

Family Code

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Chapter One GENERAL PROVISIONS

Subject-matter

Article 1. The Family Code shall regulate the relations based on marriage, kinship and adoption, as well as custody and guardianship.

Principles

Article 2. Family relations shall be settled in accordance with the following principles:

1. protection of marriage and the family by the state and society;
2. gender equality;
3. voluntary nature of matrimony;
4. special protection of children;
5. equal treatment of those born in wedlock, out of wedlock and adopted;
6. respect for the personality in the family;
7. respect, care and support among family members.

Right to Marriage and Family

Article 3. Every person shall have the right to marry and have a family under the terms and conditions set out in this Code.

Chapter Two MARRIAGE UNION

Civil Marriage

Article 4. (1) Only the civil marriage entered into in the form prescribed in this Code shall generate the effect associated with marriage by law.

(2) A religious rite shall have no legal effect.

Consent to Marriage

Article 5. Marriage shall be based on the mutual, free and explicit consent of a man and a woman given in person and simultaneously before a registrar.

Marriageable Age

Article 6. (1) Marriage shall be allowed to persons above the age of eighteen.

(2) By way of exception, where compelling reasons warrant it, a person aged sixteen may also get married with the consent of the district judge at the place of permanent residence of this person. Where both partners are minors and have different permanent addresses, the consent shall be given by the district judge at the place of permanent residence of one of the marrying partners at their choice.

(3) The district judge shall hear both marrying partners and the parents or the guardian of the minor. The opinion of the marrying adult, the parents or the guardian may be given also in writing with a notarized signature.

(4) Upon marriage, the minor shall acquire legal competence but may dispose with immovable property only with the consent of the district judge at the place of permanent residence of the minor.

Marriage Prohibitions

Article 7. (1) Marriage shall be prohibited to a person who:

1. is bound by another marriage;

2. is under full judicial interdiction or suffers from a mental disorder or imbecility which provides grounds for imposing full judicial interdiction;

3. suffers from a disease which seriously threatens the life or health of the offspring or the other spouse, unless the latter is aware of such disease.

(2) Marriage shall be prohibited to:

1. ascendants and descendants;

2. siblings, as well as other collateral kin up to four times removed;
3. persons between whom adoption generates relations of ascendants or descendants or siblings.

Place of Marriage

Article 8. (1) Marrying partners shall be free to choose the municipality in which to marry.

(2) Marriage shall take place in public at a location designated by the mayor of the municipality.

(3) Marriage may take place also at another location at the discretion of the registrar provided there exist compelling reasons to do so.

Marriage Documents

Article 9. (1) Each marrying partner shall submit to the registrar:

1. a declaration on the non-existence of the impediments to marriage under Article 7;
2. a medical certificate that the person does not suffer from the diseases laid down in Article 7, paragraph 1, subparagraphs 2 and 3;
3. a declaration that the person is aware of the diseases of the other partner under Article 7, paragraph 1, subparagraphs 2 and 3.

(2) Where they have chosen a property regime, marrying partners shall submit a joint declaration on their choice of regime with notarized signatures. Where a matrimonial contract has been concluded, they shall submit a notarial certificate on the date of the contract and its registration number, as well as the registration of the notary public at the Notary Office and the territory of the notary public.

Marriage Procedure

Article 10. (1) The registrar shall verify the identity and age of the marrying partners, as well as the documents they have submitted under Article 9.

(2) Where no impediments to marriage exist, the registrar shall ask the marrying partners whether they agree to marry each other and, upon an explicit answer in the affirmative, the registrar shall draw up the civil marriage certificate. The civil marriage certificate shall specify the choice of property regime with the details under Article 9, paragraph 2. Where no choice of property regime has been made, the certificate shall indicate statutory regime of community of property.

(3) The certificate shall be signed by the marrying partners, the witnesses and the registrar.

Validity of the Civil Marriage Certificate

Article 11. (1) The marriage shall be deemed valid upon the signing of the civil marriage certificate by the marrying partners and by the registrar.

(2) Marriage shall be valid provided it has taken place before a person who has performed the functions of a registrar in public without having the capacity of a registrar, where the marrying partners were not aware of that.

Family Name of the Spouses

Article 12. When the civil marriage certificate is drawn up, each marrying partner shall declare whether he or she will keep his or her family name or accept the family name of the spouse or add the family name of the spouse to his or her own name. The family name accepted or added may be the name of the other spouse with which he or she is known to the public.

Chapter Three

PERSONAL RELATIONS BETWEEN SPOUSES

Equality between Spouses

Article 13. Spouses shall have equal rights and obligations in marriage.

Spouse Reciprocity

Article 14. The relations between spouses shall build on mutual respect, shared care of the family and understanding.

Cohabitation of Spouses

Article 15. Spouses shall live together, unless compelling reasons make them live separately.

Individual Freedom

Article 16. Each spouse shall be free to develop as a personality and to choose and exercise a profession or occupation.

Family Care

Article 17. Spouses shall provide for the wellbeing of the family and take care of the upbringing, nurturing, education and support of the children through mutual understanding and shared efforts and in accordance with their capabilities, property and income.

Chapter Four

PROPERTY RELATIONS BETWEEN SPOUSES

Section I

General Provisions

Property Regime

Article 18. (1) Property regimes between spouses shall be as follows:

1. statutory regime of community of property;
2. statutory regime of separation of property;
3. contractual regime.

(2) The statutory regime of community of property shall govern, where the marrying partners have not chosen a property regime or they are minors or under limited judicial interdiction.

(3) The property regime shall be registered pursuant to the provisions of Article 19.

(4) The property regime may be subject to change during marriage. The change shall be entered into the civil marriage certificate and the register under Article 19.

Register of the Property Relations between Spouses

Article 19. (1) Matrimonial contracts and the applicable property regime shall be entered into the central electronic register at the Registry Agency/Recordation Office.

(2) The registration shall be performed ex officio on the basis of a notice from the municipality or mayoralty the register of which keeps the civil marriage certificate. The notice shall be sent forthwith to the local unit/subdivision of the Registry Agency/Recordation Office at the seat of the respective district court of the location of the municipality.

(3) The change of the statutory regime and the change and termination of the matrimonial contract shall be specified in the civil marriage certificate and registered pursuant to the provisions of paragraph 2 on the basis of the documents laid down in Article 9, paragraph 2 or Article 27, paragraphs 2 and 3.

(4) The register under paragraph 1 shall be in the public domain. Fees shall be charged for any transcripts and certificates from the register in accordance with the rates approved by the Council of Ministers.

(5) The Minister of Justice shall issue regulations on the procedures for keeping the register.

Protection of Third Parties

Article 20. The statutory regime of community of property shall govern transactions between either spouse and a third party where no regime of property relations has been entered into the register.

Section II

Statutory Regime of Community of Property

Matrimonial Community of Property

Article 21. (1) Rights in rem acquired during marriage as a result of joint contribution shall be shared in common by both spouses, regardless of the fact in whose name they have been acquired.

(2) The joint contribution may be expressed in the input of resources, labour, care of the children and housework.

(3) The joint contribution is presumed until proven otherwise.

(4) (Amended, SG No. 100/2010, effective 21.12.2010) A claim for lack of joint contribution may be filed by:

1. a spouse during marriage or after its dissolution;
2. an heir to a spouse.

Personal Property

Article 22. (1) Rights in rem acquired before the marriage, as well as those acquired during marriage by inheritance or gift shall belong to the spouse who has acquired them. Personal shall also be the rights in rem acquired by either spouse, where a creditor seeks recovery of a personal debt from the other spouse pursuant to the provisions of Chapter Forty-four of the Code of Civil Procedure concerning rights in rem constituting matrimonial community of property.

(2) Personal shall be the chattels acquired by either spouse during marriage, which serve ordinary personal needs or the exercise of a profession or occupation.

(3) Personal shall be the rights in rem acquired by either spouse who is a sole proprietor during marriage for the purpose of engaging in business activities and included in his or her business.

Transformation of Personal Property

Article 23. (1) (Amended, SG No. 100/2010, effective 21.12.2010) Personal shall be the rights in rem acquired during marriage exclusively with personal property.

(2) Where rights in rem have been acquired in part with personal property under paragraph 1, the personal holding of the spouse shall be determined on a pro rata basis, unless this portion is insignificant.

Management of and Disposal with Common Property

Article 24. (1) Spouses shall have equal rights to the common property. Neither spouse may dispose during marriage with the share that this spouse would receive upon termination of the community of property.

(2) Common property may be managed by either spouse.

(3) Spouses shall dispose jointly with common property.

(4) The disposal with a right in rem over common immovable property by either spouse may be challenged. The other spouse may challenge the disposal in court within six months of becoming aware of it but not later than three years after the disposal.

(5) In the case of disposal with a right in rem over common movable property for consideration by either spouse without the participation of the other, the third party shall acquire the right provided the third party was not aware or could not be aware because of the circumstances that the consent of the other spouse was lacking. The provisions of paragraph 4 shall apply to disposal with common movable property without any consideration or to disposal to be executed in writing with notarized signatures.

Disposal with Personal Property

Article 25. Either spouse shall be free to dispose with his or her personal property in a transaction with a third party or the other spouse.

Disposal with the Marital Home Which Is Personal Property

Article 26. Any action of disposal with the marital home which is the personal property of either spouse shall be carried out with the consent of the other spouse, where the spouses have no other housing which is common property or personal property of either. In the case of no consent, the disposal shall be carried out with the consent of the district judge with reassurance that the disposal will not be to the detriment of the children under age and to the family.

Termination of the Matrimonial Community of Property

Article 27. (1) The matrimonial community of property shall be terminated upon the dissolution of the marriage.

(2) The matrimonial community of property may be terminated in court also during marriage provided there exist compelling reasons to do so.

(3) The matrimonial community of property may be terminated during marriage in case the spouses choose the regime of separation of property or conclude a matrimonial contract.

(4) The execution by a creditor seeking recovery of a personal debt of either spouse from property within the matrimonial community of property pursuant to the provisions of Chapter Forty-four of the Code of Civil Procedure shall terminate the community of this property.

(5) The matrimonial community of property shall be terminated when a decision to declare in bankruptcy a spouse who is a sole proprietor or a partner with unlimited liability becomes enforceable.

Shares of Spouses

Article 28. Spouses shall have equal shares upon termination of the community of property.

Award of a Greater Share to a Spouse

Article 29. (1) Where the matrimonial community of property is terminated due to divorce, the court may award a greater share of the common property to the spouse exercising the parental rights over children under age where this creates particular difficulties to this spouse.

(2) The spouse exercising the parental rights over children under age shall be awarded, beyond his or her share, the movable property needed for their upbringing and nurturing.

(3) Where the community of property is terminated due to divorce or under Article 27, paragraph 2, the court may award a greater share of the common property to either spouse provided that the contribution of this spouse substantially exceeds that of the other spouse.

Partial Apportioning of the Personal Property

Article 30. (1) In case of divorce, each spouse shall be entitled to receive a portion of the value of the property needed for the exercise of a profession or occupation and of the accounts receivable of the other spouse acquired during marriage, where their value is substantial and this spouse has contributed to their acquisition with labour, resources, care of the children or housework. This portion may be claimed also prior to the divorce, where the conduct of the spouse who has acquired the property endangers the interests of the other spouse or the children.

(2) Paragraph 2 shall apply also to the cases under Article 22, paragraph 3.

Time Limits for Filing Claims

Article 31. The claims under Article 29, paragraph 3 and Article 30 may be filed within a year of the dissolution of the marriage or the termination of the matrimonial community of property, while those under Article 29, paragraphs 1 and 2 shall be filed within a year of the date

of enforceability of the judgment on parental rights.

Liability for Debts

Article 32. (1) The costs incurred to meet family needs shall be borne by both spouses.

(2) Spouses shall be jointly liable for debts incurred to meet family needs.

Section III

Statutory Regime of Separation of Property

Separation of Property

Article 33. (1) The rights acquired by each spouse during marriage shall remain his or her personal property.

(2) Where dissolution of marriage is petitioned, each spouse shall be entitled to receive a portion of the value of the acquisitions of the other spouse during marriage insofar as this spouse has contributed labour, resources, care of the children, housework or in any other way.

Disposal with the Marital home

Article 34. Article 26 shall apply to the disposal with the marital home.

Awarding of Personal Property for Use

Article 35. Where either spouse has given property for use to the other spouse, the user shall be liable only up to the amount of the usufruct as at the date of the claim in writing, unless agreed otherwise.

Liability for Family Debts

Article 36. (1) The costs incurred to meet family needs shall be borne by both spouses.

(2) Spouses shall be jointly liable for debts incurred to meet current family needs.

Section IV

Contractual Regime

Matrimonial Contract

Article 37. (1) Marrying partners may settle their property relations in a matrimonial contract.

(2) Matrimonial contracts may be concluded only by persons of full legal competence.

(3) A matrimonial contract may be concluded also during marriage.

Contents of the Matrimonial Contract

Article 38. (1) The matrimonial contract shall contain arrangements pertaining only to the property relations of spouses, such as:

1. the rights of the parties over property to be acquired during marriage;
2. the rights of the parties over their prenuptial property;
3. the ways of managing and disposing with property, including the marital home;
4. the participation of the parties in costs and liabilities;
5. the proprietary effects of a divorce;
6. the maintenance of spouses during marriage and in the event of a divorce;
7. the maintenance of the children born in the marriage;
8. other property relations insofar as this will not contravene the provisions of this Code.

(2) The property relations of the parties may be settled also through reference to a statutory regime. A clause envisaging the transformation of prenuptial property of either party into common patrimonial property shall not be allowed.

(3) The matrimonial contract may not include clauses concerning the event of death. This restriction shall not apply to the disposal with the shares of the spouses upon termination of agreed matrimonial community of property.

(4) The statutory regime of community of property shall govern the property relations which are not settled in the matrimonial contract.

Conclusion of a Matrimonial Contract

Article 39. (1) The matrimonial contract shall be concluded by the parties in person and given in writing with notarized content and signatures.

(2) A matrimonial contract transferring ownership rights or instating or transferring another right in rem over immovable property shall be attested by a notary public at the location of the property. Where the properties envisaged in the contract are located in the territories of different notaries, the parties shall be free to choose a notary public in either location.

(3) (Supplemented, SG No. 100/2010, effective 21.12.2010) A contract transferring property rights or instating or transferring another right in rem over immovable property shall have the effect of transfer and shall be entered into the property register on the day of the attestation by the notary public, where the contract is concluded during the marriage. Where it is concluded prior to the marriage, the contract shall be submitted for entry by the notary public on the date on which the notary public receives the certificate of civil marriage. Where the contract is subject to entry in another judicial district, the provisions of Article 25, paragraph 5 of the Notaries and Notarial Practice Act shall apply.

(4) Where the matrimonial contract is concluded during marriage, its conclusion shall be noted in the civil marriage certificate and the contract shall be subject to registration pursuant to the provisions of Article 19, paragraph 2.

Validity of a Matrimonial Contract

Article 40. (1) A matrimonial contract shall have effect as from the time of marriage or, when concluded during marriage, as from the date of conclusion of the contract or any other date specified therein.

(2) The contract shall have no prejudice to rights acquired by third parties prior to its conclusion.

Amendment to a Matrimonial Contract

Article 41. (1) A matrimonial contract shall be amended in the form prescribed for its conclusion.

(2) Article 40, paragraph 2 shall apply to third parties.

Termination and Voidance of a Matrimonial Contract

Article 42. (1) A matrimonial contract shall be terminated in any of the following cases:

1. at the mutual consent of the parties, whereby they may choose a statutory regime or conclude another contract, otherwise the statutory regime of community of property shall govern;

2. at the request of either spouse in the event of material change of circumstances, where the contract presents a serious threat to the interests of this spouse, the children under age or the family;

3. upon dissolution of marriage, except for the clauses settling the effects of termination and intended to apply afterwards.

(2) A matrimonial contract may become void judicially pursuant to the provisions of Article 87, paragraph 1 of the Obligations and Contracts Act provided that the voidance does not contravene the principles of this Code and good morals. A contract may become void only in part. The voidance shall have effect in the future.

Invalidity of a Matrimonial Contract

Article 43. (1) The general rules concerning the invalidity of contracts shall apply to a matrimonial contract.

(2) The annulment shall have effect in future. In such cases, spouses may choose a statutory regime or conclude another contract. Otherwise, the statutory regime of community of property shall govern.

Chapter Five DISSOLUTION OF MARRIAGE

Grounds

Article 44. Marriage shall be dissolved in any of the following cases:

1. death of either spouse;
2. annulment of marriage;
3. divorce.

Dissolution of Marriage in the Case of a Declared Death

Article 45. (1) Where either spouse is declared dead by court, the marriage shall be dissolved at the time when the judgment becomes enforceable.

(2) Where the person declared dead turns out to be alive, the dissolved marriage shall not be restored.

Grounds for Annulment of Marriage

Article 46. (1) Marriage shall be annulled in any of the following cases:

1. violation of the provisions of Article 6 and 7 upon marriage;
2. giving consent for marriage due to intimidation with a serious and imminent threat to the life, health or dignity of the marrying partner or his or her kin.

(2) Nobody shall be entitled to invoke annullability of marriage until it is ruled by court.

Filing a Claim to Annul Marriage

Article 47. (1) A claim to annul marriage may be filed in any of the following cases:

1. violation of the provisions of Article 6 - by the minor spouse not later than six months after coming of age provided there are no children from this marriage and the wife is not pregnant;

2. Article 46, paragraph 1, subparagraph 2 - by the spouse under duress not later than a year after marriage;

3. Article 7, paragraph 1, subparagraph 1 - by either spouse, by the public prosecutor or by the spouse from the previous marriage;

4. Article 7, paragraph 1, subparagraphs 2 and 3 and paragraph 2 - by either spouse or by the public prosecutor.

(2) Marriage may not be annulled in the case of bigamy, where the earlier marriage has been dissolved.

(3) Where marriage took place in contravention of the provisions of Article 7, paragraph 1, subparagraph 1, the spouse from the previous marriage, the spouse from the annulable marriage or the public prosecutor may request establishment of the grounds for annulment of the marriage also after the death of the bigamous spouse.

(4) In the case of violation of Article 7, paragraph 1, subparagraph 2, the claim may be filed by the sick or interdicted spouse not later than six months from the recovery or lifting of the interdiction or by the other spouse or by the public prosecutor before the recovery or lifting of the interdiction.

(5) In the cases of violation of Article 7, paragraph 1, subparagraph 3, marriage may not be annulled provided that the sick spouse has recovered.

(6) In the cases of violation of Article 7, paragraph 2, subparagraph 3, marriage may not be annulled provided that the adoption has been terminated.

Effects from the Annulment of Marriage

Article 48. (1) The annulment of marriage shall have effect in the future.

(2) The presumed paternity under Article 61 shall apply also to children conceived or born during the annulled marriage.

(3) The provisions concerning the effects of divorce on the personal and property relations between spouses and the relations between them and the children shall apply also to the cases of annulment of marriage. Bad faith in the annulment of marriage shall be tantamount to fault in divorce.

Divorce due to Breakdown of Marriage

Article 49. (1) Either spouse may request divorce in the case of deep and irremediable breakdown of marriage.

(2) The court shall guide spouses to reconcile through mediation or another voluntary dispute resolution mechanism.

(3) In its judgment on granting a divorce, the court shall rule also on the fault for the breakdown of marriage, where either spouse has requested this.

(4) In all stages of the proceedings, the spouses may submit to court an agreement on all or some effects of their divorce.

(5) The court shall approve the agreement under paragraph 4, having verified the protection of the interests of the children. The court may request an opinion from the Social Welfare Directorate.

No Fault Divorce

Article 50. In case of serious and unswerving consent of the spouses to divorce, the court shall grant divorce without seeking their grounds for the dissolution of marriage.

Marital Agreement in No Fault Divorce

Article 51. (1) In case of no fault divorce, spouses shall submit an agreement on the place of residence of the children, the exercise of parental rights, personal relations and the maintenance of children, as well as the use of the marital home, the maintenance of spouses and the family name. They may agree also on other effects of the divorce.

(2) The court shall approve the agreement under paragraph 1, having verified the protection of the interests of the children. The court may request an opinion from the Social Welfare Directorate.

(3) Where the agreement is incomplete or the interests of children are not well protected, the court shall rule on a time limit to remove deficiencies. Failing to remove deficiencies within the prescribed time limit, the court shall not grant a divorce.

(4) Any change in the place of residence of the children, the exercise of parental rights, personal relations and the maintenance of children may be requested in case of changed circumstances.

Continuation of Divorce Proceedings by Heirs

Article 52. (1) The right to divorce shall not be transferred to heirs.

(2) Summoned descendants or parents may continue the proceedings, where the claimant has requested a ruling on the fault in order to establish the justification of the claim on the basis of the fault of the surviving spouse indicated by the claimant.

(3) The court shall not grant the claim, where the surviving spouse has no fault for the breakdown of marriage.

Family Name after Divorce

Article 53. A spouse may restore his or her name before marriage after the divorce.

Elimination of Succession and Will after Death

Article 54. (1) After the divorce, former spouses shall cease to be legitimate heirs to each other and lose the benefits ensuing from earlier will after death. These effects shall occur also where the justification of a divorce claim has been established under Article 52, paragraph 2.

(2) Paragraph 1 shall not apply to cases in which the testator has explicitly stated that the will shall have effect after divorce as well.

Cancellation of Gifts

Article 55. Gifts made in connection or during marriage to a spouse may be cancelled after divorce in the cases prescribed by civil law or where the cancellation is envisaged in the gist agreement or matrimonial contract.

Awarding of the Marital home after Divorce

Article 56. (1) In granting a divorce, where the marital home cannot be used by the two spouses separately, the court shall award its use to one of the spouses provided he or she has requested that and is in need of housing. Where minors are children from the marriage, the court shall rule on the use of the marital home ex officio.

(2) Where minors are children from the marriage and the marital home is owned by one of the spouses, the court may award its use to the other spouse to whom the exercise of parental rights is awarded as long as he or she exercises these rights.

(3) Where minors are children from the marriage and the marital home is owned by kin of one of the spouses, the court may award its use to the other spouse to whom the exercise of parental rights is awarded for a period of up to one year.

(4) The use of the marital home shall be terminated earlier, where the housing need of the user becomes irrelevant and, in the cases under paragraphs 2 and 3, in case the user re-marries.

(5) Where the spouses are co-owners or have a shared right to use the marital home, the court shall award its use to one of them, taking into account the interests of minor children, the fault, the health condition and other circumstances.

(6) Where the circumstances relevant to the awarded use under paragraph 5 change, either former spouse may request change in the use of the marital home.

Lease Relations

Article 57. (1) By force of the court judgment awarding the use of the marital home under Article 56, paragraphs 1, 2, 3 and 5, a lease relation shall occur. The judgment may be entered into the property register and the registration shall have the effect under Article 237, paragraph 1 of the Obligations and Contracts Act.

(2) Either party may request the court to rule on the amount of the rent in the divorce judgment. No rent shall be payable for the housing space used by minor children. The awarded amount of the rent may be changed in case of change in circumstances.

Prevalence of the Matrimonial Contract

Article 58. The provisions of Articles 54 to 57 shall apply, unless the matrimonial contract provides otherwise.

Parental Rights after Divorce

Article 59. (1) In the case of divorce, the spouses shall reach mutual consent on the issues related to the upbringing and nurturing of minor children from the marriage in the best interests of the children. The court shall approve the agreement pursuant to the provisions of Article 49, paragraph 5.

(2) Failing to reach an agreement under paragraph 1, the court shall rule ex officio on which parent the children will live with, on which parent will exercise parental rights, on the measures for the exercise of these rights, as well as on the regime of personal relations between children and parents and the maintenance of the children.

(3) The establishment of the regime of personal relations between parents and children shall include the specification of a period or a day when the parent may see and take the children, including school holidays, public holidays and personal holidays of the child, as well as at other times.

(4) The court shall rule on the issues under paragraph 2, having assessed all circumstances in the best interests of the children, such as: the nurturing capabilities of the parents, the care of and attitude to the children displayed hitherto, the willingness of the parents, the closeness of the children to their parents, the gender and age of the children, the opportunities for assistance by third parties who are kin to the parents, the social environments and the financial capabilities.

(5) The amount of maintenance shall ensure the same living conditions which the child had before the divorce, unless this would create particular difficulties to the maintaining parent.

(6) (Amended, SG No. 100/2010, effective 21.12.2010) The court shall hear the parents and the children pursuant to the provisions of Article 15 of the Child Protection Act, take the opinion of the Social Welfare Directorate and, if appropriate, hear other persons as well. In the case of suspected parental alienation, the court shall hear an expert psychologist.

(7) (Amended and supplemented, SG No. 100/2010, effective 21.12.2010) By way of exception, where the interests of the children warrant it, the court may rule on their living with grandparents or with the family of other kin with the consent of the latter. Failing that, the child shall be accommodated with a foster family, a specialized institution designated by the Social Welfare Directorate or shall receive a social service of the resident type. In all cases, the court shall grant an appropriate regime of personal relations between the child and its parents.

(8) The court shall rule, if necessary, on appropriate protective measures to ensure the implementation of the judgment under paragraphs 2 and 7 such as:

1. conduct of personal relations in the presence of a designated person;
2. conduct of personal relations at a designated place;
3. covering the travelling costs of the child and, if necessary, of the accompanying person.

(9) In case of change in the circumstances, the court may modify earlier measures and impose new ones at the request of either parent, at the request of the Social Welfare Directorate, or on an ex officio basis.

(10) The judgment under paragraph 2 shall have no prejudice to the implementation of child protection measures pursuant to the provisions of the Child Protection Act.

Chapter Six

ORIGIN

Maternal Origin

Article 60. (1) Maternal origin shall be established by birth.

(2) Mother of the child is the woman who has given birth to it, including cases of assisted reproduction.

(3) The maternal origin established in a birth certificate may be challenged in court by the child, by the woman specified in the certificate as the mother, by her husband, by the woman claiming to be the mother of the child, and by the man claiming that the child was born by his wife.

(4) Parties to the proceedings shall be also the mother's husband, the husband of the woman challenging the origin, as well as the child.

(5) The maternal origin from the woman who gave birth to the child through assisted reproduction may not be challenged on these grounds.

Paternal Origin

Article 61. (1) The mother's husband shall be considered to be father of the child born during marriage or within three hundred days from its dissolution.

(2) Where the child was born earlier than three hundred days from the dissolution of the marriage but the mother re-married, the husband of the mother in the new marriage shall be considered father of the child.

(3) In cases of declared absence of the husband the presumptions under paragraphs 1 and 2 shall not apply, where the child was born after the lapse of three hundred days from the date of the last news about the husband and, in cases of declared death, since the date of the presumed death.

(4) Paragraphs 1 to 3 shall apply also to cases of birth through assisted reproduction under Article 60, paragraph 2.

Challenge of Paternity

Article 62. (1) The mother's husband may challenge his paternity by proving that it could not have been conceived by him. This claim may be filed within a year of becoming aware of the birth.

(2) The mother may challenge her husband's paternity by proving that it could not have been conceived by him. This claim may be filed within a year of becoming aware of the birth.

(3) In the cases under Article 61, paragraph 2, where the second husband's challenge of paternity is granted, the former husband shall be considered father of the child. The former husband and the mother may challenge paternity within a year of becoming aware of the judgment but not later than three years from the date of its enforceability.

(4) The child may challenge paternity within a year of coming of age.

(5) No challenge of paternity shall be allowed in cases of birth through assisted reproduction, where the mother's husband has given his informed consent in writing.

Parties to Paternity Challenging Proceedings

Article 63. The parties summoned to paternity challenging proceedings shall be the mother, the child and the husband and, where paternity is challenged by the new husband, the former husband shall also be summoned as a party.

Acknowledgment

Article 64. (1) Each parent may acknowledge his or her child. Subject to acknowledgement may also be children conceived, as well as deceased children who have left descendants.

(2) A child may be acknowledged also by a parent who is sixteen years of age or above.

Forms of Acknowledgement

Article 65. (1) Acknowledgement shall be performed in person and given in writing before the registrar or through a statement with notarized signature submitted to the registrar. The statement may also be submitted through the manager of the medical establishment where the child was born.

(2) (Amended and supplemented, SG No. 100/2010, effective 21.12.2010) Within seven days, the registrar shall communicate the acknowledgement to the other parent if the latter is known, to the child if it is fourteen years of age or above, as well as to the Social Welfare Directorate at the current address of the child.

Challenging of Acknowledgement

(Title amended, SG No. 100/2010, effective 21.12.2010)

Article 66. (1) The parent or the child aged fourteen or above may challenge the acknowledgement through a statement in writing to the registrar within three months of notification. Where it is not challenged, the acknowledgement shall be entered into the birth certificate.

(2) Where the acknowledgement is challenged, the acknowledging parent may claim establishment of origin in court within three months of notification.

(3) Where the acknowledgement was done prior to the drawing up of the child's birth certificate and the parent declared that he or she would not challenge it pursuant to the provisions of Article 65, paragraph 1, the acknowledging parent shall be entered into the birth certificate forthwith. The parent shall not be allowed to challenge the acknowledgement after the birth certificate was drawn up.

(4) Where the child was a minor at the time of acknowledgement, the child may challenge it in court within a year of coming of age or of becoming aware of the acknowledgement. Where the claim is granted, the acknowledgement shall be deleted with an appropriate remark in the birth certificate.

(5) (New, SG No. 100/2010, effective 21.12.2010) In cases other than those under paragraphs 1 and 4, the acknowledgment may be challenged in court with a claim submitted within a year of its performance by the Social Welfare Directorate at the current address of the child.

Annulment of Acknowledgement

Article 67. The acknowledging parent may claim annulment of the acknowledgement on grounds of error or fraud within a year of the acknowledgement, in cases of acknowledgement under duress - within a year of the discontinuation of the duress, and in cases of legal

incompetence - within a year of the acquisition of legal competence.

Claims to Establish Maternal Origin

Article 68. Maternal origin may be established through a claim filed by the child, the mother or the father. The mother's husband who could have been considered father of the child under Article 61 shall also be summoned as a defendant.

Claims to Establish Paternal Origin

Article 69. Paternal origin may be established through a claim filed by the mother within three years of the child's birth or by the child within three years of coming of age. The mother shall also be summoned where the claim is filed by the child.

Parental Rights in Claims to Establish Origin

Article 70. Where it grants the claims under Article 68 and 69, the court shall rule ex officio on which parent the children will live with, on the measures for the exercise of these rights, on the regime of personal relations between the child and the parents and its maintenance, while applying the provisions of Article 59.

Impediments to the Establishment of Origin

Article 71. A claim to establish origin may not be filed and acknowledgement may not be performed before a claim challenging the existing origin is granted on grounds of the presumption under Article 61 or through acknowledgement. The two claims may be consolidated.

Claims Filed by or against Heirs

Article 72. (1) Heirs shall not be allowed to file the claims envisaged in this Chapter but they may continue the proceedings started on the basis of the claim filed by their testator.

(2) Where the father or the mother is deceased, the claim to establish or challenge origin shall be filed against their heirs.

Time Limits

Article 73. The time limits under this Chapter shall apply ex officio and shall not be subject to staying, stopping and resumption.

Chapter Seven

KINSHIP

Lineal and Collateral Kin

Article 74. (1) Lineal kinship shall mean the relationship between two persons one of whom descends from the other directly or indirectly.

(2) Collateral kinship shall mean the relationship between two persons who share a common ancestor but do not descend from each other.

Degrees of Kinship

Article 75. (1) Two lineals shall be as many times removed as is the number of generations.

(2) Two collaterals shall be as many times removed as is the number of generations from one of them to the common ancestor and from the latter to the other.

Affinal Relatives

Article 76. (1) The kin to either spouse shall be affinal relatives to both the other spouse and his or her kin.

(2) A person shall be affinal relative to a spouse in the relationship and degree to which this person is kin to the other spouse.

(3) The degree of affinal relationship between the kin to one spouse and the kin to the other shall be established by adding the degrees of kinship between one spouse and his or her kin and between the other spouse and his or her kin.

(4) The spouses of two siblings shall be affinal relatives two times removed.

(5) Affinal relationship shall be legally relevant only in the cases prescribed by law.

(6) Affinal relationship shall be terminated upon the dissolution of marriage.

Chapter Eight ADOPTION

Section I Adoptability

Adopted Child

Article 77. (1) Adoptable shall be only a person below the age of eighteen as of the date of the petition for adoption.

(2) Twins shall be adopted together. By way of exception, twins may be adopted separately provided they could not be adopted together in the course of six months of the date of entry into

the register under Article 83 and their best interests warrant it.

(3) Siblings shall be adopted together if they have an emotional relationship between them.

Adoptive Parent

Article 78. Eligible to be an adoptive parent shall be a person of legal capacity who has not been deprived of parental rights.

Age Difference

Article 79. The adoptive parent shall be at least fifteen years older than the adopted child. No age difference shall be required for adoption of a child by birth of a spouse by the other spouse. Where the adoption is carried out simultaneously or consecutively by both spouses and one of them meets the age difference requirement, no such age difference shall be required from the other.

Non-adoptability of Kin

Article 80. (1) No adoption shall be allowed between lineal kin and between siblings.

(2) Grandparents or a grandparent may adopt a grandchild if the latter was born out of wedlock or a parent or the parents are deceased. The court shall hear also the other grandparents of the prospective adopted child.

(3) In cases of petitions for adoption by maternal or parental grandparents, the court shall rule with a view to the best interests of the child.

Non-adoptability by Two Persons

Article 81. (1) Nobody shall be adopted by two persons, unless the latter are spouses.

(2) Nobody shall be adopted for a second time before the existing adoption is terminated.

(3) The prohibitions under paragraphs 1 and 2 shall not apply to the spouse of the adoptive parent.

Additional Requirements for Full Adoptability

Article 82. (1) Full adoption shall be allowed provided that:

1. the prospective adopted child is entered into the register under Article 83; and
2. the adoptive parent is entered into the register under Article 85.

(2) Paragraph 1 shall not apply to the adoption of a spouse's child by the other spouse, to the adoption of a grandchild by the grandparents or either of them, as well as to the adoption by

collateral kin three times removed.

(3) The requirement for entry into the register of adoptive parents under Article 85 shall not apply to the adoption by a custodian or a guardian or by the family of kin or relatives in which the child is accommodated by court pursuant to the provisions of the Child Protection Act.

(4) The persons under paragraph 3 shall be vetted by the Social Welfare Directorate at their permanent residence.

Registers of Children for Full Adoption

Article 83. (1) The Social Welfare Agency shall maintain a national electronic information system for adoptable children eligible for full adoption.

(2) Regional Social Welfare Directorates shall maintain registers for adoptable children eligible for full adoption.

(3) The details relevant to the adoption and the procedures for maintaining and keeping the registers shall be set out in a regulation of the Minister of Labour and Social Policy.

Entry of Children for Full Adoption in Regional Registers

Article 84. (1) (Supplemented, SG No. 100/2010, effective 21.12.2010) The Social Welfare Directorate shall notify in writing the Regional Social Welfare Directorate of a child accommodated administratively pursuant to the provisions of the Child Protection Act whose parents are unknown or have given their consent with full adoption within seven days of the accommodation. Where the consent is given after the accommodation, the seven-day time limit shall commence as of the date of the consent.

(2) (Supplemented, SG No. 100/2010, effective 21.12.2010) Where a child has been accommodated administratively at a specialized institution pursuant to the provisions of the Child Protection Act and the parent has not requested discontinuation of the accommodation or change in the protective measure without any cogent reason, the Social Welfare Directorate at the current address of the child shall notify in writing the Regional Social Welfare Directorate of the entry into the register within seven days of the expiration of the time limit under Article 93, paragraph 2, first sentence. A copy of the petition for judicial accommodation pursuant to the provisions of Article 27, paragraph 2 of the Child Protection Act shall be attached to the notification. Where the child is offered a social service of the resident type or is accommodated with a foster family and the parent has not requested termination of the accommodation without cogent reasons within the time limit under Article 93, para 2, the Social Welfare Directorate shall advise the Regional Social Welfare Directorate of the entry of the child into the register provided that the child's interests require it to do so.

(3) A child whose parents are deceased, deprived of parental rights or placed under full legal interdiction may be entered into the register at the request of the custodian or guardian submitted to the director of the Regional Social Welfare Directorate. The director shall seek the opinion on the best interests of the child from the Social Welfare Directorate and from the custody and

guardianship authority.

(4) A person under custodianship may request to be entered into the register under paragraph 3.

(5) The entry of a child into the register may be carried out also on the basis of a request by the parents submitted through the Social Welfare Directorate, where such registration is in the best interests of the child.

(6) The entry into the register and the refusal to make an entry shall be based on an order by the director of the Regional Social Welfare Directorate, which shall be subject to challenge pursuant to the provisions of the Administrative Procedure Code.

National Register of Full Adoptive Parents

Article 85. The Social Welfare Agency shall keep a register of prospective full adoptive parents. The entry into the register shall be made by the Regional Social Welfare Directorates pursuant to the provisions of the regulation under Article 83, paragraph 3.

Admission to the National Register of Full Adoptive Parents

Article 86. (1) A prospective full adoptive parent shall file a petition with the Social Welfare Directorate at his or her place of permanent residence to be entered into the register.

(2) The Social Welfare Directorate shall vet the eligibility of the person to become an adoptive parent.

(3) A person approved by the Social Welfare Directorate shall be entered into the register ex officio.

(4) The refusal to give approval shall be subject to challenge pursuant to the provisions of the Administrative Procedure Code.

(5) The approval shall be valid for two years.

(6) The procedures for the vetting and for issuance and withdrawal of the approval of the entry into the register shall be set out in the regulation under Article 83, paragraph 3.

Notes and Deletions in the Register

Article 87. (1) The prospective adoptive parent shall notify the Social Welfare Directorate of any change in the circumstances relevant to the issuance of the approval.

(2) Changes in the circumstances shall be noted in the register. An approval shall be withdrawn in cases of material change of circumstances after a new vetting procedure.

(3) The withdrawal of the approval shall be subject to challenge pursuant to the provisions

of the Administrative Procedure Code.

(4) Notes and deletions shall be entered on the basis of an order by the director of the Regional Social Welfare Directorate.

Personal Data Protection

Article 88. The Social Welfare Agency shall take measures to ensure personal data protection in the registers.

Section II Granting of Adoption

Consent with the Adoption

Article 89. (1) The consent of the following persons shall be required for adoption purposes:

1. the adoptive parent;
2. the parents of the person to be adopted;
3. the spouses of the adoptive parent and the person to be adopted;
4. the person to be adopted in case he or she is fourteen years of age or above.

(2) The mother may give her consent not earlier than 30 days after birth.

(3) The parents of the person to be adopted shall give their consent also in case they are minors.

(4) The consent of the persons under paragraph 1, subparagraphs 2 and 3 shall not be required in case they are below the age of fourteen or placed under legal interdiction.

(5) In cases of full adoption the Social Welfare Directorate shall explain to the persons under paragraph 1 the consequences of granting adoption prior to their giving of consent. In cases of limited adoption clarifications shall be given by court.

(6) The persons under paragraph 1 shall submit a declaration with notarized signature that their consent is not associated to any material gain.

Opinion on the Adoption

Article 90. (1) The court shall hear the prospective adopted child pursuant to the provisions of the Child Protection Act, unless its is below the age of fourteen.

(2) The following parties shall give an opinion on the adoption:

1. the custodian or guardian;
2. the parents in case they are minors, placed under limited legal interdiction or deprived of parental rights;
3. the spouses of the adoptive parent and the person to be adopted in case they are placed under limited legal interdiction.

Forms of the Consent and the Opinion

Article 91. (1) The consent under Article 89 and the opinion of the persons under Article 90 may be given to court in person, through a declaration with notarized signature or through a special proxy. The court may summon and hear in person some of these persons if its finds it necessary to do so.

(2) The person to be adopted shall give his or her consent to court in person.

(3) In cases of full adoption, where the parent gives his or her opinion in person, the parent and the adoptive parent shall be heard in separate court sessions, except for the cases under Article 82, paragraph 2.

Withdrawal of Consent

Article 92. (Amended, SG No. 100/2010, effective 21.12.2010) The parent may withdraw his or her consent with full adoption through a petition with notarized signature prior to the filing of an adoption petition under Article 95, paragraph 5 or prior to the consent with the adoption by the adoptive parent as specified by the Intercountry Adoption Board pursuant to the provisions of Article 114, paragraph 7.

Adoption with Parental Consent

Article 93. (1) Adoption without parental consent shall be granted, where the parent systematically fails to take care of the child, fails to provide maintenance or brings up and nurtures the child in a manner detrimental to its development.

(2) Adoption without parental consent shall be granted also in case the child is accommodated at a specialized institution and the parent has not requested discontinuation of the accommodation or change of the measure and return or accommodation of the child in a family of kin or relatives pursuant to the provisions of the Child Protection Act without any cogent reason for six months since the date of administrative accommodation under the Child Protection Act. This request may be filed also in the judicial accommodation proceedings pursuant to the provisions of the Child Protection Act.

(3) (New, SG No. 100/2010, effective 21.12.2010) Adoption without the consent of the parent under paragraph 2 shall be allowed also where the child has been offered a social service

of the resident type or has been accommodated with a foster family and has been entered into the register of children for full adoption.

(4) (Renumbered from Paragraph 3, SG No. 100/2010, effective 21.12.2010) In the cases under paragraph 1, the parent shall be summoned to be heard in court.

Adoption Board

Article 94. (1) The Adoption Board shall be established at the Regional Social Welfare Directorate.

(2) (Amended, SG No. 98/2010, effective 1.01.2011, amended and supplemented, SG No. 100/2010, effective 21.12.2010) The director of the Regional Social Welfare Directorate shall serve as chairperson of the Adoption Board. Members of the Board shall be as follows: a lawyer designated by the Regional Governor, a physician designated by the director of the Regional Health Inspectorate, a pedagogue designated by the head of the Regional Inspectorate for Education, a psychologist designated by the director of the Social Welfare Directorate at the current place of residence of the child, the head of the specialized institution where the child is accommodated, as well as the institution providing social services of the resident type.

(3) The authorities under paragraph 2 shall designate also permanent alternates to the Board members.

(4) The Board shall hold weekly meetings.

(5) The Board shall make decisions by show of hands and by a majority of at least two-thirds of the membership.

(6) (Amended, SG No. 74/2009, effective 1.10.2009) The Minister of Labour and Social Policy shall issue rules of the Board under paragraph 1 in consultation with the Minister of Health, the Minister of Education, Youth and Science and the Minister of Justice.

(7) (Amended and supplemented, SG No. 82/2012) The members of the Adoption Board shall receive remuneration in an amount determined by the Minister of Labour and Social Policy for their participation in each Board meeting, unless provided for otherwise by a legislative act.

Selection of a Full Adoptive Parent

Article 95. (1) Within a month from the entry of the child into the register, the Adoption Board shall select suitable adoptive parents for the child, depending on the sequence of their registration, their preferences and the circumstances relevant to the best interests of the child.

(2) Beyond the cases under paragraph 1, the Adoption Board may select as a suitable adoptive parent of the child a person acting as foster family provided the latter is entered into the register under Article 85 and has taken care of the child for at least a year after its accommodation with the foster family.

(3) The Regional Social Welfare Directorate shall notify in writing the top selected suitable adoptive parent of its decision under paragraph 1 and provide the details of the child. The Social Welfare Directorate at the current place of residence of the child shall provide assistance for the establishment of personal contact.

(4) In the cases under paragraph 2, the Regional Social Welfare Directorate shall notify the adoptive parent in writing.

(5) The adoptive parent may file a petition for adoption to the court through the Regional Social Welfare Directorate within a month of reception of the notification. The Directorate shall refer the petition for adoption together with the file to the court within three days of reception of the petition.

(6) Where the notified adoptive parent rejects the proposal in writing or fails to file a petition within the time limit under paragraph 5, the Regional Social Welfare Directorate shall notify the next suitable adoptive parent.

(7) The rejection or failure to file a petition within the time limits under paragraph 5 shall be noted in the National Register of Full Adoptive Parents.

Jurisdiction

Article 96. (1) The petition for full adoption shall be filed by the adoptive parent through the Regional Social Welfare Directorate whose Adoption Board has selected the adoptive parent to the regional court at the location of the regional directorate.

(2) A petition for full adoption under Article 82, paragraphs 2 and 3 may be filed by the adoptive parent, the parents of the prospective adopted child or by the prospective adopted child provided the latter is fourteen years of age or above through the respective Regional Social Welfare Directorate to the regional court at the place of permanent residence of the petitioner.

(3) A petition for limited adoption shall be filed by the adoptive parent to the regional court at the place of permanent residence of the petitioner.

Judgment on the Petition for Adoption

Article 97. (1) (Amended, SG No. 100/2010, effective 21.12.2010) The regional court shall examine the petition for adoption in an open session held in camera within 14 days of reception of the petition. In cases of full adoption, the court shall require a report of the Social Welfare Directorate and collect evidence pursuant to the provisions of the Civil Procedure Code. The court shall hear the conclusion of the public prosecutor and rule a judgment with reasons attached thereof.

(2) Adoption shall be granted provided it is in the best interests of the adopted child.

(3) (Amended, SG No. 100/2010, effective 21.12.2010) The judgment shall be announced in court session and, after it becomes enforceable, the judgment shall be sent ex officio to the

municipality at the place of permanent residence of the adoptive parent and to respective regional Social Welfare Directorate or, where the adoptive parent is a foreign national, to the City of Sofia and to the Ministry of Justice.

Appeal of Judgment

Article 98. (1) (Amended, SG No. 100/2010, effective 21.12.2010) The judgment under Article 97, paragraph 1 may be appealed by the adoptive parent, by the parents of the adopted child, except for the cases under Article 100, paragraph 2, by the adopted child and by the public prosecutor before the court of appeal within seven days of the announcement of the judgment. Where it is fourteen years of age or above, the adopted child may appeal against the judgment in person.

(2) Within 14 days of reception of the appeal, the court shall hear the case in an open session held in camera and rule the final judgment.

Scope of Provisions

Article 99. The provisions of Articles 77 to 98 shall apply also to the adoption of a child with habitual residence in the Republic of Bulgaria, as well as adoption by a foreign national with habitual residence in the Republic of Bulgaria.

Section III Effects of Adoption

Types of Adoption

Article 100. (1) Adoption may be either full or limited.

(2) Full adoption shall be granted in any of the following cases:

1. the adopted person is a child of unknown parentage;
2. the parents have given their consent with full adoption in advance;
3. (supplemented, SG No. 100/2010, effective 21.12.2010) in the case under Article 93, paragraphs 2 and 3.

(3) In all other cases, adoption may be either full or limited. The type of adoption shall be determined by the persons whose consent is required under Article 89.

Full Adoption

Article 101. (1) In case of full adoption, the rights and obligations arising between the adopted child and its descendants, on one part, and the adoptive parent and his kin and

relatives, onof the other part shall be tantamount to those between kin by origin, while the rights and obligations between the adopted child and its descendants and its kin by origin shall be terminated. The impediments to marriage due to kinship under Article 7, paragraph 2, subparagraphs 1 and 2 shall be retained.

(2) The court shall rule on the issuance of a new birth certificate in which the adoptive parent shall be specified as the parent. The birth certificate shall be issued by the registrar at the municipality, mayoralty or ward at the place of permanent residence of the adoptive parent or at the place ruled by the court where the adoptive parents are two.

Limited Adoption

Article 102. (1) In case of limited adoption, rights and obligations identical to those between kin by origin shall arise only between the adopted child and its descendants, of the one part, and the adoptive parent, of the other part shall be tantamount to those between kin by origin, while the rights and obligations between the adopted child and its descendants and its kin by origin shall be retained. The parental rights and obligations shall be transferred to the adoptive parent.

(2) The parents by birth shall owe maintenance, where the adoptive parent is not in a position to provide it. Parents by birth shall not be heirs to the adopted child.

Adoption by the Spouse of a Parent

Article 103. (1) Where a child is adopted by the spouse of a parent, the rights and obligations arising between this parent and his kin and relatives, onof the one part, and the adopted child and its descendants, onof the other part, shall be retained.

(2) In the case under paragraph 1, the existing birth certificate shall feature the details of the adoptive parent, alongside with the details of the parent by birth with whom relations are retained.

Post-adoption Monitoring

Article 104. The Social Welfare Directorate at the current place of residence of the adoptive parent shall monitor the upbringing of the child and the respect for its rights and legitimate interests in the course of two years.

Right to Information

Article 105. (Amended, SG No. 100/2010, effective 21.12.2010) (1) Adoptive parents or adopted persons above the age of sixteen may request the regional court which has ruled on the admissibility of the adoption to obtain information about the origin of the adopted person provided there exist compelling reasons to do so. The regional court shall hold a session in camera to hear the birth parents of the adopted person and the conclusion of the public prosecutor and shall rule thereof.

(2) The decision of the regional court may be challenged by the adoptive parents and the

adopted person and it may be attacked by the public prosecutor.

Section IV

Termination of Adoption

Termination Grounds

Article 106. (1) The regional court shall terminate the adoption in any of the following cases:

1. need for annulment due to violation of Article 77, paragraph 1, Articles 78, Article 79, Article 80, paragraphs 1 and 2, first sentence, Article 81, Article 82, paragraph 1, subparagraphs 1, 2 and 4 and paragraphs 2 and 3;

2. serious fault of either party or existence of other circumstances which lead to deep breakdown of the relations between the adoptive parent and the adopted person.

(2) A petition for annulment of adoption due to violation of Article 89, paragraph 1, subparagraphs 1, 2 and 4 may be filed by the person who has not given his or her consent within a one-year time limit prescribed for the adoptive parent and each parent of the adopted child as from the time of becoming aware of the adoption. The time limit for the adopted person shall commence on the date of coming of age or becoming aware of the adoption, whichever is later. The same rule shall apply also to the person whose consent has been given due to mistake or fraud or under duress or in violation of Article 89, paragraph 2.

(3) A petition for annulment of adoption due to violation of Article 82, paragraph 1, subparagraph 1 may be filed by the adoptive parent, the adopted child and either parent of the adopted child within a year of the granting of the adoption.

(4) In all other cases of need for annulment, termination may be requested by the adoptive parent, the adopted child and either parent of the adopted child until the adopted child comes of age.

(5) In the cases under paragraph 1, subparagraph 2, termination of the adoption may be requested by the adoptive parent and the adopted child.

(6) (Amended, SG No. 100/2010, effective 21.12.2010) The public prosecutor shall be entitled to request termination of adoption in the best public interests. In the cases under paragraph 1, subparagraph 1 the claim shall be filed within the time limits under paragraphs 3 and 4 and in the cases under paragraph 1, subparagraph 2 prior to the child coming of age.

(7) (Amended, SG No. 100/2010, effective 21.12.2010) The Social Welfare Directorate shall be entitled to request termination of adoption under paragraph 1 where it contravenes the child's interests. In the cases under paragraph 1, subparagraph 1 the claim shall be filed within the time limits under paragraphs 3 and 4 and in the cases under paragraph 1, subparagraph 2 prior to the

child coming of age.

(8) Adoption may be terminated by the district court at the mutual consent of the adoptive parent and the adopted person provided both have legal competence.

(9) (New, SG No. 100/2010, effective 21.12.2010) The public prosecutor shall take part in the proceedings on termination of the adoption, except for the cases under paragraph 8.

Termination of Adoption upon Death

Article 107. (1) In cases of full adoption, the court may terminate the adoption at the request of the adopted child, his or her parents, the custodian, the guardian or the Social Welfare Directorate, where either or both adoptive parents are deceased, the adopted child is a minor and its best interests warrant it.

(2) In cases of limited adoption, adoption shall be terminated upon the death of the adoptive parent or upon the death of the adopted person who has left no descendants but the survivor shall inherit the deceased.

Continuation of Proceedings for Termination of Adoption

Article 108. Where the adoptive parent or the prospective adopted child dies during the proceedings for termination of adoption under Article 106, paragraph 1, the proceedings may be continued by the heirs of the petitioner. Where the court grants the petition, the surviving adoptive parent or adopted child at fault shall not inherit the deceased.

Effects of Termination

Article 109. The effects of adoption shall discontinue upon its termination.

Section V

Special Rules for Intercountry Adoption

Adopted Child

Article 110. (1) A child habitually resident in the Republic of Bulgaria may be adopted by a person habitually resident abroad if all possibilities for domestic adoption have been exhausted and the child is entered into the register under Article 113, paragraph 1, subparagraph 1, except for the cases under Article 82, paragraph 2.

(2) The adoption of a child who is a Bulgarian citizen habitually resident in other State shall be carried out, while observing the requirements of the legislation of this State.

Adoptive Parent

Article 111. (1) A person habitually resident abroad may adopt a child habitually resident in the Republic of Bulgaria if this person is entered into the register under Article 113, paragraph 1, subparagraph 2, except for the cases under Article 82, paragraph 2.

(2) A person under paragraph 1 may not adopt a child habitually resident in the Republic of Bulgaria if he or she is habitually resident in a State which will not recognize the judgment of the Bulgarian court on the adoption.

Powers of the Minister of Justice

Article 112. (1) The Ministry of Justice shall perform the functions of a Central Authority under the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption drawn up in the Hague on 29 May 1993 (ratified by law - State Gazette, No. 16 of 2002) (SG, No. 78 of 2002), hereinafter referred to as "the Hague Convention".

(2) The Minister of Justice shall:

1. perform the activities related to intercountry adoption;
2. supervise the activities of accredited intermediary bodies in intercountry adoption;
3. issue regulations on the procedures for keeping intercountry adoption registers.

(3) Where a child habitually resident in the Republic of Bulgaria is adopted in accordance with the Hague Convention, the Minister of Justice shall certify this fact.

(4) The Minister of Justice shall give opinion on the cases under Article 110, paragraph 2, where the legislation of the State in which the child is habitually resident requires a ruling by the Bulgarian Central Authority on intercountry adoption.

(5) Where violation of the rights and legitimate interests of the adopted child is observed within two years of granting adoption, the Minister of Justice shall notify the Competent Authority of the State in which the adoptive parent is habitually resident.

(6) Where no suitable adoptive parents are entered into the register, the Intercountry Adoption Board cannot select suitable registered adoptive parents or the selected adoptive parents have failed to adopt a child with health problems, special needs or above the age of seven, the Minister of Justice shall undertake the measures laid down in the regulation under Article 113, paragraph 4.

Intercountry Adoption Registers

Article 113. (1) The Ministry of Justice shall keep:

1. a register of children adoptable by persons habitually resident abroad on full adoption basis;

2. a register of adoptive parents habitually resident abroad who are willing to adopt a child habitually resident in the Republic of Bulgaria on full adoption basis;

3. (amended, SG No. 100/2010, effective 21.12.2010) a register of adoptive parents habitually resident in the Republic of Bulgaria who are willing to adopt a child habitually resident abroad;

4. a public register of accredited intermediary bodies in intercountry adoption.

(2) The Adoption Board under Article 94 shall notify the Intercountry Adoption Board on the entry of a child in the register of children if at least three adoptive parents were selected for the child pursuant to the provisions of Article 95 and none has filed a petition for adoption or where no suitable adoptive parent can be selected in spite of all efforts.

(3) The entry of the child into the register under paragraph 1, subparagraph 1 shall be noted in the regional register, providing no obstacle for the respective Adoption Board to select a suitable adoptive parent.

(4) The content and procedure of keeping the registers under paragraph 1 shall be set out in a regulation of the Minister of Justice.

(5) (New, SG No. 100/2010, effective 21.12.2010) Fees established in the rates of the Council of Ministers shall be payable for the entering into the registers under paragraph 1, subparagraphs 2 and 3.

Intercountry Adoption Board

Article 114. (1) (Amended, SG No. 74/2009, effective 1.10.2009) The Intercountry Adoption Board shall be established at the Ministry of Justice, consisting of a chairperson who is Deputy Minister of Justice and members who represent the Ministry of Justice, the Ministry of Health, the Ministry of Education, youth and Science, the Ministry of Labour and Social Policy, the Ministry of Foreign Affairs and the State Child Protection Agency each.

(2) The chairperson and each member shall have alternates.

(3) The Board shall hold at least three meetings monthly.

(4) The Board shall make decisions by show of hands and by a majority of at least two-thirds of the membership.

(5) The Minister of Justice shall designate the members of the Board under paragraphs 1 and 2 by name at the proposal of the heads of the respective institutions and issue rules for its activity.

(6) (Amended and supplemented, SG No. 82/2012) The members of the Intercountry Adoption Board shall receive remuneration in an amount determined by the Minister of Justice for their participation in each Board meeting, unless provided for otherwise by a legislative act.

(7) Within 60 days of the entry of the children into the register, the Intercountry Adoption Board shall examine the candidates to select a suitable adoptive parent, while observing the criteria under Article 95, paragraph 1.

(8) The Board shall examine all eligible candidates to select a suitable adoptive parent.

Competence of the Intercountry Adoption Board

Article 115. The Intercountry Adoption Board shall:

1. make a proposal to the Minister of Justice on the selection of a suitable adoptive parent;
2. express an opinion before the Minister of Justice on the petitions of persons habitually resident in the Republic of Bulgaria for adoption of a child habitually resident abroad;
3. make proposals to the Minister of Justice on the issuance of licences under Article 121;
4. express opinions and give recommendations to the Minister of Justice with respect to intercountry adoption;
5. make a proposal to the Minister of Justice on the withdrawal of the license licence of an accredited body.

Intermediation in Intercountry Adoption

Article 116. (1) Intermediation in intercountry adoption may be carried out by a legal entity pursuing non-profit objectives in public interest, hereinafter referred to as "an accredited body" entered into the Central Register under Article 45, paragraph 1 of the Non-profit Legal Persons Act and licensed for this purpose by the Minister of Justice.

(2) A foreign non-profit legal entity accredited to serve as an intermediary in respect of intercountry adoption by a foreign authority may perform its tasks in the Republic of Bulgaria only on the basis of a license issued by the Minister of Justice for intermediation with the respective State.

(3) The Minister of Justice shall issue a regulation on the procedures for the issuance and withdrawal of licences and on the activities of accredited bodies, including their termination.

Consent of the Minister of Justice

Article 117. (1) The Minister of Justice shall give his or her consent with the adoption of a child habitually resident in the Republic of Bulgaria by the adoptive parent proposed by the Intercountry Adoption Board.

(2) The Minister of Justice shall refuse to give his or her consent in any of the following cases:

1. establishment of circumstances which are not in the best interests of the child;

2. material violations in the adoption proceedings.

(3) In the cases under paragraph 2, the Intercountry Adoption Board shall make a new proposal.

(4) A fee shall be charged for giving consent with the adoption at rates approved by the Council of Ministers.

Proceedings on the basis of Petitions for Intercountry Adoption

Article 118. (1) Where consent is given under Article 117, the Ministry of Justice shall refer the petition for adoption to the Sofia City Court. Proceedings shall take place pursuant to the provisions of Article 97.

(2) (Amended, SG No. 100/2010, effective 21.12.2010) The judgment under paragraph 1 may be appealed under Article 98.

Termination of Intercountry Adoption

Article 119. (1) The Minister of Justice shall be entitled to request termination of adoption, where the grounds under Article 106, paragraphs 1 and 7 exist and within the time limits prescribed therein.

(2) The Minister of Justice shall file a petition to terminate the adoption in case the judgment of the Bulgarian court on its granting is not recognized by the receiving State.

Data Protection

Article 120. The Minister of Justice shall take measures to ensure personal data protection.

License for Intermediation

Article 121. (1) An application shall be filed with the Minister of Justice for the issuance of a licence for intermediation in intercountry adoption.

(2) The validity of the licence shall be five years.

(3) A fee shall be charged for the examination of an application for a licence at rates approved by the Council of Ministers.

(4) A licence shall be withdrawn at a proposal of the Intercountry Adoption Board with reasons attached thereof.

Chapter Nine

RELATIONS BETWEEN PARENTS AND CHILDREN

Parental Rights and Obligations

Article 122. (1) Bearer of parental rights and obligations with respect to minor children shall be each parent.

(2) Parents have equal rights and obligations, regardless of whether they are married or not.

(3) The parent's spouse shall assist the parent in performing his or her obligations.

Exercise of Parental Rights and Discharge of Parental Obligations

Article 123. (1) Parental rights shall be exercised and parental obligations shall be discharged in the best interests of the child by both parents jointly and severally. Acting on his or her own, the parent shall advise the other parent thereof.

(2) Parental rights shall be exercised and parental obligations shall be discharged at the parents' mutual consent. In case of dispute, they may seek mediation or file a petition with the district court at the current place of residence of the child, which shall resolve the dispute, having heard the parents and, if necessary, the child. The court judgment shall be subject to appeal in accordance with the general rules.

Rights and Obligations of the Child

Article 124. (1) The child shall have the right to be brought up and nurtured in a way that will ensure its normal physical, mental, moral and social development.

(2) The child shall have the right to personal relations with its parents, unless the court has ruled otherwise.

(3) In case of dispute between a parent and a child, the child may approach the Social Welfare Directorate in person to receive assistance. Where the child is fourteen years of age or above and the dispute concerns issues of material significance, the child may approach the district court at its current place of residence through the Directorate. The court judgment shall be subject to appeal in accordance with the general rules.

(4) Children shall respect their parents and grandparents and help them. Children have the same obligation to the other family members, as well as to the parent's spouse.

(5) Adult children shall take care of their aged or sick parents.

Care, Nurturing and Monitoring of Children

Article 125. (1) The parent shall have the right and obligation to take care of the physical,

mental, moral and social development of the child, its education and its personal and property interests.

(2) The parent shall nurture the child, shape its views and provide for its education, depending on his capabilities and in accordance with the needs and aptitudes of the child and with a view to ensuring its development as an independent and responsible personality. The parent shall not use violence or nurturing methods which infringe upon the child's dignity.

(3) The parent shall ensure continuous monitoring of his or her child below the age of fourteen and appropriate control of the behaviour of his or her minor child.

Co-habitation

Article 126. (1) Parents and minor children shall live together, unless compelling reasons warrant their living separately.

(2) Where a child deviates or is deviated from its place of residence, the district court at the current place of residence of the parent, at the latter's request, shall rule on the return of the child, having heard it. The court ruling may be subject to appeal before the regional court but the appeal shall not stay enforcement. The child shall be returned administratively.

(3) Where the court finds compelling reasons under paragraph 1, it shall deny return of the child to the parent and notify the Social Welfare Directorate at the current place of residence of the child, which shall undertake measures forthwith.

Dispute over Parental Rights

Article 127. (1) In case the parents do not live together, they may reach an agreement on the place of residence of the child, the exercise of parental rights, the personal relations with it and its maintenance. They may request the district court at the current place of residence of the child to endorse their agreement. The agreement shall have the effect of grounds for execution under Article 404, subparagraph 1 of the Code of Civil Procedure.

(2) Failing to reach an agreement under paragraph 1, the parents shall refer the dispute to the district court at the current place of residence of the child, which shall rule on the place of residence of the child, the exercise of parental rights, the personal relations with the child and its maintenance pursuant to the provisions of Articles 59, 142, 143 and 144. The court judgment shall be subject to appeal in accordance with the general rules.

(3) At the request of the parent, the court shall rule on provisional measures in the best interests of the child, having taken the opinion of the Social Welfare Directorate. The court ruling shall not be subject to appeal but it may be modified by the same court.

(4) The court may apply the protective measures under Article 59, paragraph 8.

Dispute in Case of Disagreement between Parents on the Child Travelling Abroad

Article 127a. (New, SG No. 100/2010, effective 21.12.2010) (1) The issues related to the travelling abroad of the child and the issuance of the necessary identity documents thereof shall be resolved upon the common consent of the parents.

(2) Failing to reach an agreement under paragraph 1, the parents shall refer the dispute to the regional court at the current address of the child.

(3) The proceedings shall start at the request of either parent. The court shall hear the other parent, unless his or her absence is due to cogent reasons. The court may collect evidence at its own initiative as well.

(4) The court may allow preliminary enforcement of the decision made.

Personal Relations with Kin

Article 128. (1) Grandparents may request the district court at the current place of residence of the child to impose measures for personal relations with the child provided this is in the best interests of the child. The child shall have the same right.

(2) The court shall apply the provisions of Article 59, paragraphs 8 and 9 respectively.

(3) Where the parent to whom the court has ruled a regime of personal relations with the child is not in a position to exercise it temporarily due to absence or illness, the regime may be carried out by the child's grandparents.

Representation and Guardian Assistance

Article 129. (1) Each parent may represent his or her child below the age of fourteen on his or her own and give consent with the legal actions of his or her minor child in its best interests.

(2) A special representative shall be appointed in cases of contradiction between the interests of the parent and the child.

Management and Disposal of the Child's Property

Article 130. (1) Parents shall manage the child's property in its best interests and with good care.

(2) The income from the child's property which is not needed for its own needs may be used to meet family needs.

(3) Any action of disposal of immovable property, movable property with a formal transaction and deposits, as well as securities owned by the child shall be allowed with the permission of the district court at its current place of residence provided the disposal does not contravene the child's interests.

(4) Any gift, abandonment of rights, lending and securing of other person's debts by a minor

child shall be null and void. By way of exception, other person's debts may be secured through pledge or mortgage pursuant to the provisions of paragraph 3 in case of need or obvious benefit to the child or emergency needs of the family.

(5) Only the restriction under Article 6, paragraph 4 shall apply to the transactions of a married minor.

Restriction of Parental Rights

Article 131. (1) Where the parent's behaviour threatens the personality, health, nurturing or property of the child, the district court shall take measures in the best interests of the child by restricting parental rights - depriving the parent of some of them or imposing conditions on their exercise - and may assign their exercise to another person. The place of residence of the child may be changed, if needed, or the child may be accommodated outside the family.

(2) The measures under paragraph 1 shall be taken also in case the parent is not in a condition to exercise his or her parental rights due to prolonged physical or mental disorder or other reasons beyond the parent's control.

Deprivation of Parental Rights

Article 132. (1) The parent may be deprived of parental rights in any of the following cases:

1. particularly serious cases under Article 131;
2. the parent takes no care of the child and provides no maintenance for a long period of time without any cogent reason.

(2) Where a parent is deprived of parental rights and there is no other parent or the exercise of parental rights by the other parent is not in the best interests of the child, the court shall take protective measures and accommodate the child outside the family.

Proceedings to Restrict Parental Rights or Deprive from Parental Rights

Article 133. (1) Proceedings to restrict parental rights or deprive from parental rights shall be brought at the petition of the other parent, the public prosecutor or the Social Welfare Directorate before the district court at the current place of residence of the child.

(2) The public prosecutor, a representative of the Social Welfare Directorate and the parent whose restriction or deprivation of parental rights is petitioned, unless the parent does not appear without any cogent reasons, shall be heard in the proceedings.

(3) The court shall rule on appropriate provisional measures in the best interests of the child, taking into consideration the opinion of the Social Welfare Directorate. The court ruling shall not be subject to appeal but it may be modified by the same court.

Maintenance and Measures with respect to Personal Relations

Article 134. When restricting parental rights through accommodation of the child outside the family or depriving of parental rights, the court shall determine:

1. the child's maintenance, unless it has been adjudicated;
2. the measures with respect to the personal relations between the parent and the child, while applying Article 59, paragraph 8 respectively.

Modification of Measures and Recovery of Parental Rights

Article 135. (1) In case of change in circumstances, the court may modify the measures under Articles 131, 132 and 134.

(2) The parent may request the court to recover his or her parental rights, where the grounds for the deprivation of parental rights have been removed.

Recordation

Article 136. In the cases under Articles 131 and 132, the court shall notify ex officio the municipality at the place of permanent residence of the parent to record the deprivation of parental rights, their recover or modification under Article 135. The court shall send a copy also to the Social Welfare Directorate at the current place of residence of the child, which shall undertake appropriate measures and, if necessary, propose the instatement of custody or guardianship.

Surrogate Care

Article 137. (1) Persons assigned with the care of the child shall not acquire parental rights and obligations.

(2) The persons under paragraph 1 may take decisions and undertake actions to protect the life and health of the children they are taking care of, without the consent of the parents.

(3) The persons with whom the child has been accommodated judicially shall have the right and obligation to live with it, as well as the obligation to undertake practical action under Article 125. They shall also be entitled to the right under Article 126, paragraph 2.

(4) (Amended, SG No. 82/2009) The persons under paragraph 3 shall undertake the necessary legal action to protect the child's personal rights related to its health, education and civil status, as well as to have its identity documents issued pursuant to the provisions of the Bulgarian Personal Documents Act, having obtained a positive opinion from the Social Welfare Directorate. These persons shall have the obligation under Article 165, paragraph 3.

(5) In cases of administrative accommodation of the child pursuant to the provisions of Article 27 of the Child Protection Act, the actions under paragraph 4 shall be undertaken by the Social Welfare Directorate.

Participation of the Child in Proceedings

Article 138. The child shall be heard in proceedings under this Chapter pursuant to the provisions of Article 15 of the Child Protection Act.

Chapter Ten MAINTENANCE

Right to Maintenance

Article 139. Any person who is not able to work and cannot support himself or herself from his or her property shall be entitled to maintenance.

Sequence of Persons Liable to Provide Maintenance

Article 140. (1) The person entitled to maintenance may seek it in the following sequence:

1. children and spouse;
2. parents;
3. former spouse;
4. grandchildren and great-grandchildren;
5. siblings;
6. grandparents and ancestors more times removed.

(2) Where the persons from a preceding order are not in a position to provide maintenance, the persons from the following order shall become liable to provide maintenance.

(3) Where several persons from the same order are liable to provide maintenance, the obligations shall be distributed among them, depending on their capabilities. If maintenance has been provided by only one of them, the person may seek from the other the relevant portion together with the statutory interest rate.

Sequence of Persons Entitled to Maintenance

Article 141. A person liable to provide maintenance to several persons shall provide it in the following sequence:

1. children and spouse;

2. parents;
3. former spouse;
4. grandchildren and great-grandchildren;
5. siblings;
6. grandparents and ancestors more times removed.

Amount of Maintenance

Article 142. (1) The amount of maintenance shall be determined in accordance with the needs of the person entitled to maintenance and the capabilities of the person liable to provide it.

(2) The minimum maintenance of a child shall be equal to one quarter of the minimum wage.

Maintenance of Minors by Parents

Article 143. (1) Each parent shall provide, within his or her capabilities and financial condition, the living conditions needed for the development of the child.

(2) Parents shall be liable to provide maintenance to their minor children, regardless of whether the latter are able to work or support themselves from their property.

(3) Parents shall be liable to provide maintenance also in case the child is accommodated outside the family.

(4) The court may adjudicate, at the request of a parent or surrogate carer under Article 137, an additional allowance to the maintenance established by the court to cover emergency needs of the child in an amount which will not create excessive burden to the parent. The court shall establish also the period for which the additional allowance shall be provided.

Maintenance of Adult Student Children by Parents

Article 144. Parents shall be liable to provide maintenance to their adult children provided the latter attend regular courses at secondary and higher schools during the term of education until the child becomes twenty years of age at secondary school and twenty-five years of age at an establishment of higher learning and cannot support themselves from their income or use of their property and the parents can provide it without excessive burden.

Maintenance of a Former Spouse

Article 145. (1) A spouse who has no fault for the divorce shall be entitled to maintenance.

(2) The maintenance shall be provided for up to three years after the dissolution of marriage,

unless the parties have agreed a longer period. The court may renew the period, where the maintained person is in a particularly difficult condition, while the provider can provide it without excessive burden.

(3) The right to maintenance of the former spouse shall be terminated upon his or her re-marriage.

Payment of Maintenance in Cash

Article 146. (1) Maintenance in cash shall be paid on a monthly basis. The statutory interest rate shall be charged on delayed payments.

(2) Petitions for maintenance shall be examined in summary proceedings pursuant to the provisions of the Code of Civil Procedure.

Abandonment of Maintenance

Article 147. The abandonment of maintenance for future periods shall be null and void.

Prohibition of Netting

Article 148. The netting of debt against maintenance shall be prohibited.

Maintenance for Past Periods

Article 149. Maintenance for past periods may be sought for up to one year prior to the filing of the petition.

Modification and Termination of Maintenance

Article 150. The adjudicated maintenance or the additional allowance thereto may be modified or terminated in case of change in circumstances.

Loss of the Right to Maintenance

Article 151. (1) A person who has committed a serious malfeasance against the provider of the maintenance, his or her spouse, ascendant or descendant may not seek maintenance.

(2) Paragraph 1 shall not apply to the maintenance of children until they become sixteen years of age.

(3) A person deprived of parental rights shall not be relieved from the obligation to provide maintenance to his or her child. A person culpably deprived of parental rights may not seek maintenance from the child with respect of whom the deprivation has been ruled.

Payment of Adjudicated Maintenance by the State

Article 152. (1) (Supplemented, SG No. 100/2010, effective 21.12.2010) The State shall pay the maintenance adjudicated to a Bulgarian citizen under age at the expense of the defaulting debtor in the amount established in the court judgment but not more than the maximum amount specified in the annual State Budget Act of the Republic of Bulgaria.

(2) (Amended, SG No. 100/2010, effective 21.12.2010) The payment under paragraph 1 shall be made, where it is established in the course of the recovery proceedings that the debtor in default has no income or property to seek recovery in the recovery action.

(3) (Repealed, SG No. 100/2010, effective 21.12.2010).

(4) (Amended, SG No. 100/2010, effective 21.12.2010) The State shall pay no maintenance adjudicated under Article 145.

(5) (Amended, SG No. 100/2010, effective 21.12.2010) Maintenance shall be paid as from the first day of the month following the month when the circumstances under paragraph 2 were established.

(6) (Amended, SG No. 100/2010, effective 21.12.2010) The defaulting debtor shall recover the maintenance paid by the State together with the statutory interest accrued.

(7) (New, SG No. 100/2010, effective 21.12.2010) The state shall be considered an adjoined claimant on the private public receivable for the maintenance paid by the municipality under the recovery proceedings, together with the statutory interest accrued. The fees and expenses due shall be collected directly from the debtor in such cases.

(8) (Renumbered from Paragraph 7, SG No. 100/2010, effective 21.12.2010) The Council of Ministers shall adopt a regulation on the procedures for payment of adjudicated maintenance by the State.

Chapter Eleven

CUSTODY AND GUARDIANSHIP

Conditions for Instatement

Article 153. (1) Custody shall be instated over children below the age of fourteen, whose parents are unknown, deceased, placed under full legal interdiction or deprived of parental rights. Custody shall be instated also over persons placed under full legal interdiction.

(2) Custody shall be instated over minors whose parents are unknown, deceased, placed under full legal interdiction or deprived of parental rights. Custody shall be instated also over persons placed under full legal interdiction.

(3) Any person who becomes aware of the need for custody or guardianship to be instated shall report to the custody and guardianship authority forthwith and, in cases of a child, also the

Social Welfare Directorate. Where the child is accommodated at a specialized institution, the report shall be made by the director within seven days of the accommodation.

Custody and Guardianship Authority

Article 154. The mayor of the municipality or a person designated by the mayor shall serve as custody and guardianship authority.

Custody and Guardianship Instatement Procedure

Article 155. (1) The custody and guardianship authority shall appoint a custody board or a guardian and a deputy guardian within 30 days. The time limits shall commence as from the date of reception of the court judgment on the interdiction or deprivation of parental rights or as from the date of becoming aware of the parent's death.

(2) In cases of a report under Article 153, paragraph 3, the custody and guardianship authority shall carry out an inspection and, if such grounds exist, appoint a custody board or a guardian and a deputy guardian within the time limits under paragraph 1.

(3) The custody and guardianship authority shall hear the child pursuant to the provisions of Article 15 of the Child Protection Act and take the opinion of the Social Welfare Directorate. Where guardianship is instated over a person placed under limited legal interdiction, the authority shall hear also this person.

Custody Board

Article 156. (1) The custody and guardianship authority at the place of permanent residence of the person shall appoint a custodian, a deputy custodian and two advisors from among the kin and relatives of the person under the age of fourteen or the person placed under full legal interdiction who will best take care of his or her best interests and have given their consent in writing. They shall make up the custody board.

(2) The custody board may involve also other suitable members.

Guardian

Article 157. The custody and guardianship authority at the place of permanent residence of the person shall appoint a guardian and a deputy guardian from among the persons under Article 156 who have given their consent in writing.

Impediments to Appointment

Article 158. Persons lacking legal competence, deprived of parental rights and convicted for felony shall not be eligible to become members of a custody board or guardians or deputy guardians.

Protective Measures

Article 159. (1) Pending the appointment of a custodian or a guardian, the custody and guardianship authority shall take protective measures with respect to the personality and property of the person to be placed under custody or guardianship. The custody and guardianship authority shall draw up a list of his or her property or have such a list drawn up. The authority may assign a specific person to serve as a temporary custodian or guardian.

(2) Where custody or guardianship is instated over a child, the custody and guardianship authority may ask the Social Welfare Directorate to take special protective measures.

Changes in Membership

Article 160. (1) The custody and guardianship authority may change the membership of the custody board, where the best interests of the person under the age of fourteen or the person placed under full legal interdiction warrant it. Members of the custody board may be changed at their own request as well.

(2) Paragraph 1 shall apply also to the guardian and deputy guardian.

(3) Prior to its ruling on the changes under paragraphs 1 and 2, the custody and guardianship authority shall take the opinion also of kin to the person placed under custody or guardianship, while the provisions of Article 155, paragraph 3 shall additionally apply to minors.

Appeal against the Actions of the Custody and Guardianship Authority

Article 161. The actions of the custody and guardianship authority, as well as the refusal to instate custody or guardianship or take the measures under Article 159 may be appealed by the parties concerned or by the public prosecutor before the district court. The Social Welfare Directorate shall have the same right with regard to children. The judgment of the district court shall be ruled on the merit of the case and shall not be subject to appeal.

Assistance

Article 162. The custody and guardianship authority shall assist the custodian and the guardian in the discharge of their duties. Where the person placed under custody or guardianship is a child, such assistance shall be provided also by the Social Welfare Directorate.

Place of Residence of the Person Placed under Guardianship

Article 163. (1) A person placed under custody shall live with the custodian, unless compelling reasons warrant that they live separately.

(2) Where a person placed under custody deviates or is deviated from his or her place of residence, the custodian may request the district court to return the person, having heard him or her. The court ruling may be subject to appeal before the regional court but the appeal shall not stay enforcement. The person shall be returned administratively.

(3) Article 126, paragraph 3 shall apply to the cases under paragraph 2 respectively.

Rights and Obligations of the Custodian

Article 164. (1) The activity of the custodian shall be honorary.

(2) The custodian of a child below the age of fourteen shall have also the obligations under Articles 125 and 129 and also those under Article 129 where the child is accommodated with a foster family.

(3) The guardian of a person placed under legal interdiction shall take care of this person, manage his or her property and represent him or her before third parties.

Management and Disposal of the Property of a Person Placed under

Guardianship

Article 165. (1) The guardian shall manage the property of the person placed under guardianship with good care and in his or her best interests.

(2) The guardian shall notify the custody and guardianship authority, within a month, of the acquisition of property of material value after the instatement of custody, whereby this property shall be entered into the list under Article 159, paragraph 1.

(3) The custodian shall remit the cash of the person placed under custody to his or her name with a bank within seven days of receipt. The custodian shall pay the statutory interest rate for any delay of remittance.

(4) Article 130, paragraph 3 and paragraph 4, first sentence shall apply to the disposal of property of a person placed under custody. The custodian shall attach the opinion of the custody board to the petition.

Rights and Obligations of Advisors in the Custody Board

Article 166. (1) Advisors shall assist the custodian and deputy custodian in the discharge of their duties and notify the custody and guardianship authority of any disturbances in the upbringing and nurturing of the child under the age of fourteen or the protection of the rights and interests of the person placed under custody. They shall hear the report of the custodian and take part in its adoption by the custody and guardianship authority. Advisors may propose dismissal of the custodian and give opinion in the cases prescribed by law.

(2) The custody board shall give its opinion in writing on the adoption of the child placed under custody by the custodian in the cases under Article 82, paragraph 3.

Place of Residence of Persons Placed under Guardianship

Article 167. (1) A person placed under guardianship shall live with the guardian,

accommodated elsewhere as prescribed by law. The guardian shall have the right under Article 163, paragraph 2.

(2) The deputy guardian shall give his or her opinion in cases of adoption of the person placed under guardianship by the guardian.

Rights and Obligations of the Guardian

Article 168. (1) The activity of the custodian shall be honorary.

(2) The provisions of Article 164 and Article 165, paragraphs 2 and 4 shall apply also to the guardian. The cash of the person placed under guardianship shall be remitted in his or her name with a bank.

Deputy Custodian and Deputy Guardian

Article 169. (1) The deputy custodian shall replace the custodian in cases the latter is prevented from discharging his or her duties or in cases of conflict of interest between the interests of the custodian and the interests of the person placed under custody. In such cases, the custody and guardianship authority may appoint a special representative.

(2) The deputy custodian may propose to the custody and guardianship authority to dismiss the custodian.

(3) Paragraphs 1 and 2 shall apply also to the deputy guardian.

Supervision of Custodians and Guardians

Article 170. (1) The custody and guardianship authority shall supervise the activities of the custodian. It may stop his or her actions and prescribe action to be taken, having taken the opinion of the custody board.

(2) Paragraph 1 shall apply also to the guardian.

Reports of Custodians and Guardians

Article 171. (1) The custodian shall report his or her activities to the custody board each year by the end of February and submit the report to the custody and guardianship authority. The custodian shall report also upon dismissal and at any time upon the request of the custody and guardianship authority.

(2) The guardian shall give explanations about his or her actions upon the request of the custody and guardianship authority in the presence of the deputy guardian.

(3) The custody and guardianship authority shall rule on the report of the custodian and the explanations of the guardian and, if irregularities are observed, demand the removal of such irregularities. Where the custody or guardianship is instated over a minor, the Social Welfare

Directorate shall give its opinion as well.

(4) The district court shall issue a writ of execution against the custodian for unreported amounts of money on the basis of a petition by the custody and guardianship authority.

(5) Where the custodian fails to appear or submit the report without any cogent reason, the custody and guardianship authority shall impose a fine ranging from BGN 50 to BGN 500. The authority shall seek the report from the deputy custodian.

(6) Where the guardian fails to appear or give explanations without any cogent reason, the custody and guardianship authority shall impose the fine under paragraph 5. The authority shall seek the explanations from the deputy custodian.

(7) The establishment of the misdemeanour and the issuance, appeal and execution of the penalty order shall follow the procedures prescribed in the Administrative Violations and Sanctions Act.

Transition from Custody to Guardianship

Article 172. (1) When the child becomes fourteen, custody shall be terminated and the custody and guardianship authority shall appoint a guardian and a deputy guardian. Pending their appointment, these functions shall be performed by the custodian.

(2) In cases of transition from full to limited legal interdiction, pending the appointment of a guardian, these functions shall be performed by the custodian.

Custody and Guardianship by Right

Article 173. (1) Custodian or guardian respectively of a child of unknown parentage shall be the head of the specialized institution in which the child is accommodated.

(2) Custodian of a spouse placed under full legal interdiction or guardian of a spouse placed under limited legal interdiction shall be the spouse with legal competence. If there is no such spouse, parental rights shall be exercised and parental obligations shall be discharged by his or her parents, unless they are unknown, deceased or deprived of parental rights.

(3) In the cases under paragraphs 1 and 2, no custody board or guardian and deputy guardian shall be appointed and no custody proceedings shall be opened.

(4) The custody and guardianship authority shall dismiss the custodian or guardian under paragraph 2, where the best interests of the person placed under legal interdiction warrant it. In these cases, a custody board or a guardian and a deputy guardian shall be appointed following the general rules.

Register

Article 174. (1) In cases of appointment of a custody board or a guardian and a deputy

guardian and in the cases under Article 173, paragraph 2, the custodian and the guardian shall be entered into a register. The register shall be kept by the custody and guardianship authority at the place of permanent residence of the person placed under custody or guardianship.

(2) In the cases under Article 173, paragraph 2, the entry shall be made at the request of the spouse or the parents and after that the applicant shall be issued a certificate on his or her status of a custodian or guardian.

Chapter Twelve

ADMINISTRATIVE PENALTY PROVISIONS

Article 175. (1) Any official committing a violation or having a violation committed under Article 83 to 88 and Article 95 and the related secondary legislation shall be punished with a fine ranging from BGN 1,000 to BGN 2,000, unless the action constitutes an offence.

(2) Where the action is repeated, the fine shall range from BGN 2,500 to BGN 5,000.

Article 176. (1) Violation statements shall be drawn up by officials authorized by the Minister of Justice or the Minister of Labour and Social Policy respectively.

(2) Penalty orders shall be issued by the Minister of Justice or the Minister of Labour and Social Policy respectively or officials authorized by them.

(3) The establishment of violations and the issuance, appeal and execution of penalty orders shall follow the procedures prescribed in the Administrative Violations and Sanctions Act.

ADDITIONAL PROVISIONS

§ 1. "Marital home", within the meaning of this Code, shall be the home inhabited by both spouses and their minor children.

§ 2. "Repeated", within the meaning of this Code, shall be a violation committed within a year of the date of enforceability of the penalty order imposing a penalty on the perpetrator for the same type of violation.

TRANSITIONAL AND FINAL PROVISIONS

§ 3. The Family Code (Promulgated, SG No. 41 of 1985; Amended, No. 11 of 1992; Emended, No. 15 of 1991; Amended, Nos. 63 and 84 of 2003, 42 of 2005, 30 of 2006 and 59 of 2007) is hereby repealed.

§ 4. (1) The rules of this Code with respect to spousal property relations shall apply also to properties acquired by spouses in marriage existing prior to its entry into force.

(2) Spouses in marriage existing prior to the entry of this Code into force may choose the

regime of separation of property or conclude a matrimonial contract pursuant to the provisions of this Code.

§ 5. (1) Pending the establishment of the maximum amount of the adjudicated maintenance under Article 152, paragraph 1 in accordance with the annual State Budget Act of the Republic of Bulgaria, the State shall pay the adjudicated maintenance at the expense of the defaulting debtor in the amount set out in the judgment but not more than BGN 80.

(2) Prior to the establishment of the maintenance under paragraph 1 in pending execution proceedings and files opened before the entry of this Code into force, the State shall pay maintenance in the adjudicated amounts but not more than BGN 80.

(3) The State shall terminate the payment of maintenance adjudicated pursuant to the provisions of Article 82, paragraph 2 and Article 83 of the repealed Family Code in the cases and files under paragraph 2 as from the first day of the month following the entry of this Code into force.

§ 6. (1) The national electronic information system under Article 83 and the register under Article 85 shall be established within a year of the entry of this Code into force.

(2) Pending the establishment of the register under Article 85, the prospective full adoptive parents shall be entered into the registers under Article 57b of the repealed Family Code.

§ 7. Within a month of the entry of this Code into force, the Civil Registration and Administrative Services General Directorate at the Ministry of Regional Development and Public Works shall provide the Recordation Office with free access to the data in the automatic information arrays of the Integrated Civil Registration and Administrative Services System at the nationwide level.

§ 8. (1) A parent whose child is accommodated at a specialised institution by court without any term specified in the judgment or whose child has stayed at the institution for more than a year shall ask for termination of the accommodation or change of the protective measure within three months of the entry of this Code into force with a view to the upbringing of the child in a family environment.

(2) The relevant Social Welfare Directorate shall notify the parent at his or her place of permanent residence for the undertaking of the measures under paragraph 1 within a month of the entry of this Code into force. Failing to find the parent at the place of permanent or current residence, a notice shall be exhibited visibly on the premises of the Directorate, specifying the deadline. The notice shall be delivered also pursuant to the provisions of the Code of Civil Procedure.

(3) The Social Welfare Directorate shall notify in writing the relevant Regional Social Welfare Directorate within seven days for entry of the child into the regional register at the location of the specialized institution in cases of non-performance under paragraph 1. Adoption shall proceed without the parent's consent.

§ 9. The Private International Law Code (Promulgated, SG No. 42/2005, amended, No. 59/2007) Article 84 shall be amended as follows:

1. Paragraph 3:

(a) the first sentence shall be amended as follows: "The consent of the Minister of Justice shall be required where the adopted child is habitually resident in the Republic of Bulgaria, unless the adoptive parent is habitually resident in the Republic of Bulgaria";

(b) in the second sentence, the words "from a foreign national to a person who is a Bulgarian citizen" shall be deleted.

2. In paragraph 4, the words "Bulgarian or foreign national" shall be deleted.

§ 10. In the Code of Civil Procedure (Promulgated, SG No. 59 of 2007; Amended, No. 50 of 2008, Judgment No. 3 of the Constitutional Court of 2008 - No. 63 of 2008, No. 69 of 2008, Nos. 12, 19 and 42 of 2009), Article 327, first sentence, the word "ascendants" shall be replaced by the word "parents".

§ 11. In the Criminal Code (Promulgated, SG No. 26 of 1968; Emended, No. 29 of 1968; Amended, No. 92 of 1969, Nos. 26 and 27 of 1973, No. 89 of 1974, No. 95 of 1975, No. 3 of 1977, No. 54 of 1978, No. 89 of 1979, No. 28 of 1982; Emended, No. 31 of 1982; Amended. No. 44 of 1984, Nos. 41 and 79 of 1985; Emended, No. 80 of 1985; Amended, No. 89 of 1986; Emended, No. 90 of 1986; Amended, Nos. 37, 91 and 99 of 1989, Nos. 10, 31 and 81 of 1990, Nos. 1 and 86 of 1991; Emended, No. 90 of 1991; Amended, No. 105 of 1991, No. 54 of 1992, Nos. 10 of 1993, No. 50 of 1995, No. 97 of 1995 - Judgment No. 19 of the Constitutional Court of 1995; Amended, No. 102 of 1995, No. 107 of 1996, Nos. 62 and 85 of 1997, No. 120 of 1997 - Judgment No. 19 of the Constitutional Court of 1997; Amended, Nos. 83, 85, 132, 133 and 153 of 1998, Nos. 7, 51 and 81 of 1999, Nos. 21 and 51 of 2000, No. 98 of 2000 - Judgment No. 14 of the Constitutional Court of 2000; Amended, Nos. 41 and 101 of 2001, Nos. 45 and 92 of 2002, Nos. 26 and 103 of 2004, Nos. 24, 43, 76, 86 and 88 of 2005, Nos. 59, 75 and 102 of 2006, Nos. 38, 57, 64, 85, 89 and 94 of 2007, Nos. 19, 67 and 102 of 2008, Nos. 12, 23 and 32 of 2009), Article 183, paragraph 1, the words "with imprisonment of up to one year or" shall be inserted after the word "punished".

§ 12. The Civil Registration Act (Promulgated, SG No. 67 of 1999; Amended, Nos. 28 and 37 of 2001, No. 54 of 2002, No. 63 of 2003, Nos. 70 and 96 of 2004, No. 30 of 2006, Nos. 48 and 59 of 2007, No. 105 of 2008, Nos. 6 and 19 of 2009) shall be amended as follows:

1. Article 25:

(a) The existing text shall become paragraph 1;

(b) Paragraph 2 shall be inserted as follows:

"(2) The format of the personal registration card shall be approved through an order of the Minister of Regional Development and Public Works".

2. In Article 50, paragraph 1, first sentence, the words "within three days of reception of the copy" shall be inserted at the end.

3. Article 53:

(a) A new subparagraph 6 shall be inserted as follows:

"6. regime of property relations";

(b) The existing subparagraphs 6, 7, 8 and 9 shall be re-numbered into subparagraphs 7, 8, 9 and 10 respectively.

§ 13. The Child Protection Act (Promulgated, SG No. 48 of 2000; Amended, Nos. 75 and 120 of 2002, Nos. 36 and 63 of 2003, Nos. 70 and 115 of 2004, Nos. 28, 94 and 103 of 2005, Nos. 30, 38 and 82 of 2006, No. 59 of 2007, No. 69 of 2008, No. 14 of 2009) shall be amended as follows:

1. In Article 45, paragraph 13 shall be inserted as follows:

"(13) An official failing to perform an obligation under Article 27, paragraph 2 shall be punished with a fine ranging from BGN 1,000 to BGN 2,000 for a first violation and from BGN 1,500 to BGN 3,000 for a repeated violation, unless the official is subject to a more severe administrative punishment prescribed by a special law or the action constitutes an offence."

2. In Article 46, paragraph 3, the words "and 13" shall be added after the words "paragraph 7" in the text before subparagraph 1.

§ 14. In the Bulgarian Identity Documents Act (Promulgated, SG No. 93 of 1998; Amended, Nos. 53, 67, 70 and 113 of 1999, No. 108 of 2000, No. 42 of 2001, Nos. 45 and 54 of 2002, Nos. 29 and 63 of 2003, Nos. 96, 103 and 111 of 2004, Nos. 43, 71, 86, 88 and 105 of 2005, Nos. 30, 82 and 105 of 2006, Nos. 29, 46 and 52 of 2007, Nos. 66, 88 and 110 of 2008 and No. 35 of 2009), Article 76, subparagraph 9, a second sentence shall be inserted as follows: "In case of dispute between the parents, the dispute shall be resolved pursuant to the provisions of Article 123, paragraph 2 of the Family Code".

§ 15. The Notaries and Notarial Practice Act (Promulgated, SG, No. 104/1996; Amended, Nos. 117, 118 and 123/1997, No. 24/1998, No. 69/1999, No. 18/2003, Nos. 29 and 36/2004, Nos. 19 and 43/2005, Nos. 30, 39 and 41/2006, Nos. 59 and 64/2007, Nos. 50 and 69/2008 and No. 42/2009) shall be amended as follows:

1. Article 25, paragraph 4:

(a) a new second sentence shall be inserted: "The matrimonial contract in the cases under Article 39, paragraph 3 of the Family Code shall be submitted for recordation upon reception of the civil marriage certificate";

(b) the existing second sentence shall become the third sentence.

3. In Article 28a, paragraph 1, subparagraph 4, the words "as well as the matrimonial contracts under Article 39 of the Family Code" shall be inserted at the end.

§ 16. In the Control of Juvenile Anti-social Behaviour Act (Promulgated, Izv., No. 13 of 1958; Amended, No. 11 of 1961; SG, No. 35 of 1966, No. 30 of 1969, No. 89 of 1974, No. 53 of 1975; Emended, No. 55 of 1975; Amended, No. 63 of 1976, No. 36 of 1979, No. 75 of 1988, No. 110 of 1996; Emended, No. 3 of 1997; Amended, No. 69 of 1999, Nos. 66 and 96 of 2004, Nos. 28, 94 and 103 of 2005 and No. 25 of 2009), Article 15, subparagraph 7, the words "Articles 74 to 76" shall be replaced by the words "Articles 131, 132 and 134".

§ 17. In the Succession Act (Promulgated, SG, No. 22 of 1949; Emended, No. 41 of 1949; Amended, No. 275 of 1950, No. 41 of 1985, No. 60 of 1992, Nos. 21 and 104 of 1996, No. 117 of 1997, No. 96 of 1999, No. 34 of 2000 and No. 59 of 2007), Article 5, paragraph 3, the words "Article 62" shall be replaced by the words "Article 102".

§ 18. This Code shall enter into force on 1 October 2009.

This law was adopted by the 40th National Assembly on 12 June 2009 and the official seal of the National Assembly was affixed thereto.

Act to Amend and Supplement the Family Code

(SG No. 100/2010, effective 21.12.2010)

TRANSITIONAL AND FINAL PROVISIONS

§ 19. (Effective 1.10.2009 - SG No. 100/2010) Bulgarian citizens with habitual residence abroad who have been entered into the register under Article 57b, paragraph 1 of the repealed Family Code (Promulgated State Gazette, No. 41 of 1985; amended, SG No. 11 of 1992; emended, SG No. 15 of 1992; amended, SG Nos. 63 and 84 of 2003, No. 42 of 2005, No. 30 of 2006 and No. 59 of 2007; repealed, SG No. 47 of 2009) may take part in the adoption procedure under this Code without applying Article 84, paragraph 3 of the Private International Law Code pending the expiration of their permission for entry into the register. Adoptive parents who have not adopted a child before 1 October 2001 may apply for entry into the register under Article 113, paragraph 1, subparagraph 2 of this Code.

§ 20. (Effective 1.10.2009 - SG No. 100/2010) The permissions for entry into the register under Article 57b, paragraph 1 of the repealed Family Code of Bulgarian citizens with habitual residence abroad shall be valid until 1 October 2011 provided that the term of these permissions had not expired before 1 October 2009.

§ 21. (Effective 1.10.2009 - SG No. 100/2010) Any pending proceedings under Article 53e, paragraph 1 of the repealed Family Code shall be completed under the terms and conditions provided therein, whereby the child shall be entered into the register under Article 83, paragraph 2 of this Code after the effective date of the court decision under Article 53e, paragraph 4 of the

repealed Family Code.

§ 22. The pending procedures for payment of maintenance adjudicated under Article 152 by the state started prior to the effective date of this Act shall be continued under the new terms and conditions.

.....

§ 24. This Act shall enter into force on the date of its promulgation in The State Gazette, except for § 19, 20 and 21 which shall enter into force as from 1 October 2009.

Final Act to amend the Administration Act

(SG No. 82/2012)

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§ 16. Ministers and Ministers bring adopted respectively of their own regulations in accordance with this Act within one month of its entry into force.