

# **Family Code Bulgaria**

## **Chapter One GENERAL PROVISIONS**

### **SUBJECT**

#### **Article 1**

The Family Code governs relations based on marriage, kinship and adoption; full legal guardianship and trusteeship.

### **PURPOSES**

#### **Article 2**

(Amended - SG, No. 11/1992) The purposes of this Code are: protection and consolidation of the family; overall protection of children and their upbringing; development of mutual assistance, attachment and respect between all members of the family and their upbringing in a spirit of responsibility towards the family and society; safeguarding the interests and rights of those placed under full legal guardianship and trusteeship.

### **PRINCIPLES**

#### **Article 3**

Family relations are governed according to the following principles: protection of the family and the marriage by the State and society; equality of rights of husband and wife; voluntary nature and durability of the bonds of marriage as the foundation of the family; comprehensive protection of children; equality of the rights of children born in and out of wedlock and adopted children; respect for the individual; care and assistance between the members of the family.

### **THE FUNCTIONS OF THE FAMILY**

#### **Article 4**

The basic functions of the family are: bearing, rearing and upbringing of children; providing possibilities for the development of the abilities of all members of the family and conditions for the fulfillment of their professional and social obligations; establishing within the family relations based on respect, attachment, friendship, common efforts and reciprocal responsibility for its development; caring for and morally and materially helping the elderly, the sick and disabled members of the family.

### **PROTECTION OF THE FAMILY**

#### **Article 5**

Society and the State provide conditions for the development of the family, encourage childbearing, protect and stimulate motherhood and render assistance to the parents in rearing and bringing up of the children. They exercise care in the preparation of the young for family life.

## **Chapter Two CONTRACTION OF MARRIAGE**

### **CIVIL MARRIAGE**

#### **Article 6**

(1) Only a civil marriage, contracted in the form prescribed by this Code creates the effects which laws connect with marriage.

(2) A religious ceremony may be performed only after the contraction of a civil marriage. This ceremony has no legal effect.

### **CONSENT OF THE PARTIES CONTRACTING MARRIAGE**

#### **Article 7**

Marriage is contracted by the mutual consent of a man and a woman given personally and simultaneously before the officer for civil status.

## DOCUMENTS FOR CONTRACTION OF MARRIAGE

### Article 8

Those willing to enter into a marriage state their intention at the municipal council. Each one of them submits a declaration that there are not any prohibitions for the contraction of a marriage set forth under Articles 12 and 13, and a medical certificate proving that they are not afflicted by any one of the ailments, set forth under Article 13, Para 1, points 2 and 3.

## PLACE FOR CONTRACTION OF MARRIAGES

### Article 9

- (1) Marriages are contracted publicly and solemnly at the municipal council.
- (2) Where one of the parties to the marriage is unable to appear at the municipal council for a valid reason, then on the discretion of the officer of the civil status the marriage may be contracted elsewhere.

## RULES FOR CONTRACTION OF MARRIAGES

### Article 10

- (1) A marriage is contracted not less than thirty days after the declaration at the municipal people's council. With the permission of the officer for civil status the marriage may be entered into earlier, where important reasons necessitate this.
- (2) The officer for civil status checks the identity and the age of the parties, the declarations filed by them and the medical certificates. If there are no obstacles for the contraction of the marriage the officer for civil status asks the parties whether they are willing to get married, and after an affirmative reply from them, drafts an act for the contraction of the marriage which is signed by the marrying parties, by two witnesses and by him.
- (3) The marriage is deemed contracted with the signing of the act by the persons involved and the officer for civil status.

## FAMILY NAME OF THE SPOUSES

### Article 11

By drafting the act for the contraction of a marriage each one of the marrying parties declares whether he or she will retain his or her family name or will adopt the family name of his or her spouse or will add the family name of his or her spouse to his own. The name of the other spouse by which he or she is known in society may be taken or added as a family name.

## AGE FOR CONTRACTION OF MARRIAGE

### Article 12

- (1) A marriage may be contracted by a person who has completed eighteen years of age.
- (2) Where there are important reasons which necessitate this as an exception, the marriage may be entered into by a person who has completed sixteen years of age with the permission of the president of the regional court at the place of residence of the person. Where both parties are minors and live in different regions permission is given by the president of the court of the place of residence of one of the persons contracting the marriage by their choice. The president hears the minor, the parents or the guardian. The opinion of the parents or the guardian may be submitted in writing with their signatures attested by the Notary public.
- (3) With the contraction of marriage a minor becomes competent but can dispose of real estate only with the permission of the regional court at the place of its residence.

## PROHIBITIONS FOR CONTRACTION OF MARRIAGE

### Article 13

- (1) A marriage may not be contracted by a person:

1. Who is bound by another marriage;
  2. Who is under full interdiction or suffers from a mental disease or imbecility which are sufficient reasons to place him under full interdiction;
  3. Who suffers from a disease representing a serious threat to the life and health of the future generations or the other spouse, unless the ailment is dangerous only for the other spouse and he or she is aware of this.
- (2) It is prohibited for a marriage to be contracted between:
1. Relatives of a direct line of descent;
  2. Brothers and sisters, their children and other relatives of a collateral line of descent up to the fourth degree included.
  3. Persons between whom adoption creates a relationship of a direct line of descent and of brothers and sisters.

## **Chapter Three RELATIONS BETWEEN THE SPOUSES**

### **EQUALITY OF THE SPOUSES**

#### **Article 14**

The spouses have equal rights and obligations within the marriage.

### **RECIPROCITY BETWEEN THE SPOUSES**

#### **Article 15**

The relations between the spouses are built upon mutual respect, common care for the family, goodwill and faithfulness.

### **COHABITATION OF THE SPOUSES**

#### **Article 16**

The spouses live together unless important reasons cause them to live separated.

### **FREEDOM IN CHOICE OF PROFESSION**

#### **Article 17**

Each spouse has freedom of choice of profession.

### **CARE FOR THE FAMILY**

#### **Article 18**

The spouses are obliged by reciprocal goodwill and mutual efforts and according to each other's capabilities, property and income to ensure the welfare of the family and to take care for the rearing up, bringing and support of children.

### **MATRIMONIAL COMMUNITY PROPERTY**

#### **Article 19**

(1) The properties and rights in properties, and also the bank deposits, acquired by the spouses during the marriage as a result of their common contributions, belong jointly to them irrespective in whose name they have been acquired.

(2) The mutual contribution of the spouses may be expressed by the investment of means and labour, by care for the children and work in the household.

(3) The mutual contribution is presumed until proved otherwise.

### **PERSONAL PROPERTY**

#### **Article 20**

(1) The properties, rights in properties and bank deposits, acquired before the marriage, and the properties, rights in properties and bank deposits, acquired during the marriage by way of inheritance or donation belong to the spouse who has acquired them. Personal are also the things and rights in things acquired by one of the spouses under the rules set by the Civil Procedure Code, where the execution of a personal debt of one of the spouses is directed against a property or rights in property which are part of the matrimonial community property.

(2) Personal property are the chattels acquired by each one of the spouses during the marriage which serve him or her for the ordinary personal use or are necessary in practicing his or her profession.

#### TRANSFORMATION OF PERSONAL PROPERTY

##### Article 21

(1) The properties, rights in properties and bank deposits, acquired during the marriage are personal where acquired in their entirety with personal property, according to Article 20, Para1 with other personal property acquired before the marriage.

(2) Where the properties, rights in properties and bank deposits are acquired in part with personal property, according to the foregoing subArticle, the personal property of the spouse is a corresponding part of the acquired property, unless this part is negligible.

#### MANAGEMENT AND DISPOSAL

#### OF THE MATRIMONIAL COMMUNITY PROPERTY

##### Article 22

(1) The spouses have equal rights of possession, use, disposal and management of the matrimonial community property and right in properties. During the marriage neither of the spouses is entitled to dispose of the share which he or she would obtain from the matrimonial community property at its termination. Acts of management of the matrimonial community property and rights in properties may be performed by each of the spouses.

(2) The disposal of matrimonial community chattels and properties and rights therein are executed jointly by both spouses.

(3) The disposal of common real estate or right over such estate, executed by one of the spouses has legal effect for the other spouse only if he or she does not dispute it by action proceedings in a six months time limit from the time he or she gains information about this.

(4) The disposal of matrimonial community chattels by a transaction for valuable consideration performed by one of the spouses without the participation of the other spouse is not binding on the other spouse if the third party has known or under the circumstances has been liable to know that the consent of the other spouse is not present. Where the disposal of the chattel is gratuitous, the rules of the foregoing subArticle are applied.

(5) The spouse in whose name the bank deposit account is opened can dispose of it. Where the acts of disposition jeopardize the interests of the family or of the other spouse the latter may request the court to issue an order for such dispositions to be performed by mutual consent of both spouses.

#### DISPOSITION WITH THE MATRIMONIAL HOME - PERSONAL PROPERTY

##### Article 23

Where the matrimonial home is the personal property of one of the spouses he or she may dispose with it only with the consent of the other spouse. Where an agreement can not be achieved the disposition may be effected with the permission of the regional court only if it is established that this is not harmful to the children and the family.

#### DISPOSITION OF PERSONAL PROPERTY

##### Article 24

Each one of the spouses may dispose of his or her personal property with regard to third persons or to the other spouse.

## EXPENSES AND OBLIGATIONS FOR THE FAMILY

### Article 25

- (1) The expenses necessary to meet the family needs are borne by both spouses.
- (2) For debts incurred by one or both spouses for the satisfaction of family needs both spouses are jointly responsible.

## TERMINATION OF THE MATRIMONIAL COMMUNITY PROPERTY

### Article 26

- (1) The matrimonial community property is terminated by the death of one of the spouses, by divorce or the dissolution of the marriage.
- (2) The matrimonial community property may also be terminated during the marriage by judicial proceedings where serious reasons require this.
- (3) The execution directed against separate things which are matrimonial community property for a personal debt of one of the spouses terminates the matrimonial community property as regards these things.

## SHARES OF THE SPOUSES

### Article 27

With the termination of the matrimonial community property the shares of the spouses are equal.

## ADJUDGEMENT OF A LARGER SHARE

### Article 28

- (1) By the termination of the matrimonial community property by divorce the court may assign a larger share of the common property to the spouse to whom the care for the rearing and upbringing of the children, still not of full age are handed over, if this imposes on him or her serious hardship.
- (2) The spouse to whom the care for the rearing and upbringing of the children not yet of full age are assigned receives together with his or her share the chattels designated for their rearing and upbringing.
- (3) By the termination of the matrimonial community property by divorce or according to the rules under Article 26, Para 2, the court may adjudge a larger share of the common property to one of the spouses where his or her contribution to its acquisition is considerably larger than that of the other spouse.

## ALLOTMENT OF A SHARE FROM THE PROPERTY

### Article 29

By divorce each one of the spouses is entitled to receive a portion of the value of the property necessary for the professional needs of the other spouse and his or her takings, acquired during the marriage if they are of a considerable value and he or she has contributed to their acquisition with his or her labour, means or work at the household. The action may also be brought before the divorce proceedings where the behaviour of the spouse who has acquired the property puts in jeopardy the interests of the other spouse or the children.

## TERMS FOR BRINGING ACTIONS

### Article 30

Claims under Article 28, Para 3, and Article 29 may be brought within one year from the day of dissolution of the marriage or the termination of the matrimonial community property, and those under Article 28, Para 1 and 2 - from the day of coming into force of the decision of the court about the custody of the children.

## **Chapter Four ORIGIN**

### ORIGIN FROM THE MOTHER

#### Article 31

(1) The origin from the mother is determined by birth. The same applies also in cases where the genetic material belongs to another woman.

(2) The origin from the mother, established by the birth certificate may be disputed by an action brought by the child, by the woman registered as the mother in the birth certificate, by her husband, by the woman who claims to be the mother of the child, and by the man who maintains that the child was born by his wife.

(3) As parties to the lawsuit are also summoned the husband of the mother, the spouse of the other person who has disputed the origin and in all cases the child.

#### ORIGIN FROM THE FATHER

##### Article 32

(1) The husband of the mother is deemed to be the father of the child which has been born during the marriage or before the elapsing of three hundred days from its dissolution.

(2) Where the child has been born before the elapsing of three hundred days from the dissolution of the marriage, but after the mother has contracted another marriage, the husband of the new marriage is deemed as the father of the child.

(3) In case of proclaimed absence of the husband the presumptions under Para I and 2 are not applicable if the child has been born after the elapsing of three hundred days from the date of the last information about the husband, and in case of an order of presumed death - from the date of the presumed death.

#### DISPUTING OF FATHERHOOD

##### Article 33

(1) The husband of the mother may dispute that he is the father of the child by proving that it cannot have been conceived by him. The action may be brought up to one year from the day of receiving knowledge about the birth.

(2) The mother can dispute that her husband is the father of the child by proving that it could not have been conceived by him. This action may be brought up to one year from the birth.

(3) In the case under Article 32, Para2, if the action of the second husband is successful the first husband is deemed as the father of the child and he is entitled to bring an action for disputing the fatherhood up to one year from the day of receiving knowledge of the court's decision, but not later than three years of its coming into force.

(4) Disputing fatherhood is not permitted where the mother with the consent of her husband, put in writing and filed with the manager of the respective establishment, has been artificially inseminated or has given birth to a child conceived with genetic material from another woman.

#### PARTIES TO THE ACTIONS FOR DISPUTING OF FATHERHOOD

##### Article 34

Where fatherhood is disputed summoned as parties to the action are the mother, the child and the husband, and where the fatherhood is disputed by the second husband, as a party in the lawsuit also summoned is the first husband.

#### AFFILIATION

##### Article 35

Each competent parent may affiliate his child. It is also possible to affiliate conceived children, as well as deceased children who have left descendants.

#### FORM OF AFFILIATION

##### Article 36

Affiliation is performed personally with a written declaration submitted to the officer for civil status or by a declaration with the signature attested by the Notary public,

filed with the officer for civil status. The declaration may be forwarded through the manager of the establishment where the child has been born.

#### CHALLENGING OF THE AFFILIATION

##### BY THE OTHER PARENT AND BY THE CHILD

###### Article 37

(1) The officer for civil status gives notice of the affiliation to the other parent in case he is known, and to the child if it is of full age. If these persons in three months time do not dispute the affiliation by means of a written declaration filed with the officer of the civil status, the affiliation is entered into the birth certificate.

(2) Where the affiliation is disputed the affiliating person may in three months time from receiving the notification bring an action for establishing of origin.

(3) Where at the time of affiliation the child has not yet reached full age it can dispute it in three years time from attaining majority or from the date of receiving information about it in case this information has been obtained at a later date. If the action is recovered the affiliation is deleted from the birth certificate with a corresponding note.

##### CHALLENGING THE AFFILIATION BY THIRD PERSONS

###### Article 38

Apart from the cases under the foregoing Article the affiliation may be disputed by every person with a legal interest by bringing an action in one year time from the date of learning about it

##### AVOIDING THE AFFILIATION

###### Article 39

The affiliating person may seek the avoidance of the affiliation on the grounds of error or fraud within one year from the date of the affiliation, in cases of intimidation - within one year from the date at which the intimidation has terminated, and in case of incompetence - within one year from attaining full competence.

##### ACTION FOR ESTABLISHING THE ORIGIN FROM THE MOTHER

###### Article 40

The origin from the mother may be established by an action brought by the child, by the mother or by the father. The husband of the mother who, according to Article 32 could be presumed to be the father of the child, is also summoned as a respondent.

##### ACTION FOR ESTABLISHING THE ORIGIN FROM THE FATHER

###### Article 41

The origin from the father may be established by an action brought by the child up to the elapsing of three years from becoming of full age, and by the mother within three years from the date of birth of the child. Where the action is brought by the child the mother is summoned as a party to the lawsuit.

##### PARENTAL RIGHTS BY ESTABLISHING THE ORIGIN

##### BY MEANS OF AN ACTION

###### Article 42

Where the court recovers the actions under Articles 40 and 41 it is bound ex officio to decree measures for discharging of parental rights and sets provisions for the personal relations between the child and the parents, its support, applying Article 106 respectively.

##### BARS FOR ESTABLISHING OF ORIGIN

###### Article 43

An action for establishing of origin may not be brought, and affiliation may not be effected until the present origin, established by the presumption under Article 32 by the birth certificate or by affiliation, is not revoked by an action. Both actions may be joined.

## ACTIONS FROM AND AGAINST THE HEIRS

### Article 44

(1) The heirs are not entitled to maintain the actions set forth in this chapter but may continue the lawsuits which their ancestor has brought.

(2) Where the father or the mother are deceased, the action for establishing or disputing the origin is brought against their heirs.

### TERMS

### Article 45

The terms under this chapter are observed by the court ex officio and are not subject to arrest or interruption in their running.

## **Chapter Five KINSHIP**

### KINSHIP BY DIRECT AND COLLATERAL LINES

#### Article 46

(1) The kinship of a direct line is the relationship between two persons one of whom has his or her origin directly or indirectly from the other.

(2) The kinship of a collateral line is the relationship between two persons who have a common ancestor but do not originate from one another.

### DEGREES OF KINSHIP

#### Article 47

(1) There are as many degrees of kinship between two relatives of a direct line of descent as the number of generations.

(2) Between two relatives of a collateral line of descent there are as many degrees as are the generations computed from one of them up to the common ancestor and from the latter to the other relative.

### AFFINITY

#### Article 48

(1) The relatives of one of the spouses are relatives by affinity to the other spouse, and also to his or her relatives.

(2) The line and degree by which a person is related to one of the spouses are also these by which he or she is a relative by affinity to the other spouse.

(3) The degree of relationship by affinity between the relatives of one of the spouses and the relatives of the other spouse are computed by adding the degrees of relationship between one of the spouses and his relatives and the other spouse and his or her relatives.

(4) The wives of two brothers or the husbands of two sisters are relatives by affinity of the second degree.

(5) The relationship by affinity has legal significance only in cases referred to in the law.

## **Chapter Six ADOPTION**

### AGE OF THE ADOPTED

#### Article 49

Only a person who by the time of filing the petition for adoption has not completed eighteen years of age may be adopted.

### THE ADOPTER

#### Article 50

Only a person who is competent and is not deprived of parental rights is entitled to adopt a child.

### AGE DIFFERENCE



#### Article 51

The adopter must be at least fifteen years senior to the adopted. The age difference is not required where a spouse adopts a child by birth of the other spouse. Where the adoption is performed simultaneously or consecutively by both spouses and for one of them the said age difference is at hand such age difference is not required for the other spouse.

#### PROHIBITION FOR ADOPTION BETWEEN RELATIVES

##### Article 52

(1) Adoption between relatives of a direct line of descent and between brothers and sisters is prohibited.

(2) The grandfather and the grandmother or any one of them may adopt their grandchild only where the child has been born out of wedlock or where both or one of its parents are deceased. The court also takes into account the opinion of the other grandfather and grandmother of the adopted.

(3) Where petitions for adoption of a grandchild have been filed by the grandfather and the grandmother by the parental and by the maternal lines the court decides the case in view of the interests of the child.

#### PROHIBITION FOR ADOPTION BY TWO PERSONS

##### Article 53

(1) No one may be adopted by two persons simultaneously unless they are spouses.

(2) No one may be adopted for a second time until the previous adoption has been terminated. The prohibition does not apply to the spouse of the adopter.

#### CONSENT FOR ADOPTION

##### Article 54

(1) The consent of the following persons is necessary for an adoption:

1. The adopter;
2. The parents of the adopted;
3. The spouses of the adopter and the adopted;
4. The adopted where it has completed fourteen years of age.

(2) The consent of the persons is not required where they are incompetent or their place of residence is not known.

(3) Where the child has been left for rearing in a social institution and its parents have given their consent in advance for its adoption or are unknown, the consent for the adoption is given by the manager of the institution.

#### OPINION AS TO ADOPTION

##### Article 55

(1) Where the adopted is between ten and fourteen years of age his opinion is heard out by the court unless there is abundant evidence that the adopted knows the adopter as its parent.

(2) The full legal guardian, the trustee as well as the parents and the spouses under restricted interdiction or deprived of parental rights, give their opinion as to the adoption.

#### FORM OF THE CONSENT AND OF THE OPINION

##### Article 56

(1) The consent of the adopted has to be given personally before the court.

(2) The consent of the adopter, the parents of the adopted and of the spouses of the adopter and the adopted as well as the opinion of the parents and the spouses placed under restricted interdiction or deprived of parental rights and of the full legal guardian and the trustee may be given personally before the court or be submitted to the court in writing with their signatures attested by the Notary public or by a special

representative. The court may summon and personally hear some of the persons whenever it finds this necessary.

(3) The manager of the social institution may submit his consent in writing without attesting his signature by the Notary public.

#### ADOPTION WITHOUT THE CONSENT OF THE PARENT

##### Article 57

(1) As an exception the adoption may be allowed even where the parent does not agree with it, where he or she continuously does not take due care of the child, does not give support or rears and brings it up in a way detrimental to its development.

(2) Adoption without the consent of the parent is also allowed where he or she has left the child in a social institution for rearing and has not sought it one year after the date on which he or she had to take it back. In this case the consent is given by the manager of the institution.

(3) In the cases of the foregoing subArticles the parent is summoned to be heard by the court

#### JURISDICTION

##### Article 58

(1) The application for adoption is dealt with by the regional court.

(2) The regional court collects information about the adopted and the adopter from the municipal councils of the place of residence and requests their opinion whether the adoption is in the interest of the adopted. The information is not collected where the child is taken from a social institution.

#### JUDGEMENT ON THE PETITION FOR ADOPTION

##### Article 59

(1) The regional court announces its judgement in a closed door session, after hearing the opinion of the public prosecutor.

(2) The adoption is granted only if it is in the interest of the adopted.

#### APPEAL OF THE JUDGEMENT

##### Article 60

The judgement of the regional court is subject to appeal according to the general rules, by the public prosecutor and the persons under Article 54, Para1, points 1, 2 and 4.

#### UNRESTRICTED ADOPTION

##### Article 61

(1) Where the adopted is a child of unknown parents or has been left in a social institution with a consent for adoption, or has been adopted under the provisions of Article 57, Para2, between the adopted and his descendants on one hand, and the adopter and his or her relatives on the other there arise the same rights and obligations as between relatives by origin, while the rights and obligations between the adopted and its descendants with their relatives by origin are terminated. The same effect of the unrestricted adoption arises also where the persons under Article 54, Para1, give their consent to it. In these cases the prohibitions for conclusion of marriage due to kinship, under Article 13, Para 2, points 1 and 2, remain in force.

(2) The regional court orders a new birth certificate to be drafted into which the adopter's name is entered as the parent. The birth certificate is drafted by the municipal council at the place of residence of the adopter.

#### RESTRICTED ADOPTION

##### Article 62

With the exception of the cases under the clauses of the foregoing Article, the adoption is restricted and therefrom arise rights and obligations as relatives by origin

only between the adopted and his/her descendants on the one side, and the adopter on the other side, and the rights and obligations between the adopted and his/her descendants with their relatives by origin are preserved. Under this form of adoption the parental rights and obligations are transferred to the adopter and the parents by birth of the adopted do not inherit him/her.

#### ADOPTION BY THE SPOUSE OF THE PARENT

##### Article 63

By an adoption under the provisions of Article 61 and Article 62 of a child by the spouse of the parent the rights and obligations between this parent and his/her relatives on one hand, and the adopted and his/her descendants on the other hand, are preserved.

#### TERMINATION OF THE ADOPTION

##### Article 64

(1) The adoption is terminated by the court:

1. Where it is subject to annulment on the grounds of violating the rules under Articles 49, 51, 52, Para 1 and 2, Article 53, Article 54, Para 1, points 1, 2, and 4, and Para 3, and Article 57, Para 2;

2. By mutual consent of the adopted and the adopter where both of them are competent;

3. Due to a serious offence committed by one of the parties or due to other circumstances which deeply disrupt the relations between adopter and adopted.

(2) An action for avoidance of the adoption on the grounds of violations of the rules set under Article 54, Para 1, points 1, 2 and 4, may be maintained within one year which runs for the adopter and the parents of the adopted from the time of receiving information about it, and for the adopted as from the date of becoming of full age.

(3) With the exception of the cases of the foregoing subArticle the termination of the adoption under the rules of Para 1, point 1, may be claimed by the adopter, the adopted and by the parents of the adopted, and under the provisions of Para 1, point 3, by the adopter and the adopted. Where the public interest is infringed the termination of the adoption may also be sought by the public prosecutor.

(4) The appearance of the public prosecutor at the hearings of the law-suits for termination of adoptions under the provisions under Para 1, points 1 and 3, is mandatory.

#### TERMINATION OF THE ADOPTION

##### WITH THE DEATH OF THE ADOPTER

##### Article 65

(1) The court may terminate an adoption performed under the rules of Article 61, at the request of the adopted, his/her parents, his/her full legal guardian, his/her trustee or by the public prosecutor where one or both of the adopters are deceased, and the interests of the adopted demand this.

(2) With an adoption performed under the rules of Article 62, where the sole or both adopters are deceased the adoption is considered terminated, but the adopted inherits the adopter..

#### CONTINUATION OF THE ACTION

##### FOR TERMINATION OF THE ADOPTION

##### Article 66

Where either the adopter or the adopted die in the course of the court proceedings for termination of the adoption performed under the rules of Article 64, Para 1, points 1 and 3, the action may be continued by their respective heirs or the public

prosecutor. If the court recovers the action the surviving defaulting adopter or adopted does not inherit the deceased.

#### LEGAL EFFECT OF THE TERMINATION

##### Article 67

The operation of the adoption ceases to exist with its termination.

### **Chapter Seven RELATIONS BETWEEN PARENTS AND CHILDREN**

#### PARENTAL CARES FOR THE CHILDREN

##### Article 68

(1) The parents are obliged to care for their children and to prepare them for socially useful activity.

(2) The step-father and the step-mother are obliged to assist the parent in the discharge of his or her duties.

#### CHILDREN'S OBLIGATIONS TO THEIR PARENTS

##### Article 69

(1) The children are obliged to respect their parents and to help them. The children have the same obligations towards their step-father or step-mother.

(2) The adult children are obliged to care for their elderly, disabled or sick parents.

#### RELATIONS BETWEEN THE GRAND-CHILDREN

#### AND THEIR GRAND-FATHER AND GRAND-MOTHER

##### Article 70

(1) The grand-children are obliged to respect their grand-father and grand-mother and to help them.

(2) The grand-father and grand-mother are entitled to personal relations with their grand-children who are minor. Where there are obstacles in the way of maintaining personal relations, the regional court at the place of residence of the grand-children, at the request of the grand-father or the grand-mother, decrees measures for personal relations with them, except where this is not in the interest of the children.

#### PLACE OF RESIDENCE OF THE CHILDREN

##### Article 71

(1) The children who are not yet of full age are obliged to live with their parents unless valid reasons necessitate that they live elsewhere. By departure from this obligation, at the request of the parents the court at the place of their residence, after hearing the child, where it has completed ten years of age, decrees an order for its return to its parents. The order is subject to appeal to the President of the County court, but the appeal does not stop its execution. The order is executed through administrative channels.

(2) Where the parents do not live together and are unable to reach an agreement as to with whom of them the children will live, the dispute is resolved by the regional court at the place of residence of the children, after the court has heard them where they have completed ten years of age. The decision of the court is subject to appeal according to the general rules.

#### DISCHARGE OF PARENTAL RIGHTS AND OBLIGATIONS

##### Article 72

Parental rights and obligations are discharged by both parents jointly and separately. Where there is a disagreement between them the dispute is resolved by the regional court after hearing the parents, and where necessary also the child. The decision may be appealed according to the general rules.

#### REPRESENTATION AND GUARDIAN ASSISTANCE

##### Article 73

(1) Each one of the parents is entitled to represent solely his or her infant children, and to give consent for the legal acts of his or her minor children only in their interest.

(2) The appropriation of real property and chattels, with the exception of fruits and perishables, the encumbering thereof with liabilities and in general the undertaking of acts of disposition, related to the property of minors, are allowed with the permission of the regional court at the place of residence only in case of necessity or where this is in their obvious interest.

(3) The donation, waiver of rights, lending and guaranteeing the debts of third persons by pledge, mortgage or endorsement, effected by children not yet of full age are null and void. This does not apply to the transactions executed by married minors to whom only the limitation of Article 12, Para 3 is relevant.

#### RESTRICTION OF PARENTAL RIGHTS

##### Article 74

(1) Where the behaviour of the parent jeopardizes the personality, upbringing, health or property of the child, the regional court ex officio or at the request of the other parent, or by the public prosecutor, decrees appropriate measures in the interest of the child, and where necessary settles the latter in a suitable place.

(2) Similar measures are undertaken where the parent, due to long physical or mental illness or to prolonged absence or other objective reasons is unable to discharge his or her parental rights.

#### DEPRIVING OF PARENTAL RIGHTS

##### Article 75

(1) The parent may be deprived of parental rights:

1. In exceptionally severe cases under the foregoing Article;

2. Where, without a valid reason, he or she continuously does not care for the child and does not support him/her;

3. Where he or she has left the child for rearing at a social institution and has not looked for it within a year from the day on which the parent had to take it back.

(2) The court proceedings for depriving of parental rights are initiated ex officio by the regional court, at the request of the other parent or the public prosecutor. The case is dealt with according to action proceedings with the participation of lay judges.

(3) In the law-suit it is mandatory to be heard the public prosecutor and the parent whose depriving of parental rights is sought, unless he or she fails to appear for no valid reason.

#### MEASURES AS TO PERSONAL RELATIONS

##### Article 76

In all cases of restriction or depriving of parental rights the court also decrees the measures for the personal relations between the parents and the children.

#### ALTERATION OF THE MEASURES

#### AND RESTORATION OF PARENTAL RIGHTS

##### Article 77

(1) With the change of circumstances the court may alter the measures decreed under Articles 74, 75 and 76.

(2) The parent may request the court to restore his or her parental rights where the grounds on which he or she has been deprived of parental rights have ceased to exist.

#### REGISTRATION

##### Article 78

In the cases under Articles 75 and 77 the court ex officio informs the municipal council at the place of residence of the parent for the respective registration of the depriving of parental rights or their subsequent restoration.

## **Chapter Eight SUPPORT**

### **RIGHT TO SUPPORT**

#### **Article 79**

Only a person who is disabled and cannot support himself from his property has a right to support.

### **SEQUENCE OF THE PERSONS WHO ARE LIABLE TO SUPPORT**

#### **Article 80**

(1) The persons entitled to support may claim it in the following order:

1. From a spouse or a former spouse;
2. From children;
3. From parents;
4. From grand-children and great-grand-children;
5. From brothers and sisters;
6. From grand-father and grand-mother and ancestors of a higher degree.

(2) Where the persons of a preceding sequence are unable to furnish support it is furnished by the persons of the next sequence.

(3) Where several persons of the same sequence are liable to furnish support the obligations among them are apportioned according to their resources. Where the support is furnished only by one of them he or she is entitled to claim from the rest of them their share which they have been obliged to furnish with the accrued interest.

### **SEQUENCE OF THE PERSONS ENTITLED TO SUPPORT**

#### **Article 81**

The person who is liable to furnish support to several persons entitled to support is obliged to furnish it in the following sequence:

1. To children, to spouse or a former spouse;
2. To parents;
3. To grandchildren and great-grandchildren;
4. To brothers and sisters;
5. To grand-father and grand-mother, and to ancestors of a higher degree.

### **SUPPORT OF CHILDREN BY PARENTS**

#### **Article 82**

(Amended, SG, No. 11/1992)

(1) The parents are obliged to furnish support to their children who are not of full age regardless of whether they are fit for labour or can support themselves from their own properties.

(2) The parents are obliged to furnish support to their children who have come of age, if the latter cannot support themselves from their income or use of their properties, when they study at secondary, undergraduate and higher education establishments, for the specified term of education, up to 20 years of age in the case of study at secondary school and up to 25 years of age in the case of study at undergraduate or higher education establishment.

(3) The support under the preceding subArticle is due provided it does not particular inconvenience for the parents.

### **ALIMONY TO A FORMER SPOUSE**

#### **Article 83**

(1) Only the spouse who has not been guilty for the divorce has a right to alimony.

(2) Alimony is due up to three years maximum from the date of the dissolution of the marriage, unless the parties have agreed upon a longer term. The court may extend these terms where the former spouse, recipient of the alimony is in financial troubles exceptionally unconditioned and the other spouse is able to furnish it without particular inconvenience.

(3) The right to alimony of the former spouse discontinues when he or she contracts another marriage.

#### AMOUNT OF SUPPORT

##### Article 84

The amount of support is determined according to the needs of the person who has the right to support and the means of the person who is liable to furnish it.

#### AMOUNT OF THE SUPPORT FOR CHILDREN NOT YET OF FULL AGE

##### Article 85

(1) The amount of support which the parents are obliged to furnish their children with who are not yet of full age is determined according to the needs of the children and the means of the parent, within the limits set by the Council of Ministers.

(2) The court may determine the support below the fixed minimal rates, where:

1. The child is furnished with support by the State;

2. Other important circumstances impose this;

(3) The court may adjudge the support above the fixed maximal rate where exceptional needs of the child have to be satisfied and the parent can afford it without particular inconvenience.

#### ALTERATION AND DISCONTINUANCE OF THE SUPPORT

##### Article 86

With a change of circumstances the adjudged support may be altered or discontinued altogether.

#### SUPPORT FOR PAST PERIODS OF TIME

##### Article 87

Overdue support may be claimed up to a maximum of a year preceding the bringing of the action.

#### RELINQUISHMENT OF SUPPORT

##### Article 88

The relinquishment of support for future periods is null and void.

#### PAYMENT OF CASH SUPPORT

##### Article 89

(Amended, SG, No. 11/1992) The support in cash is paid monthly. By default an interest of one per cent per month is due.

#### PROHIBITION FOR COMPENSATION

##### Article 90

A compensation between taking and an obligation for support is prohibited.

#### FORFEITURE OF THE RIGHT TO SUPPORT

##### Article 91

(1) A person who has committed a grave offence against a person who is liable to furnish him with support, against his spouse, descendant or ancestor is not entitled to claim support.

(2) The foregoing provision is not applied to the support of children who have not completed sixteen years of age.

(3) A person deprived of parental rights is not exempted from the obligation to support his or her children. The person deprived of parental rights through his or her misbehaviour is not entitled to claim support from his or her children.

## **PAYMENT OF AN ADJUDGED SUPPORT BY THE STATE**

### **Article 92**

Where the indebted person does not furnish the adjudged support the latter is paid by the State on his or her account according to the conditions and ways determined by a regulation issued by the Council of Ministers.

## **TAKING OVER OF THE SUPPORT BY THE STATE**

### **Article 93**

Under the system of public relief the State takes over the care for the destituted where there are no persons under the rules set out in Article 80 who are obliged to furnish the support or where these are unable to furnish it.

## **Chapter Nine DISSOLUTION OF THE MARRIAGE**

### **FOUNDATIONS**

#### **Article 94**

The marriage is dissolved:

1. With the death of one of the spouses;
2. Through annulment of the marriage;
3. Through divorce.

### **DISSOLUTION OF THE MARRIAGE THROUGH ANNOUNCEMENT OF PRESUMPTIVE DEATH**

#### **Article 95**

(1) Where the presumptive death of one of the spouses is announced by the court, the marriage is terminated by the coming into force of the court's decision.

(2) If it is proved that the person declared dead is alive the terminated marriage is not reinstated.

### **FOUNDATIONS FOR ANNULMENT OF THE MARRIAGE**

#### **Article 96**

(1) The marriage is annulled where:

1. By its contraction the rules under Articles 12 and 13 have been violated;
2. One of the parties contracting the marriage has been forced to contract it under threat of a serious and immediate peril for his or her own, and that of his or her close relatives and friends' life, health and honour.

(2) No one is entitled to refer to the annulment of the marriage until it is decreed by the court.

### **BRINGING AN ACTION FOR ANNULMENT OF MARRIAGE**

#### **Article 97**

(1) An action for annulment of the marriage may be brought:

1. Where the rules under Article 12 have been violated - only by the minor spouse, but not later than six months of attaining majority, and on the condition that there are no children from the marriage and the wife is not pregnant.
2. In the case under Article 96, Para 1, point 2, only by the threatened spouse, but not later than one year from the conclusion of the marriage;
3. In the case under Article 13, Para 1, point 1, by each one of the spouses, by the public prosecutor, and by the spouse of the previous marriage;
4. In the case under Article 13, Para 1, points 2 and 3, and Para 2 - by each one of the spouses, and by the public prosecutor.

(2) The action under Article 13, Para 1, point 2, may be maintained not later than six months from the recuperation and the revocation of the interdiction.

(3) Where the rules under Article 13, Para 1, point 3, are violated the marriage may not be annulled if the ailing spouse has recuperated.



(4) The public prosecutor is entitled to seek the establishment of the presence of the grounds for annulment of the marriage, concluded in violation of the rules under Article 13, Para1, point 1, even after the death of one of the spouses.

(5) In a case of bigamy the marriage may not be annulled where the previously concluded marriage has been terminated.

#### CONSEQUENCES ARISING FROM THE ANNULMENT OF MARRIAGE

##### Article 98

(1) The rules regarding the consequences of the dissolution of marriage through divorce in connection with the personal property and property relations between the spouses, and also about the relations between them and the children are also applicable to the annulment of marriage. The bad faith by annulment of marriage has the same meaning as the guilt by divorce.

(2) The children who have been conceived or born during the annulled marriage are deemed as born in wedlock and for them the presumption for fatherhood, under Article 32 is also applicable.

#### DIVORCE THROUGH BREAKDOWN OF THE MARRIAGE

##### Article 99

(1) Each of the spouses is entitled to seek a divorce where the marriage has deeply and irrevocably been broken down.

(2) Together with the decision allowing the divorce the court pronounces ex officio as to the guilt for the breakdown of the marriage unless it is caused by objective reasons which cannot be ascribed as guilt to any one of the spouses.

(3) The court does not pronounce itself as to the guilt for the breakdown of the marriage where the spouses request this and submit to the court their agreement regarding the discharge of parental rights, the personal relations and the support of the children, and also about their property relations, the use of the matrimonial home, the alimony between them and the family name.

(4) A divorce is not allowed where the breakdown of the marriage is caused by the misbehaviour of the plaintiff only, and the other spouse insists on the preservation of the marriage, unless important considerations call for the divorce action to be recovered.

#### DIVORCE BY MUTUAL CONSENT

##### Article 100

(1) Where between the spouses there is a serious and firm mutual consent for divorce, the court allows it without investigating their motives for the termination of the marriage.

(2) The petition for a divorce by mutual consent cannot be presented before three years have elapsed from the contraction of the marriage.

#### SETTLEMENT OF THE SPOUSES

##### IN A DIVORCE BY MUTUAL CONSENT

##### Article 101

(1) In a divorce by mutual consent the spouses have to set forth their settlement as to the discharge of parental rights, the personal relations, and the support of the children, and also their property relations, the use of the matrimonial home, the alimony between them, and the family name. The settlement is ratified by the court after it is satisfied that the interests of the children have been protected.

(2) Where the settlement is not complete or the interests of the children are not well protected the court sets a term during which these defects should be eliminated.

Where in the set term the defects have not been eliminated the divorce petition is dismissed.

(3) Actions for the discharge of parental rights and the support of the children after the termination of the marriage by mutual consent are admissible where a change in the circumstances has occurred.

#### CONTINUATION OF THE DIVORCE LITIGATION BY THE HEIRS

##### Article 102

(1) The right to seek a divorce does not devolve upon the heirs. However, they can continue the lawsuit in order to establish the soundness of the action, where it has been founded on the guilty behaviour of the surviving spouse.

(2) The court dismisses the action where the surviving spouse is not guilty for the breakdown of the marriage.

#### FAMILY NAME AFTER THE DIVORCE

##### Article 103

(1) The court may decree after the divorce, that one spouse may retain the name of the other spouse if the latter agrees to that.

(2) Where one of the spouses has become noted with the name of the other spouse the court may decree that he or she may continue to bear the same name.

(3) With an intervening change of circumstances the former spouse is entitled to request the other spouse to discontinue the use of his name.

#### REVOCATION OF HEREDITARY RIGHTS AND DISPOSITIONS

##### IN CASE OF DEATH

##### Article 104

After the divorce the former spouses cease to be legal heirs to one another and forfeit all benefits resulting from the dispositions in case of death effected before that. The same consequences take place where the soundness of the action has been established after the death of the plaintiff.

#### REVOCATION OF DONATIONS

##### Article 105

(1) After the divorce the donations of properties of considerable value made in connection with or during the marriage by one of the spouses to the other, or by his or her relatives may be revoked unless the revocation contradicts morality.

(2) The action under the preceding Article may be maintained up to one year from the divorce.

#### PARENTAL RIGHTS AFTER THE DIVORCE

##### Article 106

(1) With the pronouncement of the divorce the court decrees ex officio to whom of the spouses the exercising of the parental rights shall be granted, orders measures in connection with the discharge of these rights and as to the personal relations between the children and the parents as well as the support of the children.

(2) The court hands over the discharge of the parental rights after scrutinizing all circumstances with a view to the children's interests. Those rights can not be granted to the spouse who was found guilty for the divorce, where this may have negative effect for the rearing and upbringing of the children.

(3) The court hears out the parents and the children where they have completed fourteen years of age. Where the court finds it appropriate it can hear out the children who have completed ten years of age, and also close relatives and friends of the family.

(4) Where the interests of children require it, as an exception, the court may decree that they live with their grand-father, grand-mother or somebody else, with the consent of the latter, or at a social institution.

(5) When a change in the circumstances occurs the court may, at the petition of one of the parents or ex officio, change the previously decreed measures and decree new ones.

#### **ASSIGNMENT OF THE MATRIMONIAL HOME AFTER THE DIVORCE**

##### **Article 107**

(1) With the decision for divorce the court assigns the use of the matrimonial home to one of the spouses where it cannot be used separately by both of them, taking into account the interests of the children, the guilt, the health conditions and other circumstances.

(2) Where there are no minors from the marriage and the matrimonial home is the property of the guilty spouse, the court may assign the use of it to the spouse who is not guilty only for a fixed period of time.

(3) Where there are children from the marriage who are not of full age, and the matrimonial home belongs to one of the spouses, the court may assign the use of it to the other spouse, to whom the discharging of parental rights has been granted, until he or she continues to do so.

(4) Where there are minors from the marriage and the matrimonial home belongs to close relatives of one of the spouses, the court may assign the use of it to the other spouse to whom the discharging of the parental rights has been granted for a limited period of time.

(5) The use of the matrimonial home under Para 2-4 may also be terminated before the expiry of the term, where the beneficiary enters into a new marriage.

(6) Where there are minors from the marriage the court pronounces ex officio as to the use of the matrimonial home.

#### **INFORMING ABOUT THE BEHAVIOUR OF THE GUILTY SPOUSE**

##### **Article 108**

(Repealed, SG, No. 11/1992)

### **Chapter Ten FULL LEGAL GUARDIANSHIP AND TRUSTEESHIP**

#### **PROVISIONS FOR INSTITUTING**

##### **Article 109**

(1) Full legal guardianship is instituted over infants (children who have not completed fourteen years of age) whose parents are unknown, deceased or deprived of parental rights. Full legal guardianship is also instituted over persons who are under full interdiction.

(2) Trusteeship is instituted over minors (children between fourteen and eighteen years of age) whose parents are unknown, are deceased or are deprived of parental rights, and also over persons who are under restricted interdiction.

(3) Officials, public organizations and citizens who come to knowledge that the instituting of a full legal guardianship or trusteeship over a person is necessary are obliged to immediately inform the municipal council at the place of residence or domicile of the person.

#### **THE FULL LEGAL GUARDIANSHIP AND TRUSTEESHIP ORGANS**

##### **Article 110**

(Amended, SG, No. 11/1992) The mayor of the municipality or an official authorized thereby is the organ of the full legal guardianship and trusteeship.

#### **GUARDIANSHIP COUNCIL**

##### **Article 111**

(1) The full legal guardianship and the trusteeship organs at the place of residence of the person, appoint a full legal guardian, a deputy full legal guardian and two

advisers among the relatives and close friends of the infant or of the person who is placed under full interdiction, who will take care of its interests in the best way. They form the full legal guardianship council.

(2) Where possible persons with a pedagogical education are also included in the full legal guardianship council.

#### APPOINTMENT OF TRUSTEE

##### Article 112

The full legal guardianship and the trusteeship organ appoints a trustee and a deputy trustee among the relatives and close friends of the minor or of the person placed under restricted interdiction, who will take care in the best way of his/her interests.

#### CHANGES IN THE FULL LEGAL GUARDIANSHIP AND THE TRUSTEES

##### Article 113

(1) The full legal guardianship and the trusteeship organ may at any time make changes in the full legal guardianship and the trusteeship councils where the interests of the infant, the minor or of the interdicted person require it, where the obligations of the full legal guardianship or the trusteeship are not discharged or where their performance is extremely cumbersome due to old age, sickness, official engagements, etc.

(2) Before announcing the changes under the preceding subArticle the full legal guardianship and the trusteeship organ also hears out the opinion of the close relatives and friends of the person under full legal guardianship or trusteeship.

#### SAFEGUARDING MEASURES

##### Article 114

(1) Till the appointment of a full legal guardian or a trustee, the full legal guardianship and trusteeship organ personally, or by a person appointed by him, makes inventory of the property and takes other safeguarding measures for the personality and interests of the person who is to be placed under full legal guardianship or trusteeship. Where necessary he may assign a certain person to perform temporarily the functions of a full legal guardian or trustee.

(2) Where necessary the full legal guardianship and the trusteeship organ may place the infant or the minor in a public institution.

#### APPEALING OF THE ACTS

##### Article 115

The acts of the full legal guardianship and the trusteeship organ as well as the refusal to institute a full legal guardianship or to undertake other measures, provided for by this Code are subject to appeal by the interested parties or by the public prosecutor before the regional court, which decides the case on its merits. The decision of the regional court is not subject to appeal.

#### PERSONS WHO CANNOT BE MEMBERS

#### OF THE FULL LEGAL GUARDIANSHIP OR TRUSTEES

##### Article 116

Persons who are incapable, who are deprived of parental rights, who have been sentenced for serious intentional crimes as well as the persons who through illness, alcoholism, immoral way of life, cupidity, contradictions with the interests of the one placed under full legal guardianship trusteeship or due to other reasons are incapable of discharging the full legal guardianship or the trusteeship functions cannot be members of the full legal guardianship council or the trusteeship council, or be trustee and deputy trustees.

#### RIGHTS AND OBLIGATIONS OF THE FULL LEGAL GUARDIAN

##### Article 117

(1) The activities of the full legal guardian are honorary.

(2) The full legal guardian is obliged to care for the one placed under full legal guardianship, to administer its property and to represent it before third parties. The full legal guardian is obliged to take care of the rearing, upbringing and education of the infant.

(3) The full legal guardian is obliged within a month's time to inform the full legal guardianship and the trusteeship organ about the acquisition of properties of a considerable value after the institution of the guardianship or trusteeship, which have to be entered into the inventory.

#### ADMINISTRATIVE ACTS

##### Article 118

(1) By disposal of properties belonging to a person who is under full legal guardianship the rules under Article 73, Para 2 and 3 are applicable. The permission of the regional court is also required for drawing of sums of money from the person's bank deposits.

(2) To the application for permission the full legal guardian is obliged to attach the opinion of the full legal guardianship council.

#### OBLIGATION FOR DEPOSIT OF MONEY

##### Article 119

The full legal guardian is obliged to deposit in a bank account all income of his ward in the latter's name. For the sums of money which have not been deposited on time the full legal guardian owes interest of one per cent per month.

#### PLACE OF RESIDENCE OF THE PERSON

##### UNDER FULL LEGAL GUARDIANSHIP

##### Article 120

(1) The person under full legal guardianship lives with his full legal guardian unless important reasons impose him to live elsewhere.

(2) Where the place of domicile is changed without the consent of the full legal guardian the latter may request the regional court to issue an order for the return of the person under full legal guardianship to the designated place of abode. The order is subject to appeal before the President of the district court, but the appeal does not stop its execution. The order is executed through administrative channels.

#### ADVISERS IN THE FULL LEGAL GUARDIANSHIP COUNCIL

##### Article 121

The advisers assist the full legal guardian and the deputy legal guardian in discharging their obligations and inform the full legal guardianship and trusteeship organ as to shortcomings in the rearing and upbringing of the infant and about the protection of the rights and interests of the person under full legal guardianship. They hear the report of the full legal guardian and participate in its endorsement by the full legal guardianship and trusteeship organ.

#### RIGHTS AND OBLIGATIONS OF THE TRUSTEE

##### Article 122

(1) The activities of the trustee are honorary.

(2) The trustee is obliged to care for the personality and to protect the interests of the person under trusteeship. He gives approval to the legal transactions of the latter. The trustee is obliged to care for the rearing, upbringing and the education of the minor.

(3) The rules under Article 117, Para 3, Article 118, Para 1, and Article 120 are also applicable to the trusteeship. For the drawing of sums of money from the bank deposits the permission of the district court is required.

## DEPUTY LEGAL GUARDIAN AND DEPUTY TRUSTEE

### Article 123

(1) The deputy legal guardian substitutes for the full legal guardian where he is prevented to discharge his duties or where there is a conflict between his interests and those of the person under full legal guardianship. In such cases the full legal guardianship and trusteeship organ may appoint a special representative.

(2) This clause is also applied to the deputy-trustee respectively.

## ASSISTANCE BY THE MUNICIPAL COUNCIL

### Article 124

The municipal council assists the full legal guardian and the trustee in the discharging of their obligations.

## SUPERVISION OF THE ACTIVITIES OF THE FULL LEGAL GUARDIAN

### Article 125

The full legal guardianship and trusteeship organ has the right to stop the activities of the full legal guardian and to order the undertaking of actions after taking into account the opinion of the full legal guardianship council.

## REPORTS OF THE FULL LEGAL GUARDIAN AND THE TRUSTEE

### Article 126

(1) By the end of February each year the full legal guardian submits to the full legal guardianship council a report about his activities, after which the report is presented to the full legal guardianship and trusteeship organ. A report is also presented where the full legal guardian is relieved of his duties and also whenever the full legal guardianship or trusteeship organ requests this.

(2) At the request of the full legal guardianship and trusteeship organ the trustee in the presence of the deputy-trustee gives explanations about his activities.

(3) The full legal guardianship and trusteeship organ states his opinion about the report of the full legal guardian and the explanations of the trustee, and if he finds irregularities demands for their elimination.

(4) At the request of the full legal guardianship and trusteeship organ the regional court issues a bill of execution against the full legal guardian for the sums of money which he has not accounted for.

(5) Where the full legal guardian or the trustee for no valid reason fail to appear or do not submit the report or the explanation respectively, the full legal guardianship and trusteeship organ draw up a statement against him on the basis of which the President of the executive committee of the district council imposes a fine of up to two hundred Leva. The full legal guardianship or trusteeship organ may request the report, the explanation respectively, to be submitted by the deputy full legal guardian or the deputy trustee.

(6) The establishing of the violations, the issuing, the appeal from and the execution of the penal ruling are dealt with according to the rules of the Administrative Violations and Punishments Act.

## TRANSITION FROM FULL LEGAL GUARDIANSHIP TO TRUSTEESHIP

### Article 127

(1) With the completion of fourteen years of age the infant is released from the full legal guardianship pursuant to the law, and the full legal guardianship and trusteeship organ appoints a trustee and a deputy-trustee. By the time of their appointment the activity is carried out by the full legal guardian.

(2) With the transition from an unrestricted to a restricted interdiction, until a trustee is appointed the duties of the trustee are discharged by the full legal guardian.

## SPECIAL CASES OF FULL LEGAL GUARDIANSHIP AND TRUSTEESHIP

#### Article 128

- (1) The manager of the public institution where an infant with unknown parents is placed, is his/her full legal guardian.
- (2) The manager of the public institution where a minor with unknown parents is placed, is his/her trustee.
- (3) The full legal guardian of a person under full interdiction or the trustee of a person under restricted interdiction is his or her capable spouse. Where there is no such person, the parental rights and obligations are discharged by his or her parents, unless they are unknown, deceased, deprived of such rights or unable to exercise them.
- (4) In the cases under the preceding subArticles a full legal guardianship council and a deputy-trustee are not appointed, and no full legal guardianship files are kept.

### **Chapter Eleven APPLICABLE LAW IN FAMILY LAW RELATIONS WITH AN INTERNATIONAL ELEMENT CONTRACTION OF MARRIAGE ABROAD**

#### Article 129

- (1) A marriage between citizens may be contracted abroad by the Bulgarian diplomatic or consular representatives provided the local law allows this. The marriage may also be entered into by the local authorities observing the form prescribed by the local law.
- (2) A marriage between a Bulgarian citizen and a foreign national may be contracted by the Bulgarian diplomatic or consular representatives according to the rules of this Code, where the law of the country of the foreign national allows this. The marriage may be contracted by the local authorities observing the form prescribed by the local law.
- (3) A marriage concluded abroad between foreign nationals is acknowledged in the Republic of Bulgaria provided the form for its contraction prescribed by the law of the place of its contraction has been observed.

### **CONCLUSION OF A MARRIAGE BETWEEN A BULGARIAN AND A FOREIGN NATIONAL BY A BULGARIAN OFFICER OF THE CIVIL STATUS**

#### Article 130

A foreign national who contracts a marriage with Bulgarian national in the Republic of Bulgaria or before a Bulgarian diplomatic or consular representative abroad or before the captain of a Bulgarian ship on high seas has to prove that according to the law of his or her country there are no obstacles to the contraction of the marriage.

### **CONDITIONS FOR CONTRACTION OF A MARRIAGE**

#### Article 131

- (1) For a Bulgarian citizen who contracts a marriage abroad the rules under Articles 12 and 13 are mandatory. The permission under Article 12, Para 2 may be given by the Bulgarian diplomatic or consular representative.
- (2) For the foreign national who concludes a marriage before the officer of the civil status in the Republic of Bulgaria, or before a Bulgarian diplomatic or consular representative or before the captain of a Bulgarian ship on high seas the conditions for contraction of the marriage are determined by the rules of the law of his country, while the rules under Article 13 of this Code are mandatory.
- (3) For foreign nationals who are entering into a marriage before the officer of civil status in the Republic of Bulgaria or before the captain of a Bulgarian ship on high seas, the conditions for its contraction are determined by the law of their country. In

these cases the rules under Article 13, Para1 are mandatory. Apart from this, contraction of a marriage between relatives of a direct line of descent and between brothers and sisters is prohibited.

#### ANNULMENT OF THE MARRIAGE

##### Article 132

The grounds for annulment of the marriage and the subsequent effects thereof are governed:

1. By the Bulgarian law where the marriage is contracted between a Bulgarian citizen and a foreigner;
2. By the law of the country whose citizens both spouses have been at the time of its contraction, and also by the law of the place of its contraction so far as this law has been mandatory for their marriage.
3. For a marriage between foreigners with different citizenship - by the laws of their countries where these laws coincide, and by the law of the country where the marriage has been contracted so far as it has been mandatory for their marriage concluded by them. Where the laws of the countries do not coincide then one of the laws is applied which admits the avoidance, and in regard to the effects of the annulment - the one which is more beneficial to the children or the bona fide spouse where there are no children from the marriage.

#### PERSONAL AND PROPERTY RELATIONS BETWEEN THE SPOUSES

##### Article 133

(1) The personal and property relations between the spouses one of whom is a Bulgarian citizen are governed by the rules under this Code, if they are being effected on Bulgarian territory.

(2) The personal and property relations between the spouses who are foreigners and have the same citizenship when effected on Bulgarian territory are governed by the law of their country. Where the spouses are of different citizenship these relations are governed according to the coinciding rules of the respective laws of their countries, and in the absence of such rules by the rules under this Code.

(3) Dispositions of real property on Bulgarian territory are governed by the laws of the Republic of Bulgaria.

#### DIVORCE

##### Article 134

The divorce and its consequences are governed:

1. By Bulgarian law where one of the spouses is a Bulgarian citizen;
2. In the case of a marriage between foreigners of the same citizenship by the Law of the country whose citizens they are at the date of bringing the divorce action.
3. In the case of a marriage between foreigners of different citizenship - by the laws of their countries where these laws coincide. Where there is no such coincidence between the laws - the law of the country which admits divorce, and in respect to the consequences of the divorce - that one which is more beneficial to the children or to the guiltless spouse, where there are no children from the marriage, is applied.

#### ORIGIN

##### Article 135

With regard to the origin the law of the country of the child at the time of birth is applied.

#### ADOPTION

##### Article 136

(1) The adoption between persons one of whom is a Bulgarian citizen is admitted according to the rules of this Code. Where the adopted person is a Bulgarian citizen



the consent of the respective state authorities is required, and the adoption is performed by a Bulgarian court.

(2) Adoption of persons of the same citizenship is allowed according to the rules of the law of their country. Where they are of different citizenship the adoption is allowed under the rules of the laws of their countries. In this case the rules under Article 52 are applied.

(3) The effects of the adoption are governed by the law of the country of the adopter.

(4) The termination of the adoption is governed by the law of the country of the adopted.

## RELATIONS BETWEEN PARENTS AND CHILDREN

### Article 137

The relations between parents and children are governed by the law of the children's country unless the parents are of the same citizenship and the law of their country is more beneficial to the children.

## FULL LEGAL GUARDIANSHIP AND TRUSTEESHIP

### Article 138

(1) The institution, operation and termination of the full legal guardianship and trusteeship are governed by the law of the country of the person under full legal guardianship or trusteeship.

(2) The obligation to accept and to discharge the duties of a full legal guardian, trustee or member of the full legal guardianship council is governed by the law of their country.

## SUPPORT

### Article 139

The support which a foreigner claims from a Bulgarian citizen is governed by this Code, and the actions are under the jurisdiction of the Bulgarian courts.

## THE LAW OF THE COUNTRY OF A FOREIGNER

### WITH A DUAL CITIZENSHIP

### Article 140

For a foreigner who has several citizenships the law of his country is the law of the state of his permanent place of residence.

## APPLICABLE LAW TO PERSONS WITHOUT CITIZENSHIP

### Article 141

For persons with no citizenship the proper law is deemed the law of the country of his permanent place of residence.

## LIMITING THE APPLICATION OF THE FOREIGN LAW

### Article 142

Where the application of the foreign law is incompatible with the basic principles of the Law of the Republic of Bulgaria the rules of this Code are applied.

## APPLICATION OF AN INTERNATIONAL TREATY

### Article 143

The rules of this chapter are not applied where something different is provided for in an international treaty to which the Republic of Bulgaria is a party.

## ADDITIONAL PROVISIONS

§ 1. The problems as to which there are no provisions in this Code the respective rules of the civil laws are applied, provided this does not contradict the principles governing the family relations and morality.

§ 2. Under this Code municipal councils are also deemed to be the regional councils and the mayoralties, and functions of the Presidents of the executive committees of

the municipal councils are performed by the presidents of the executive committees of the regional councils and by the mayors as well.

#### **TRANSITIONAL PROVISIONS**

§ 3. The requirement under Article 10, Para 1, for a declaration for the contraction of marriage is to be applied as from the 1 August 1985.

§ 4. The rules of this Code in connection with the property relations between the spouses are to be applied also for existing properties acquired before its coming into force by spouses of existing marriages.

§ 5. (1) It is possible as an exception to perform an adoption of a grand-child of full age by its grand-father and grand-mother under the rules of Article 52, Para 2, if the grand-child has been reared by them, and if at the time of the coming into force of this Code the child has not completed 21 years of age.

(2) The adoption is permitted if the petition for adoption is filed within three months of the date of the coming into force of this Code, and if in view of the established factual relations adoption is justified and is in the interest of the adopted.

§ 6. The rules under Article 87 are applicable to support actions pending by 1 July 1985.

§ 7. The support adjudged under the rules of Article 88, Para 2 of the Family Code (1968), are terminated as of 1 July 1985.

§ 8. The divorce actions pending by the date of the publication of this Code in the State Gazette, are to be dealt with and decided upon under the rules existing up to this date.

§ 9. The interests provided for by this Code are also to be applied for money debts adjudged before its coming into force where the failure to perform has taken place after 1 July 1985.

§ 10. The action under Article 105, Para 1 may be brought by the close relatives and friends of the spouse only where the marriage has been dissolved after 1 July 1984. The time limit under Para 2 runs from the date of dissolution of the marriage.

§ 11. To the persons, placed under trusteeship till the date of coming into force of this Code the full legal guardianship and trusteeship organ has to appoint in three months time a deputy-trustee.

§ 12. The rules governing the time limits under this Code do not apply to the terms which have started to run during the operation of the repealed Family Code, unless longer terms of expiration are provided for under its rules.

#### **CONCLUDING PROVISIONS**

##### **AMENDMENTS TO OTHER LAWS**

###### **PART ONE**

##### **AMENDMENTS TO THE PERSONS AND FAMILY LAW**

(Published in the State Gazette, issue 182 of 1949; corrected, issue 193 of 1949; amended, issue 12 of 1951, issues 12 and 92 of 1952, issue 15 of 1953, corrected, issue 16 of 1953, amended, issue 89 of 1953, issue 90 of 1955, issue 50 of 1961, issue 23 of 1968 and issue 36 of 1979).

§ 13. Article 6, Para 4 is amended as follows:

"By adoption under Article 62 of the Family Code the adopted may accept the personal and the family name of the adopter's forename and family name. The change has to be entered into the decision for admission of the adoption."

§ 14. Articles 59, 60 and 99 -110 are repealed

###### **PART TWO**

##### **AMENDMENTS TO THE CIVIL PROCEDURE CODE**

(Published in the State Gazette, issue 12 of 1952; amended, issue 92 of 1952, issue 89 of 1953, issue 90 of 1955, issue 90 of 1956, issue 90 of 1958, issues 50 and 90 of 1961 and corrected, issue 99 of 1961; amended, issue 1 of 1963, issue 23 of 1968, issue 27 of 1973, issue 89 of 1976, issue 36 of 1979 and issue 28 of 1983).

§ 15. Article 7 is amended with sub-Articles 3 and 4:

"The matrimonial actions are under the jurisdiction of the Bulgarian courts where one of the spouses is a Bulgarian citizen.

The Bulgarian courts entertain matrimonial actions between foreign citizens where the place of residence of the respondent is in Bulgaria, or where one of the spouses lives in Bulgaria, and the law of the state whose citizens the spouses are does not exclude the jurisdiction of the Bulgarian courts."

§ 16. In Article 258, subArticle 1, and Article 261 the words "declaring of nullity" are replaced with the word "annulling".

§ 17. Article 259 is amended as follows:

"Article 259. The proceedings of a divorce action commence with a conciliation session at which the spouses have to appear personally. By a failure on the part of the plaintiff to appear for no valid reason the case is discontinued. The non-appearance of the respondent is not an obstacle to commence the hearings of the case, but the court may order for the personal appearance of the defendant.

The conciliation session is conducted behind closed doors. The court is obliged to hear out the positions of the parties, to ask for their explanations about the causes through which the divorce action has been brought, to explain the unfavourable consequences of the divorce to them, to the children and society, and invites them to reach a conciliation.

A new conciliation session is set not earlier than two months, where:

- a) The court has ordered the defendant to appear personally;
- b) The spouses or one of them desire efforts for a conciliation and the consolidation of the marriage to continue;
- c) The court considers that a conciliation may be achieved. The court may summon at the conciliation session representatives of the public organizations at the place of residence or the place of work of the spouses and to request for their assistance for conciliation.

By a conciliation, where the parties desire it, the court informs the municipal people's council at the place of their residence, the enterprises or institutions at their place of employment, the management of the public organizations at their places of residence and employment to facilitate in the solution of some social problems which are of importance for the consolidation of the marriage.

Steps for a conciliation are not undertaken where due to interdiction, absence or other obstacles a conciliation could not be expected to be achieved between the parties.

Where a conciliation is not achieved the court adjourns the case not earlier than four months from the date of the conciliation session. Where the court is satisfied that the adjournment of the law-suit for such a term is detrimental to the children, to the spouses, and to society, it may set the case for trial earlier."

§ 18. In Article 259-b, the number "24" is replaced by "101".

§ 19. Article 260 is amended as follows:

Article 260. In a divorce action the plaintiff has to invoke all causes for the deep and irrevocable breakdown of the marriage. Grounds for action which have not been invoked till the end of the oral contest of the case, where these have become known to the spouse, can not serve as grounds for maintaining a new divorce action.

All matrimonial actions may be joined together. With the divorce action it is mandatory to bring and hear the actions for the discharging of the parental rights, the personal relations and the support of children, the use of the matrimonial home, for the alimony between the spouses and the family name. The divorce action may also be joined with the actions for the property relations between the spouses.

The provisions of the foregoing subArticle also apply to the respondent in regard to the actions which he or she could have brought.

An action for annulling the marriage on grounds of the provision about the age under Article 12, and on grounds of a threat, under Article 96, subArticle 1, point 2 of the Family Code can not be brought after the divorce action has been defeated."

§ 20. In Article 261 the following amendments are made:

1. A new subArticle is added:

"The husband cannot bring a divorce action without the consent of his wife where she is pregnant and also up to the completion of twelve months of age of the child."

2. The existing subArticle 3 becomes subArticle 4.

§ 21. Article 262 is repealed.

§ 22. In Article 267 the words in sentence one "declaring of nullity" are replaced by "annulling", and the sentence three the words "nullity" is replaced with "annulling".

§ 23. In Article 268 the words "9, 10 and 91, sub-Article 2" are replaced by "13, 131, subArticle 2".

§ 24. In Article 303 a new subArticle is added:

"The judgment of a foreign court in a divorce action, concerning a Bulgarian citizen is acknowledged even without the qualifications under subArticle 1 where at the time of bringing the divorce action the respondent had his or her place of residence in the country where the judgment is decreed".

§ 25. In Article 395 the following amendments are made:

I. Sentence one of subArticle 4 is amended as follows:

"The writ of attachment for debts to the State or to a socialist organization is recorded into the work-book, and for support into the work-book and also in the personal passport of the debtor by the person who is paying the salary of the debtor in the institution, enterprise or organization, and in sentence two the word "work-book" is deleted.

2. In subArticle 5 the words "in the work-book" are deleted.

### PART THREE

#### AMENDMENTS TO THE INHERITANCE LAW

(Published in the State Gazette, issue 22 of 1949; corrected in issue 41 of 1949; amended in issue 275 of 1950).

§ 26. The subArticle 3 of Article 5 is amended as follows:

"By an adoption under Article 42 of the Family Code the adopted and their descendants do not inherit the relatives of the adopter."

### PART FOUR

#### AMENDMENTS TO THE STATE SAVINGS BANK LAW

(Published in the State Gazette, issue 95 of 1967; amended in issue 21 of 1975 and in issue 83 of 1978).

§ 27. In Article 13 the following amendments are made:

1. A new subArticle 2 is added with the following contents:

"The spouses may have bank deposits in the name of both of them."

2. SubArticle 2 become Para 3

§ 28. This Code comes into force as of 1 July 1985 and repeals the Family Code of 1968 (Promulgated in the State Gazette, No. 23 of 1968; amended, No. 27 of 1973, No. 89 of 1976; corrected, No. 90 of 1976; amended, No. 36 of 1979).

The Code was promulgated by the Eighth National Assembly at its sixteenth session which took place on 17 May 1985, and is sealed with the Seal of the State.

Chairman of the National Assembly  
of the People's Republic of Bulgaria St. Todorov.