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BYLAW ON ENFORCEMENT OF PROVISIONS OF TURKISH CIVIL CODE ON CUSTODY, GUARDIANSHIP AND SUCCESSION

Date of Cabinet Decree: 21/7/2003, No: 2003/5960

**Date of the Law on which the By-law is based: 22/11/2001, No:
4721**

Published on Official Gazette Date: 10/8/2003, No: 25195

Published Code: Volume: Series.

CHAPTER ONE

Purpose and Scope

Purpose and scope

Article 1 – Purpose of this bylaw is to regulate enforcement of provisions of Turkish Civil Code No.4721 on custody, guardianship and succession.

CHAPTER TWO

Custody

PART ONE

Provisions on Custody

Custody

Article 2- Child who is not of age shall be under custody of mother and father. If mother and father are not married, custody shall lie with the mother. Custody shall not be relieved of mother and father without a legal ground.

Regarding custody, articles 335-351 of Turkish Civil Code shall apply.

PART TWO

Protection of the Child and Their Properties

Protection of the Child

Article 3- In cases specified in articles 346 and 347 of Turkish Civil Code, the judge may decide to place the child with a family or in an institution for their protection. In that case, a protection order shall be granted by the relevant court as per article 22 of Law No.2828 on Social Services and Child Protection Institution.

In the case that protection order is not granted, necessary measures shall be taken for the child as per relevant provisions of article 1580 of Law No.1593 on Public Health and article 15 of Law No. 1580 on Municipalities.

Protection of the child's properties

Article 4- In case of death of one of the parents, the registrar or in case of dissolution of marriage through court decision, the court having made the decision shall immediately notify the family court situated in place of residence of the surviving spouse or the spouse vested with custody, in absence thereof the court designated by Council of Judges and Prosecutors. The court shall request the surviving spouse or the spouse with custody to submit a book showing the inventory of the child's properties if any and notify the judge of important changes in the said assets or investments made.

If mother and father do not show due diligence to manage the properties of the child irrespective of the reason, the judge shall take the measures envisaged in article 360 and 361 of Turkish Civil Code and take necessary actions.

Disbursement of revenues

Article 5- Revenues of the properties of the child shall be spent primarily for care, upbringing and education of the child. Revenues exceeding this range can be spent to meet family needs within the boundaries required by equity such as social and economic situation of the family and economic burdens placed on the family by the child.

Surplus revenues shall be included in properties of the child.

Partial disbursement of the child's properties

Article 6- In cases necessitated by ordinary needs of the child and to be limited to those needs, payments made to the child in the form of capital, compensations paid for the losses incurred, premiums, payments made by social welfare and social security institutions and similar deeds can be partially used for the child's care. Payments in the form of capital, compensations and similar deeds can be used partially for care of the child to the extent necessitated by ordinary needs.

If there is an obligation for care, upbringing and education of the child, the judge may provide mother and father with the authority to resort to other properties of the child as per amounts determined by the judge.

Alienation of properties in case of termination of custody

Article 7- Mother and father whose custody or right to manage property is terminated through judge's decision shall alienate properties of the child to the guardian or curator along with a chart of accounts. If there are shortcomings, they shall be determined separately and if the guardianship board deems necessary, they shall ask the guardian or curator to file a lawsuit against the custodian due to missing or damaged properties.

In the case of termination of custody due to the child coming of age, upon request of the child who is of age, mother and father shall alienate the properties to the child along with a chart of accounts.

CHAPTER THREE

Guardianship

PART ONE

Guardianship and Supervisory Board and Appointment of Guardian

Article 8- In application of this Bylaw, as per article 397 of Turkish Civil Code, guardianship board shall be civil court of peace, supervisory law shall be civil court of first instance.

However, for guardianship procedures arising from family law, provisions of article 7 of Law No. 4787 on Establishment, Duties and Proceedings of Family Courts regarding guardianship and supervisory boards shall apply.

Notification

Article 9- If custody is relieved of both mother and father as per Turkish Civil Code or custody being relieved of one of mother or father necessitates the child being placed under guardianship or in cases entailed by new phenomena such as mother or father having custody after divorce remarrying or going someplace else or in other cases necessitating revocation of custody and if a decision is made on revocation of custody, the judge shall notify the guardianship board situated in the place of residence of the child for appointment of a guardian after the decision becomes final.

If the registrar registering death in the state register sees that there is someone in the register that needs to be placed under guardianship, he/she shall immediately notify the competent guardianship board of the situation along with family registry of the deceased. If the deceased is registered with the registry of another place, the registrar where the death took place shall notify the civil registry office where the deceased is registered. The registrar having been notified of such situation shall notify the competent guardianship board.

Administrative authorities, notaries and courts having been notified of a minor who is not under custody necessitating guardianship or a person of age who is in constant need of assistance for protection and care or cannot do their own work due to mental disorder or weakness of mind or endangers safety of others shall be obliged to notify the guardianship board situated in the place of residence of the situation immediately.

Registration with the principal register

Article 10- Applications and notifications made to the court for appointment of a guardian shall be registered with the principal register of the court.

The applicant shall be given a document containing registration number upon request.

Determining those willing for guardianship beforehand

Article 11- Guardianship board may require that they be notified by relevant institutions of persons within judicial locality of the court and willing to be guardian to be taken into account when appointing guardian in the future.

Appointment of guardian

Article 12- The guardianship board shall appoint a guardian by applying relevant provisions of Turkish Civil Code upon application or notification made as per above mentioned provisions.

Date and number of the decisions regarding appointment of a guardian shall be registered with the principal register.

Rules regarding appointment of guardian shall also apply to appointment of curator and statutory advisor.

Appointment of guardian for children under protection

Article 13- If a protection decision is made by the court for the child in need of protection so that they can be placed in and cared for in social service institutions or children for whom immediate protection measure is a necessity are put under protection through approval of local administrative chief, the guardianship board shall appoint the person with whom the child is placed or any other person deemed appropriate from the family if the child is not under custody or director of the institution or any other person fulfilling the requirements.

If it is decided that those placed with foster families are to be placed in an institution, the guardianship board shall terminate duties of the former guardians and appoint someone deemed appropriate from the family of the child or director of the institution the child is placed in or any other person as guardian.

Director of the institution appointed as guardian shall be obliged to take necessary measures for care and education of the child. If the child placed in an institution has properties and director of the institution does not accept to manage his/her properties, one or more than one guardian can be appointed after taking their consent.

PART TWO

Restriction of Freedom for Protection

Restriction of freedom for protection

Article 14- Each person of age posing a danger for the society irrespective of whether they are under legal disability or not shall be placed with or retained in an appropriate institution for treatment, education or rehabilitation unless their protection cannot be ensured by other means due to mental illness, weakness of mind, alcohol or drug abuse, communicable disease that poses severe danger or roguery such as leading a life that is incompatible with one's social and economic conditions or endangers one's life.

When restricting freedom of a person for protection, inconvenience caused by the said person for their surroundings shall also be taken into account.

The judge shall also hear the person whose freedom is restricted or to be restricted when deciding on restriction of freedom for protection.

The person restricted shall be discharged from the institution as soon as their situation permits after the reasons for restriction of freedom are eliminated.

Articles 432-437 of Turkish Civil Code shall apply when restricting freedom for protection.

PART THREE

Duties of Guardian

Duties of guardian in general

Article 15- The guardian shall be obliged to show due diligence for care, education, protection of personal rights and representation in legal transactions of the person under their guardianship and manage their properties meticulously.

Keeping book

Article 16- Upon finalization of appointment to guardianship decision, a person to be assigned by the guardian and the guardianship board shall start to keep book of the assets to be managed within a timeframe to be determined by the judge. Type, number and current value of the assets belonging to the person under guardianship shall be written down in the book under sequence number. Locations, boundaries, areas, features, title deed registries of immovables and rights in rem on restrictions of those assets shall be indicated separately.

If the person under guardianship has mental competence, the said person shall be kept available at the time of keeping book if possible.

If the person under guardianship does not have any assets, the guardianship board shall be notified of the situation in written, in which case a book is not kept.

If there is a situation that stands in the way of keeping the book within the timeframe set in paragraph one, time extension could be requested of the guardianship board. If time extension request of the guardian is deemed appropriate by the guardianship board, an extension of time shall be granted. This timeframe shall be final.

The book kept shall be submitted to the guardianship board within the set timeframe as two copies. If the guardianship board establishes that the properties included in the book are not well-defined, there is a mistake made in determining their value, something about the properties is miswritten, it makes sure that all of those shortcomings are compensated for under its supervision. If the guardianship board is of the opinion that the book is kept properly and, in due form, it shall submit one of its copies to the guardian after having approved it and the other copy shall be kept in the file.

If the book is not kept or completed within the set timeframe, the guardian shall be relieved of duty by the guardianship board as per article 483 of Turkish Civil Code.

Keeping an official book

Article 17- As may be required by the conditions, the guardianship board may decide that an official book of the assets of the person under guardianship is kept upon request of the guardian and guardianship board. This book shall bear the same results for the creditors as the official book for inheritance and shall be kept in line with the procedure there.

Determining whether the assets meet the needs

Article 18- After the book drawn up as per article 16 of Bylaw is submitted to the guardianship board, the judge exercises discretion as to properties, revenues and needs of the person under guardianship or makes sure they are all assessed and makes a decision as to whether properties and revenues of the person under guardianship can meet their needs.

Actions to be taken in case assets do not meet needs

Article 19- In the cases that the person under guardianship does not have any assets or it is decided by the guardianship board that existing properties and revenues of the person under guardianship will not meet the needs as per the book to be drawn up, the guardian shall not be obliged to keep book and be accountable.

In this case, if properties of the person under guardianship are turned into money, the guardianship board shall put an annotation about the situation in the book specified by article 16 of the bylaw.

The guardian shall inform the guardianship board about acquisitions obtained through donation or similar ways by the person under guardianship who does not have properties or properties and revenues of whom are not sufficient to meet his/her needs within one month as of the date of acquisition to be entered in the book. The guardian shall be liable for any delay in notification.

If properties and revenues are sufficient to meet the needs due to the person under guardianship having properties and revenues by means of acquisitions obtained subsequently, through a decision the guardianship board shall impose the duty of keeping book and if necessary being called to account on the guardian who does not keep book and the duty of being called to account on the guardian who keeps book but is not held accountable.

Actions to be taken in case the assets are sufficient to meet the needs

Article 20- If the guardianship board decides that assets and revenues of the person under guardianship are sufficient to meet his/her needs, the guardian shall manage the assets of the person under guardianship based on the following provisions.

Statement

Article 21- If the guardianship board has not established another timeframe, the guardian shall submit a statement indicating the status on the last day of december each year to the guardianship board by the last day of January at the latest. If it is decided that the report be drawn up at intervals of less than one year, the guardianship board shall decide on what the latest day of the report will be in terms of indicating the status and when the report is to be submitted at the latest.

The changes in the assets, expenditures incurred and the revenues obtained within fiscal period are indicated in detail in the report and their documents are attached to the report. If there are actions taken to implement a decision of the guardianship board, dates of the relevant decisions shall also be indicated within the report.

The report shall also contain detailed information on accounts of the properties belonging to the person under guardianship, his/her lifestyle, place of residence and vocational training.

Examination and approval of statement

Article 22- The guardianship board shall examine the statement by taking into account whether due diligence expected of a good administration is shown within one month as of its submission at the latest and if there is a shortcoming or mistake in the statement, an appropriate amount of time shall be given for completion or rectification of accounts.

If the person under guardianship is able to have and express opinions, he/she shall be kept available if possible, during examination of the account by the judge.

The guardianship board shall accept or decline the report and account as a result of its examination and take the appropriate measures to protect interests of the person under guardianship when necessary.

The guardian shall be liable for the damages done to the person under guardianship due to a misconduct while fulfilling his/her duty.

Preservation of valuable goods

Article 23- Commercial papers, valuable goods, important documents etc. shall be preserved in a safe place under supervision of the guardianship board if there is no inconveniency in terms of asset management.

If there is an obstacle in terms of their preservation and management, they can be submitted to the guardian when necessary by getting reassurance.

Numbers, qualities and values of the goods shall be specified separately in the report regarding submission of the said goods.

Money and securities

Article 24- Money belonging to the person under guardianship shall be deposited into an account opened in a national bank to yield interest and they shall be converted into securities issued by the Treasury.

The guardianship board shall notify the bank about to whom and how payment can be made out of this account.

Selling the properties

Article 25- Sale of the properties belonging to the person under guardianship shall be conducted by auction.

However, the guardianship board may decide on bargain sale for movable properties by taking into account of the specific situations, quality of the movable property or scantness of the value and for immovable properties the supervisory board may decide on bargain sale after the guardianship board settles on sale.

Goods that have special meaning for the person under guardianship or their family shall not be sold unless there is a necessity to that end.

Procedure for sale by auction

Article 26- Auction shall be conducted under supervision of the guardianship board and by the officer assigned with this duty while the guardian is present.

The judge shall determine terms of sale and where and how sale announcements are to be planned for sale by auction in line with the interests of the person under guardianship. In the sale advertisement it is also specified that the bidding shall be completed through approval of the judge. When preparing the specifications and advertisement of sale by auction, provisions of Enforcement and Bankruptcy Code No. 2004 shall be taken into account.

In order for the movable and immovable properties to be transferred to the highest bidder in the auction, the guardianship board must approve the bidding within ten days.

The recipient must pay the sale value within ten days as of the date of the bidding on condition that the bidding is approved. The sale value shall be deposited to a national bank to be determined by the guardianship board.

After the sale value is paid in full, the movable properties shall be submitted to the recipient. For registration of the immovables in the name of the recipient, the judge shall write an official message to the office of title deeds registry by attaching a certified sample of the bidding report. This official message shall constitute the legal basis of registration in land registry.

Procedure for bargain sale

Article 27- Bargain sale shall be conducted under supervision of the guardianship board and by the officer assigned with this duty while the guardian is present.

The judge shall determine whether the terms of sale and sale advertisement are to be prepared and where and how there are to be planned if they are to be prepared in line with the interests of the person under guardianship. In the sale advertisement it is specified that the bidding is to be completed through approval of the judge.

At least three bidders are invited to the bidding to be conducted through bargain sale. As a result of bargaining conducted with bidders, the bidding shall be awarded to the bidder with the highest bid price.

In order to transfer movable and immovable properties to the highest bidder as a result of bargaining, the guardianship authority must approve the bidding within ten days.

The recipient must pay the sale value within ten days as of the date of bidding on condition that the bidding is approved. The sale value shall be deposited to a national bank account to be determined by the guardianship board.

After the sale value is paid in full, the movable properties shall be submitted to the recipient. For registration of the immovables in the name of the recipient, the judge shall write an official message to the office of title deeds registry by attaching a certified sample of the bidding report. This official message shall constitute the legal basis of registration in land registry.

Complaint and objection

Article 28- If the guardianship board learns as a result of complaints and examination made that while fulfilling the duties specified in article 14 of the Bylaw, the guardian does not duly look after interests of the person under guardianship and engages in acts and actions that might damage his/her rights, the board shall take the appropriate measures including terminating the duty of the guardian.

One can raise an objection to these decisions made by the guardianship board with the supervisory board within ten days as of the date of notification. The supervisory board shall adjudicate on this objection by holding hearings when necessary.

The guardian's salary

Article 29- The guardian may demand that he/she be paid a salary out of assets of the person under guardianship and if not possible by the Treasury. The salary to be paid shall be determined by the guardianship board for each accounting period by taking into account the effort entailed by management and revenues of the assets managed.

Liability of curator

Article 30- Curator assigned for a type of specific work must abide by instructions given by the guardianship board. The guardianship board shall warn the curator so that assignments with deadline are carried out on time.

PART FOUR

Termination of Guardianship

Termination of guardianship and actions to take

Article 31- The guardian whose duty is terminated for any reason as per provisions of Turkish Civil Code shall be obliged to submit the final report about management and final account to the guardianship board within fifteen days as of termination of the duty.

In the final report, each item and quality of assets, revenues and expenditures shall be written down separately. If there is a report that was submitted and approved beforehand, it would be sufficient to add revenues and expenditures made following the said report. The documents regarding revenues and expenditures requested by the judge are also attached to the final report. Documents are not requested for expenditures such as travel, food and clothing, which can be afforded by the person under guardianship.

In addition to the final report in the final account, total amount of revenues and expenditures and discrepancy in revenues and expenditures as of the date of appointment of guardian and termination of the duties of guardian shall be indicated separately.

The guardianship board shall examine the final report and final account within fifteen days, approve them if deemed appropriate and if there are shortcomings, the guardian shall be given a period of time to make up for the shortcomings. After the shortcomings are made up for within the period of time given to the guardian, the report and the final account shall be approved by the guardianship board. After the final report and account are approved, assets shall be handed over to the person under guardianship, his/her heirs or the new guardian.

If the guardian does not make up for shortcomings despite the time extension given or the guardian does not submit the report within the period of time specified in paragraph one or the guardianship board is of the opinion that the guardian must be liable as per the report, the board shall notify the guardian about the decision to decline the final report and final account. This decision shall also be notified to the person of age with mental competence or his/her heirs or the new guardian by informing them of their right to file a lawsuit for compensation. Through this notification it is also stated that the duties of the guardian are terminated. The new guardian shall file a compensation lawsuit against the former guardian upon this notification. In this case, assets shall be handed over to the person of age with mental competence, his/her heirs or the new guardian.

CHAPTER FOUR
Succession
PART ONE
Protection Measures

In general

Article 32- Inheritance shall be opened for the whole of the assets at the place of residence of the legator following his/her death.

Civil magistrate located in the place of residence of the legator shall take all the necessary measures envisaged in article 589 of Turkish Civil Code in order to protect estates and make sure that they are handed over to right holders ex officio or upon request.

If the circumstances entailing measures cease to exist, the civil magistrate shall put an end to measures and hand over the estate to the right holders.

Keeping book and sealing

Article 33- If one of the reasons specified in article 590 of Turkish Civil Code comes true, the civil magistrate shall decide on keeping book of the estate to write down estate properties and rights.

Out of the estate properties that are written down, those that need to be protected shall be sealed and put under protection as per article 595 of Turkish Civil Code. Sealing can also be done before writing down the estate properties. Appropriate protection measures shall also be taken for properties that are not sealed. Immovable properties that are necessary for residence of those living with the legator and goods that are necessary for their needs shall not be sealed.

Properties that comprise movables assessment of which takes a long time shall be preserved by being sealed or being put in a safe place such as a case.

In the case that it is not possible to start keeping book immediately, it might be decided to seal all of or a part of the estate properties to be written down in the book immediately after the death or within ten days at the latest to ensure their protection. For the properties that are sealed there is also book kept.

Sealing done upon request of the creditors shall be limited to the amount of debt. If the creditors are given guarantee, sealing shall not be done and if already done, it shall be revoked.

Official management of the estate

Article 34- The civil magistrate shall decide on official management of inheritance in circumstances specified in article 592 of Turkish Civil Code.

Civil magistrate officially managing the estate or any other person assigned with this task by the civil magistrate shall be obliged to duly manage the estate as a good manager and undertake work envisaged in article 593 of Turkish Civil Code.

Money belonging to the estate shall be deposited to a national bank account opened for the estate in order to yield interest and be converted into securities by the Treasury.

Salary to be paid to the person officially managing the estate shall be determined by the civil magistrate by taking into account the effort entailed for management and the assets to be managed.

Termination of official management of the estate

Article 35- Decision to officially manage estate shall be revoked by the civil magistrate when the reason ceases to exist. In this case, the person assigned with management of the estate shall submit a report to the civil magistrate showing all the actions taken during management of the estate within one week at the latest. The court shall send copies of the report to those interested.

Procedure for opening the testament

Article 36- It is necessary that the testament obtained following death of the legator be opened within one month as of its submission to the civil magistrate located in the place of residence and read out to those concerned irrespective of whether it is valid or not. However, if a testament is obtained without material evidence as to the death of the legator, opening of the testament shall be postponed until after this evidence is provided.

The civil magistrate shall determine opening day of the testament. Legators whose addresses are known shall be invited by indicating opening day and time of testament through the procedure to be designated by the court.

The civil magistrate shall open the testament in the presence of heirs coming on the day they are invited. Even if no heir has turned up despite the invitation, the testament shall be opened.

The testament that is opened shall be read out and an official report establishing this case shall be drawn up. This report shall be signed by the judge, court clerk and other people present and concerned.

If the testament is not drawn up officially, the date when the testament is read shall be written down on an empty space and signed by the judge, court clerk and those present and concerned without interfering with the text, signature and date of the testament and it shall be sealed with a legible court seal. If there is no appropriate space on testament paper, another piece of paper shall be attached underneath and the same procedure shall be repeated on the paper attached underneath. In addition, the section of the paper where it is attached to the next one shall be signed by the judge and sealed with a necessary number of legible seals.

The testament that is opened shall be kept in a safe place by the judge.

The same actions shall be taken for the subsequent testaments of the legator.

A copy of the testament shall be notified to those concerned as per article 597 of Turkish Civil Code. Certificate of inheritance can also be given as per article 598 of Turkish Civil Code.

Oral will

Article 37- Civil court of peace located in the place of residence of the legator that learns about existence of an oral will that is made as per articles 539 and 540 of Turkish Civil Code shall take the necessary actions after it is established that the legator is deceased.

If the court that is notified of existence of an oral will is not the civil court of peace located in the place of residence of the legator, this court shall immediately send the said oral will to the civil court of peace located in the place of residence of the legator.

In application of the last paragraph of article 540 of Turkish Civil Code, if the person resorting to oral will is doing military service, a lieutenant or a higher-ranking military officer shall stand for judge; if he/she is being treated in a healthcare institution, the chief physician, in absence thereof deputy chief physician and in absence thereof the physician on call and in absence thereof the hospital manager shall stand for judge; if the person resorting to oral will is travelling in a vehicle abroad and if it is a bus, the bus driver, if it is a plane, the pilot, if it is a ship, the ship's captain, if it is a train, the conductor or the chief or their deputies shall stand for judge.

PART TWO

*Disclaimer of inheritance**Disclaimer of inheritance*

Article 38- Legal heirs and appointed heirs may renounce inheritance within three months as of the death of the legator.

For legal heirs, this period of time shall start as of the date they learn about death of the legator unless it is proved that they learnt about their status as legal heirs subsequently; for appointed heirs this period of time shall start as of the date they are officially notified about disposition of the legator.

If insolvency of the legator is apparent or officially established at the time of his/her death, inheritance is deemed to be renounced.

Form of disclaimer of inheritance

Article 39- Application for disclaimer of inheritance shall be made by heirs to civil court of peace through written or verbal statement.

If the heir renounced the inheritance, a report to be drawn up by the civil magistrate shall identify clear identity of the renouncing heir and the statement for disclaimer of inheritance shall be signed by the renouncing heir or if the request for disclaimer of inheritance is made by an authorized trustee, it shall be signed by the said trustee and also by the judge and court clerk. Deed of trust of the trustee shall also be attached to this report.

Statement for disclaimer of inheritance made within the set period of time shall be entered in the private file kept by the court. This file includes first name and name of the legator, date of death, date of disclaimer of inheritance, name and first name of the renouncing person, date and number of the report containing the statement for disclaimer of inheritance and merits no. and decree no. of the court issuing the certificate of inheritance. Statements of disclaimer of inheritance that are not made within the set period of time shall not be entered into this file.

If the renouncing heir so requires, a document containing number of the private file of the court, sealed with the court seal and approved by the court clerk and indicating disclaimer of inheritance shall be granted.

Request to keep official book

Article 40- Heirs that have a right to renounce inheritance may demand through a written and verbal statement to be made to the civil magistrate located in the place of residence of the legator within one month as of the time the periods envisaged in article 606 of Turkish Civil Code start to be processed that an official book of the estate be kept. The verbal statement shall be entered in the report and signed by the person making the statement.

Upon the request made to keep official book of the estate, the request shall be entered in the principal register and a file shall be opened.

Call by announcement

Article 41- When the official book of the estate starts to be kept, the judge shall call creditors and debtors of the legator within the set period of time to make a notice about their due money and debts through two announcements to be made with one month interval in between by determining where and how the announcement is to be made. The notice period to be specified by the judge must be at least one month as of the second announcement.

In the announcement;

- 1- First name, name, profession and art of the legator and his/her place of residence are indicated.
- 2- It is indicated that all the creditors and debtors of the legator including those that are in the position of creditor and debtor due to bail need to make a notice about their due money and debts together with the necessary documents if any and that they can ask for receipts in return for the documents they provide.
- 3- Creditors are warned in terms of consequences of not making a notice about their due money envisaged in article 629 of Turkish Civil Code within the set period of time.

Keeping official book

Article 42- Official book of the estate shall be kept by the clerk to be assigned with this task under supervision of the judge.

In the official book to be kept, movable and immovable properties of the legator and due money and debts shall be indicated. Due money, debts and assets, existence of which can be understood from documents of the legator shall written down as they are. Creditors and debtors shall be notified about those that are entered in the official book.

By indicating sort, type, number and value and location of the movable properties, they shall be entered in the official book under a sequence number. Goods that are in the form of collection shall be entered in the book under the same number and as one item. Goods that are of the same type and similar to one another shall be classified together as much as possible.

Immovable properties and rights in rem that limit those immovables if any shall be entered in the system along with registry of deeds. If immovables are leased out through ordinary lease or usufructuary lease or let out to a business, identities of leaseholders, their place of residence, contract term and letting value shall be indicated.

If a property is in the possession of a third party and claim of remuneration is put forward, names thereof and sequence number and relevant document of the property in question are submitted, nature, date and number of the document shall be indicated.

Due money and debts of creditors and debtors having applied upon hearing the announcement shall be entered in this book. The documents that are submitted shall be preserved in a safe place to be designated by the judge. Certified copies of the documents can be given to those interested upon their request.

Expenses incurred for keeping official book shall be paid out of the estate. If the expenses cannot be covered out of the estate, they shall be paid by heirs having made a request to keep book.

Obligatory work to be undertaken while keeping official book

Article 43- While keeping official book, obligatory management work such as urgent repair work which can do damage to the estate if not undertaken, grubbing up the cultivated area, reaping and preserving fully-grown products, selling properties that might lose value in the case that they are preserved can be undertaken.

Termination of keeping official book

Article 44- When the period of time specified in the announcement for notification about due money and debts expires, keeping official book shall be terminated. When keeping official book is terminated, each page of the book shall be sealed and signed by the judge and clerk charged with this task.

The official book shall be kept open for a period of time to be determined by the judge, not being less than one month so that those interested can examine it.

Provisions of articles 626-630 of Turkish Civil Code shall apply regarding consequences of keeping official book.

PART THREE

Official Liquidation

Making a request for official liquidation

Article 45- As per articles 632 and 633 of Turkish Civil Code, official liquidation of the estate can be requested by heirs and creditors of the legator.

Request for official liquidation by heirs or creditors of the legator shall be made to the civil magistrate located in the place of residence of the legator through written or verbal statement. Verbal statement shall be written to minute and signed by the person making the statement.

Scope of and procedure for official liquidation

Article 46- Articles 634 and 635 of Turkish Civil Code shall apply regarding official liquidation.

Official liquidation shall encompass completion of the legator's work being conducted, discharge of obligation debt collection, discharge of testamentary debt to the extent permitted by the estate, determination of the rights and debts of the legator by the court when it is obligatory and converting properties into assets when necessary.

If as a result of keeping official book it is understood that the estate would cover the debts, company of the legator shall be liquidated, their debts shall be discharged, due money shall be collected and acquisition regarding specific bequest shall be carried out in line with the assets.

The liquidator shall convert the properties into money to the extent needed to cover the debts. If possible, the liquidator tries to make sure that the properties remain as they are and are handed over to the heir as such.

Properties that are not needed for liquidation can be handed over to heir even before liquidation is completed.

Converting properties into money during official liquidation

Article 47- During official liquidation, movable and immovable properties shall be sold by auction or through bargaining provided that all the heirs approve of it. However, if all the heirs agree on bargain sale, the liquidator shall notify the civil magistrate of the situation.

If the civil magistrate is of the opinion that debts of the estate would not be covered in their entirety and if they are to be sold by auction, the value would be much higher, then sale by auction could be preferred. While drawing up specifications for auction and its announcement, provisions of Enforcement and Bankruptcy Code No.2004 shall be taken into account.

If the civil magistrate is of the opinion that debts of the estate could be covered in its entirety in the sale to be conducted upon request of all of the heirs, he/she shall decide on specific voluntary sale by auction to be conducted only amongst heirs.

Specific voluntary sale by auction in official liquidation

Article 48- In the case that the civil magistrate decides that movable and immovable properties are to be sold through specific voluntary sale by auction to be conducted only amongst heirs upon request of all the heirs, specific voluntary sale by auction procedure as per article 225 of Code of Obligations No.818 shall apply. The heir to whom the bidding is awarded for the immovable property shall be obliged to pay the bidding price within ten days at the latest. This period of time cannot be extended by the civil magistrate. If the heir to whom the bidding is awarded does not pay the bidding price within the set period of time, a second bidding shall be carried out. The rate difference between two biddings shall be paid by the heir who is awarded the bidding. In the case that the second bidding is also inconclusive, the civil magistrate shall decide on selling the said property by auction.

Sale by auction in official liquidation

Article 49- Sale by auction in official liquidation shall be conducted under the supervision of the civil magistrate by the liquidator.

In sale by auction, the judge shall determine terms of sale and where and how sale announcements are to be planned in such a way as to make sure that the legator's work being conducted is completed, his/her debts are discharged, his/her testamentary debt is discharged to the extent permitted by the estate.

As a result of sale by auction conducted, the person to whom the bidding for movable and immovable properties is awarded shall be obliged to pay the bidding price within ten days at the latest. This period of time cannot be extended. If the person whom the bidding is awarded does not pay the bidding price within the set period of time a second bidding shall be carried out. The rate difference between two biddings shall be paid by the person who is awarded the bidding.

The sale value shall be deposited to a national bank account to be determined by the civil magistrate and to be opened in the name of the estate.

After the sale value is paid in full, the movable properties shall be submitted to the recipient. For registration of the immovables in the name of the recipient, the judge shall write an official message to the office of title deeds registry by attaching a certified sample of the bidding report. This official message shall constitute the legal basis of registration in land registry.

In circumstances where there are no provisions to the contrary in this article, provisions of Enforcement and Bankruptcy Code No.2004 shall apply.

Bargain sale in official liquidation

Article 50- Bargain sale in official liquidation shall be conducted under supervision of the civil magistrate by a liquidator to be assigned provided that all the heirs agree.

In bargain sale, the judge shall determine terms of sale and whether sale announcements are to be made and if so where and how sale announcements are to be planned in such a way as to make sure that the legator's work being conducted is completed, his/her debts are discharged, his/her testamentary debt is discharged to the extent permitted by the estate.

At least three bidders are invited to the bidding to be conducted through bargain sale. As a result of bargaining conducted with bidders, the bidding shall be awarded to the bidder with the highest bid price.

The recipient must pay the sale value within ten days as of the date of bidding.

The sale value shall be deposited to a national bank account to be opened in the name of the estate.

After the sale value is paid in full, the movable properties shall be submitted to the recipient. For registration of the immovables in the name of the recipient, the judge shall write an official message to the office of title deeds registry by attaching a certified sample of the bidding report. This official message shall constitute the legal basis of registration in land registry.

Termination of official liquidation

Article 51- At the end of the official liquidation, in addition to the official book kept as per article 42 of the Bylaw, the liquidator shall draft another complementary book by noting down the payment made during liquidation, the money received, to whom the money is paid or from whom the payment is received, the subject matter, the amount and the dates and submit it to the civil magistrate.

The judge shall obtain the necessary information from the liquidator after the examinations and have the responsible persons make up for the shortcomings in the procedures within the set period of time.

The duty of the liquidator shall be terminated after he/she makes sure that the properties and due money are ready to be handed over to the heirs.

Distribution of the surplus of the estate is outside the scope of duty of the liquidator.

Salary of the liquidator shall be determined by the civil magistrate based on the efforts made and revenues of the estate.

Liquidation in bankruptcy as per the official book kept

Article 52- If it is established that assets of the estate are not enough to pay the debts or if it is concluded that the assets would not cover the debts after liquidation is initiated through ordinary procedures with the belief that the assets would cover the debts, the civil magistrate shall immediately notify the creditors and decide on liquidation in bankruptcy and assign several officers for this liquidation.

This liquidation shall be conducted in line with provisions regarding bankruptcy of Enforcement and Bankruptcy Code.

Circumstances for which there is no provision

Article 53- In cases where there is no provision in this part about official liquidation, provisions regarding duties, authorities and responsibilities of the liquidator in liquidation of an unlimited liability company in circumstances other than bankruptcy featuring in article 211 and the following articles of Turkish Commercial Code No.6762 and provisions regarding liquidation shall apply.

PART FOUR

Community of Heirs

Community of heirs and its representative

Article 54- In case of existence of more than one heir, with transfer of the inheritance and up until the time it is shared among the heirs, there is community among the heirs encompassing all the rights and debts of the estate.

In application of article 640 of Turkish Civil Code, the request to appoint a representative for community of heirs shall be made to the civil magistrate located in the place of residence of the legator through written or verbal statement. The verbal statement shall be written to minute and signed by the person making the statement.

Keeping book in community of heirs and objection

Article 55- Properties, due money and debts of the estate shall be determined as per the book kept by the representative of community of heirs and be entrusted to management of the representative.

The original book kept shall be submitted to the civil magistrate. The civil magistrate shall make sure that a certified copy of the book is sent to the heirs.

The heirs can raise an objection to what is written in the book within seven days as of the date of notification before the civil court of peace in written form.

Accountability of the representative in community of heirs and expenditures

Article 56- The representative shall give an account of the properties he/she manages based on documents to the heirs on a quarterly basis and submit a copy of this account to the civil magistrate. In case of complaint, the account shall be reviewed by an expert witness and the necessary action regarding the representative shall be taken as per the provisions concerning the guardian.

Expenditures to be made by the representative of community of heir about management of the estate shall be paid out of the estate. If the expenditures cannot be paid out of the estate, the heir making the request shall make the payment.

PART FIVE

Miscellaneous Provisions

Issues to be regulated through Bylaw

Article 57- a) Regulation regarding the books, the private file, files to be kept within the scope of this Bylaw, reports and other documents shall be issued by Ministry of Justice,

b) The regulation regarding procedures and principles concerning placement or retention in a convenient institution of a person of age under restraint for protection for the purposes of treatment, education or rehabilitation shall be issued by the Ministry to which Social Services and Child Protection Agency is affiliated, Ministry of Justice, Ministry of the Interior, Ministry of National Education and Ministry of Health under coordinatorship of the Prime Ministry,

c) The regulation regarding issues envisaged in article 659 of Turkish Civil Code shall be issued by Ministry of Agriculture and Rural Affairs,
within one year at the latest.

Repealed provisions

Article 58- “Bylaw on Enforcement of Provisions of Turkish Civil Code on Custody, Guardianship and Succession” that came into effect through Council of Ministers Decision dated 24/7/1965 and No. 6/5100 is repealed.

Provisional Article 1- Provisions regarding succession of Bylaw on Enforcement of Provisions of Turkish Civil Code on Custody, Guardianship and Succession that came into effect through Council of Ministers Decision dated 24/7/1965 and No. 6/5100 shall continue to be applied for deceased legators before this Bylaw came into effect.

Effectiveness

Article 59- This Bylaw drawn up regarding enforcement of provisions on custody, guardianship and succession based on article 593, 609 and 620 of Turkish Civil Code No. 4721 and reviewed by the Council of State shall come into effect at the time of publication.

Execution

Article 60- Provisions of this Bylaw shall be executed by Council of Ministers.