

Section 4: Correction and Interpretation of Judgments

Article 562 - Parties may request the Court which issued the judgment to explain any ambiguity or imprecision it may contain, unless the judgment has been challenged in any way.

The request is submitted in accordance with the rules for initiating a case. The explanatory judgment is complementary in all aspects to the judgment it explains, and is subject to the same rules relating to the ways in which it may be challenged.

Section 2: Ordinary Means of Appeal

Part 2: The Appeal

Article 640 - was repealed by virtue of Law No. 529/96 and replaced with the following text³: With regard to the amount of the object of dispute, judgments settling a dispute of a specific amount not exceeding three million Lebanese Pounds shall not be subject to appeal.

The amount of the object of dispute is determined on the day the appeal is filed.

The provisions of the second paragraph of this article shall apply to pending lawsuits and come into force upon the publication of this law⁴.

³ The previous text of Article 640 reads: With regard to the amount of the object of dispute, judgments settling a dispute of a specific amount not exceeding 800,000 LBP shall not be subject to appeal. The amount of the dispute regarding the minimum value to appeal shall be determined in accordance with the provisions of Articles 69 to 71.

⁴ i.e. Law No. 529/96 dated 20 June 1996 and published in the Official Gazette Number 26 on 27 June 1996.