

# **FAMILY CODE**

*In force from 01.10.2009*

## **Chapter one. GENERAL PROVISIONS**

### **Subject matter**

Art. 1. The Family Code shall provide for the relations, based on matrimony, relationship and adoption, as well as guardianship and trusteeship.

### **Principles**

Art. 2. The family relations shall be regulated in compliance with the following principles:

1. protection by the State and society of the matrimony and family;
2. equality between the man and the woman;
3. voluntariness of the matrimonial union;
4. special protection of children;
5. equality of the born during the matrimony, out of matrimony and of the adopted children;
6. respect of the personality in the family;
7. respect, care and support between the family members.

### **Right to matrimony and family**

Art. 3. any person shall have the right to contract a matrimony and to have family under the conditions, provided for by this code.

## **Chapter two. ESTABLISHMENT OF MATRIMONY**

### **Civil matrimony**

Art. 4. (1) Only civil matrimony, concluded in the form, provided for by this Code shall give rise to the consequences, which the laws connect with matrimony.

(2) The religious ceremony shall not have legal act.

### **Consent of the persons entering into matrimony**

Art. 5. The matrimony shall be concluded upon mutual, free and explicit consent of a man and a woman, given in person and simultaneously before an official of the civil status.

### **Age for entering into matrimony**

Art. 6. (1) Matrimony may be concluded by a person at the age of 18.

(2) Upon exception, in case that important reasons impose this, matrimony may be concluded by a person at the age of 16 with permission by the regional judge

of the person's permanent address. In case that both persons, entering into matrimony are under age and have different permanent address, the permission shall be given by the regional judge on the address of one of the persons, entering into matrimony upon their choice.

(3) The regional judge shall listen to both of the persons, entering into matrimony, their parents or the guardian of the minor person. The opinion of the adult, entering into matrimony, of the parents or the guardian may be also given in writing with a notary certified signature.

(4) With the entering into matrimony, the minor person shall become legally able but he/she may dispose of immovable property only with a permission of the regional judge on the minor permanent address.

### **Obstacles for entering into matrimony**

Art. 7. (1) A person shall not be able to conclude matrimony, if he/she:

1. has concluded another matrimony;
2. has been set under full judicial disability or is suffering mental illness or is imbecile, which are the reasons for his/her setting under full judicial disability;
3. is suffering from an illness, which is a serious threat for the life or health of the offspring or the other spouse, unless he/she knows about these illnesses.

(2) Persons may not conclude matrimony between themselves, who are:

1. relatives next to kin;
2. brothers and sisters, as well as other relatives who are collateral kinsmen up to 4th level, including;
3. persons, between which adoption creates relations of relatives of first level or of brothers and sisters.

### **Place of concluding the matrimony**

Art. 8. (1) The persons, entering into matrimony shall choose freely the municipality, in which they will conclude the matrimony.

(2) The matrimony shall be a public place, determined by the Mayor of the municipality.

(3) The matrimony may be concluded at another place, upon consideration of the official on civil matrimony in case of valid reasons.

### **Documents for concluding the matrimony**

Art. 9. (1) anyone, entering into matrimony shall produce to the official on civil matrimony:

1. declaration, that there are no obstacles under Art. 7 for concluding the matrimony;
2. medical certificate, that he/she does not suffer from the illnesses, indicated in Art. 7, Para 2, item2 and 3;
3. declaration, that he/she has become aware of the illnesses of the other under Art. 7, Para. 1, item2 and 3.

(2) In case that the persons, entering into matrimony have chosen regime of their property relation, they shall produce a common declaration with notary

certification of the signatures for the chosen regime. In case that a matrimonial contract has been signed, they shall produce a certificate from the notary about the date of the agreement and its registration number, as well as the number, under which the notary has been entered into the register of the Notary chamber and his/her action region.

### **Procedure of concluding the matrimony**

Art. 10. (1) The official on the civil status shall check the personality and age of the persons, entering into matrimony, as well as the documents, submitted by them under Art. 9.

(2) In case that there are no obstacles for concluding the matrimony, the official on the civil status shall ask the entering into matrimony if they agree to enter into matrimony with each other and after an explicit positive answer, she/he shall draw up an act for entering into civil matrimony. The act for concluding the civil matrimony shall contain the chosen regime of property relations with the information on Art. 9, Para. 2. In cases, where regime of property relations has not been chosen, a legal regime of matrimonial property shall be entered into the act.

(3) The act shall be signed by the persons, entering into matrimony, by two witnesses and by the official on the civil matrimony.

### **Operation of the act for concluding civil matrimony**

Art. 11. (1) The matrimony shall be considered concluded with the signing the act for concluding civil matrimony by the persons, entering into matrimony and by the official on the civil matrimony.

(2) A matrimony shall be valid, if concluded before a person, who has publicly fulfilled the functions of an official on civil matrimony, without having this capacity, when the persons, entering into matrimony have not been aware of that.

### **Family name of the spouses**

Art. 12. While drawing up the act for concluding civil matrimony, each one of the entering into matrimony shall declare if they shall keep their family name or accept the family name of the other spouse, or add the family name of the spouse to his/her own. A family name may be accepted or added to the name of the other spouse, with which he/she is well known in society.

## **Chapter three.**

### **PERSONAL RELATIONS BETWEEN THE SPOUSES**

#### **Equality between spouses**

Art. 13. The spouses shall have equal rights and obligations in the matrimony.

#### **Reciprocity between the spouses**

Art. 14. the relations between spouses shall be built up on the basis of mutual respect, common cares for the family and understanding.

#### **Coactive living of the spouses**

Art. 15. The spouses shall live coactively, unless important reasons impose separate living.

#### **Freedom of personality**

Art. 16. Anyone of the spouses shall have freedom for personal development, of choice and exercising profession.

#### **Care for the family**

Art. 17. The spouses shall be obliged through mutual understanding and common efforts and according to their abilities, property and incomes to provide the family welfare and to take care of the upbringing, fostering and education and support of the children.

## **Chapter four. PROPERTY RELATIONS BETWEEN SPOUSES**

### **Section I. General Provisions**

#### **Regimes of property relations**

Art. 18. (1) Regimes of the property relations between the spouses shall be:

1. legal matrimonial regime;
2. legal regime of division;
3. contractual regime.

(2) The legal matrimonial regime shall be applied in cases, where the persons, entering into matrimony have not chosen a regime of their property relations, as well as if they are minor or limitedly prohibited.

(3) The regime of property relations shall be registered as provided by Art. 19.

(4) The regime of property relations may be changed during the matrimony. The change shall be indicated in the act of concluded civil matrimony and in the register under Art. 19.

#### **Register of the property relations of the spouses**

Art. 19. (1) The matrimonial contracts and the applicable legal regime shall be registered in central electronic register at the Registry Agency.

(2) The registration shall be done officially on the basis of notification by the Municipality or the City council, in whose register on civil status the act for concluded civil matrimony is being kept. The notification shall be sent immediately to

the territorial unit of the Registry Agency on the central office of the relevant District court, in whose region is the Municipality.

(3) The change of the legal regime, the amendment and termination of the civil matrimony contract shall be entered into the act for concluding civil matrimony and shall be registered under Para. 2 on the basis of the documents, indicated in Art. 9, Para. 2 or Art. 27, Para. 2 and 3.

(4) The register under Para. 1 shall be public. For references and certificates on the register, fees shall be collected according to a tariff, adopted by the Council of Ministers.

(5) The procedure for keeping and preservation of the register shall be determined by an ordinance of the Minister of Justice.

### **Protection of third persons**

Art. 20. In case of a deal between one or the two spouses with a third person, in cases where there is not entered regime of property relations into the register, the legal regime of matrimony shall be applied.

## **Section II. Legal Matrimonial Regime**

### **Matrimonial property**

Art. 21. (1) Real rights, acquired during the matrimony as a result of mutual contribution, shall belong commonly to both spouses, notwithstanding on whose name they have been acquired.

(2) Mutual contribution may be expressed in putting in finances, labour, care after the children and in work in the household.

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

(4) Request for significantly bigger contribution may be claimed by:

1. a spouse during the matrimony or after its termination;
2. a spouse's heir.

### **Personal property**

Art. 22. (1) Real property rights, acquired before the matrimony, as well as those, acquired during the matrimony from inheritance and from donation, shall belong to the spouse, who has acquired them. Real property rights, acquired by one of the spouses, shall be personal when a creditor has directed enforcement for personal debt to the other spouse, as provided by Chapter 44 of the Civil Procedure Code over real rights, which are matrimonial property.

(2) Personal shall be the movable property, acquired by one of the spouses during the matrimony, which serve to him/her for common personal use, for exercising their profession or trade

(3) Personal shall be the real property rights, acquired by a spouse – one-man trader during the matrimony for exercising his/her trade activity and included in his/her enterprise.

### **Transformation of personal property**

Art. 23. (1) Personal shall be the real rights, acquired during the matrimony completely by personal property under Art. 22, Para. 1, or by other personal property, acquired before or during the matrimony.

(2) In cases, where the real property rights have been acquired partially by personal property under Para. 1, personal possession of the spouse shall be the relevant part of the acquired property, unless this part is insignificant.

### **Management and disposition of the matrimonial property**

Art. 24. (1) The spouses shall have equal rights over the matrimonial property. During the matrimony, neither of the spouses may dispose with the share, which he/she would receive in case of termination of the matrimonial property regime.

(2) Management of the common property may be performed by any of the spouses.

(3) Disposition of common property shall be carried out jointly by both spouses.

(4) Disposition of real property right over matrimonial immovable property, performed by one of the spouses, shall be disputable. The other spouse may dispute by claim procedure the disposition within 6-month term after being aware, but not later than 3 years after its doing.

(5) In disposition with real property right over common movable property through a payment deal, done by one of the spouses without the participation of the other, the third person shall acquire the right, if he/she has not been aware or according to the circumstances could not be aware of the lack of consent by the other spouse. In cases of gratuitous disposition, about which a written form with notary certification of the signature is required, Para. 4 shall be applied.

### **Disposition with personal property**

Art. 25. Any of the spouses may conclude a deal while disposing with his/her personal property with third persons and with the other spouse.

### **Disposition with the family home – personal property**

Art. 26. The acts of disposition with the family home – personal property of one of the spouses, shall be done with the consent of the other, if both spouses have no other home – matrimonial property or personal property of each of them. In case of lack of consent, the disposition shall be performed by permission of the regional judge, in case that it is established, that it is not in harm of the minor children and of the family.

### **Termination of the spouses' matrimonial property regime**

Art. 27. (1) The spouses' matrimonial property regime shall be terminated by termination of the matrimony.

(2) The spouses' matrimonial property regime may be terminated by a judicial procedure during the matrimony as well, if significant reasons impose this.

(3) The spouses' matrimonial property regime may be terminated during the matrimony if the spouses chose regime of separation or conclude matrimonial contract.

(4) The enforcement, directed by a creditor over an object – spouse matrimonial property, as provided by Chapter 44 of the Civil procedure Code for a personal debt of one of the spouses, shall interrupt the matrimonial property regime over this object.

(5) The spouses' matrimonial property regime shall be terminated with the enactment of a decision for opening a procedure on insolvency against a spouse –sole entrepreneur or unlimited liability partner.

### **Shares of the spouses**

Art. 28. In case of termination of the matrimonial property regime, the shares of the spouses shall be equal.

### **Determining a bigger share of a spouse**

Art. 29. (1) In case of termination of the matrimonial property regime because of a divorce, the court may decide a bigger share of the matrimonial property for the spouse, who has been given the exercising of the parental rights in relation to the minor children, if this creates for him/her special difficulties.

(2) The spouse, who has been given the exercising of the parental rights in relation to the minor children, shall receive apart from his/her share the movable objects, intended for their up-bringing and education.

(3) In case of termination of the matrimonial property regime because of divorce or under Art. 27, Para. 2, the court may decide a bigger share of the matrimonial property for one of the spouses, if his/her contribution for the earning significantly exceeds the contribution of the other spouse.

### **Receiving part of the personal property**

Art. 30. (1) In case of divorce, each of the spouses shall have the right to receive part of the value of the objects for exercising profession or trade and of the receipts of the other spouse, acquired during the matrimony, if they have significant value and he/she has contributed for their acquiring by his/her labour, by his/her means, by the care after the children or by his/her work in the household. This claim may be demanded before the divorce, if the behaviour of the spouse, who has acquired the property, puts in danger the interests of the other spouse and the children.

(2) Para. 1 shall also apply in the cases under Art. 22, Para. 3.

### **Terms for claiming**

Art. 31. The claims under Art. 29, Para. 3 and Art. 40 may be laid within the term of one year after the termination of the matrimony or of the matrimonial property regime, and under Art. 29, Para. 1 and 2 – up to one year after the decision enactment for exercising the parental rights.

### **Responsibility for duties**

Art. 32. (1) The expenses for satisfying the family needs shall be taken by both spouses.

(2) The spouses shall be responsible jointly for duties, taken for satisfying the family needs.

## **Section III. Legal Regime of Division**

### **Property division**

Art. 33. (1) The rights, acquired by each of the spouses during the matrimony shall be his/her own personal possession.

(2) In case of termination of the matrimony upon a claim procedure, each of the spouses shall have the right to receive part of the value of the acquired property by the other one during the matrimony, as far as he has contributed by labour, by his/her means, care after the children, by work in the household or any other way.

### **Disposition with the family home**

Art. 34. In case of disposition with the family home, Art. 26 shall be applied.

### **Giving personal property for use**

Art. 35. In cases, where one of the spouses has given to the other his/her own property for using, in case of lack for other agreement, the user shall owe only the results, which are present at the date of their written request.

### **Responsibility for the obligation of the family**

Art. 36. (1) The expenses for satisfying the family needs shall be taken by both spouses.

(2) Obligations, taken for current family needs, the spouses shall be jointly responsible.

## **Section IV. Contractual Regime**

### **Matrimonial contract**

Art. 37. (1) The persons, entering into matrimony may settle their property relations between themselves by a matrimonial contract.

(2) Matrimonial contract may be signed only by judicially able persons.

(3) Matrimonial contract may also be signed by the spouses during the matrimony.

### **Contents of the matrimonial contract**



Art. 38. (1) The matrimonial contract shall contain agreements only about property relations between the parties, as:

1. the rights of the parties over the property, which has been acquired during the matrimony;
2. the rights of the parties over the property, possessed by them before the matrimony;
3. the ways of management and disposition with the property, including the family home;
4. the participation of the parties in the expenses and obligations;
5. the property consequences in case of divorce;
6. the support of the spouses during the matrimony, as well as in case of divorce;
7. maintenance of the children from the matrimony;
8. other property relations, as far as this does not contradicts this Code provisions.

(2) The property relations between the parties may be provided for by reference to some of the legal regimes. An agreement for pre-matrimonial property of one of the parties to become in matrimonial property regime shall not be admitted.

(3) The matrimonial contract shall not contain provisions in case of death. The restriction shall not refer to the provisions about the spouses' shares in case of termination of agreed matrimonial property regime.

(4) For the unsettled by the matrimonial contract property relations, the legal regime of matrimonial property shall be applied.

### **Concluding matrimonial contract**

Art. 39. (1) The matrimonial contract shall be concluded personally by the parties in writing with a notary certification of the contents and the signatures.

(2) The matrimonial contract, by which the right to ownership is transferred or another property right is established, or transferred on immovable property, shall be certified by a notary, in whose region is the property. In cases, where the properties, subject to the contract are situated in regions of activity of different notaries, the notary certification shall be prepared by a notary in one of these regions upon the choice of the parties.

(3) The contract, by which the right to ownership is transferred, or another property right is established or transferred over an immovable property, shall have transfer action and shall be entered into the property register.

(4) In cases, where the matrimonial contract has been signed during the matrimony, its signing shall be indicated into the act for concluding the matrimony and the contract shall be registered as provided by Art. 19, Para. 2.

### **Effect of the matrimonial contract**

Art. 40. (1) The matrimonial contract shall come into effect from the moment of contracting the matrimony, and when it was signed during the matrimony – from the day of signing the contract or from another date, indicated in it.

(2) The contract may not refer to rights, acquired by third parties before its signing.

### **Amendment of the matrimonial contract**

Art. 41. (1) The amendment of the matrimonial contract shall be done in the form for its signing.

(2) In reference to third parties, Art. 40, Para. Shall be applied.

### **Termination and breaking the matrimonial contract**

Art. 42. (1) The matrimonial contract shall be terminated:

1. on mutual consent of the parties; in this case they may choose a legal regime, or conclude a new contract; in failure to do so, the legal matrimonial property regime shall be applied;

2. in case of a request of one of the spouses, in case of considerable change in the circumstances, if the contract seriously threatens the interests of the spouse or the minor children or of the family;

3. in case of termination of the matrimony, apart from the clauses, which provide for the consequences of the termination and have been directed to be in force after it.

(2) The matrimonial contract may be broken in court under Art. 87, Para. 1 of the Law on the Obligations and Contracts, if this does not contradict the principles of this Code and of the good morals. The breaking may be partial. The breaking shall have force in the future.

### **Invalid matrimonial contract**

Art. 43. (1) In reference to the matrimonial contract, the general rules for invalid contracts shall be applied.

(2) Its breaking shall be in force for the future. In this case the spouses may choose legal regime or sign a new contract. In failure to do so, the legal matrimonial property regime shall be applied.

## **Chapter five.**

### **TERMINATION OF MATRIMONY**

#### **Grounds**

Art. 44. The matrimony shall be terminated:

1. in case of death of one of the spouses;
2. by annulment of the matrimony;
3. by a divorce.

#### **Termination of matrimony in case of declared death**

Art. 45. (1) In case the death of one of the spouses has been declared by the court, the matrimony shall be terminated with the enforcement of the decision.

(2) In case the declared death person is alive, the terminated matrimony shall not be restored.

### **Reasons for matrimony annulment**

Art. 46. (1) The matrimony shall be annulled, in cases, where:

1. Art. 6 and 7 have been violated in its concluding;
2. the agreement for the matrimony was given because of a threat with heavy and future danger of the life, health or honour of the person, contracting the matrimony or of his/her relatives.

(2) No one may refer to the annulations of the matrimony, before it is announced by the court.

### **Claiming matrimony annulment**

Art. 47. (1) Matrimony annulment may be claimed:

1. in case of violation of Art. 6 – by the minor spouse, not later than 6 months after the matrimonyable age, if there are no children from the matrimony and the spouse is not pregnant;

2. in the cases under Art. 46, Para. 1 and 2 – by the threatened spouse, not later than a year after contracting the matrimony;

3. in the cases under Art. 7, Para 1, item1 – by any of the spouses, by the prosecutor and by the spouse of the first matrimony;

4. in the cases under Art. 7, Para. 1, item2 and 3 and Para. 2 - by any of the spouses and by the prosecutor.

(2) In bigamy the matrimony may not be annulled, if the earlier concluded matrimony has been terminated.

(3) In cases, where the matrimony has been concluded in violation of Art. 7, Para. 1, item 1, the spouse from the first matrimony, the spouse from the annulled matrimony, as well as the prosecutor may request the existence of the ground for the matrimony annulment to be pronounced even after the death of the spouse, who has been in bigamy.

(4) In case of violation of art. 7, Para. 1, item2, the claiming by the ill or prohibited spouse may not be later than 6 months after the recovery or abolition of the judicial disability, and by the other spouse or by the prosecutor – by the recovery or abolition of the judicial disability.

(5) In case of violation of Art. 7, Para. 1, item3, the matrimony may not be annulled, if the ill spouse has recovered.

(6) In case of violation of Art. 7, Para. 2, item3, the matrimony may not be annulled, if the adoption has been terminated.

### **Results from the matrimony annulment**

Art. 48. (1) The matrimony annulment shall have effect ex nunc only.

(2) The supposition for fatherhood under Art. 61 is in force for the conceived or born children during the annulled matrimony.

(3) The provisions on the consequences from the divorce for the personal and property relations between spouses, as well as on the relations between them and the children shall be also applied in cases of matrimony annulment. Bad faith (mala fides) in cases of annulment of the matrimony shall have the importance as of guilt in cases of divorce.

### **Divorce because of dissolved matrimony**

Art. 49. (1) Any of the spouses may claim for divorce, in cases where the matrimony is deeply and irretrievably dissolved.

(2) The court shall admonish the spouses towards reconciliation through mediation or another way for voluntary settling the dispute.

(3) With the decision for admitting the divorce, the court shall pronounce also about the guilt for dissolving the matrimony, if this has been requested by one of the spouses.

(4) At any stage of the action, the spouses may express before the court an agreement on all, or some of the divorce consequences.

(5) The court shall confirm the agreement under Para. 4 after verifying, whether the interests of the children have been protected. The court may request an opinion from the Social Assistance Directorate.

### **Divorce on mutual consent**

Art. 50. In case of serious and steady mutual consent of the spouses for divorce, the court shall admit the divorce, without searching for their reasons for termination of the matrimony.

### **Agreement of the spouses in case of divorce on mutual agreement**

Art. 51. (1) In case of divorce on mutual agreement, the spouses shall produce an agreement about the place of residence of the children, exercising the parental rights, the personal relations and the children's support, as well as about using the family home, the spouse's alimony and the family name. They may agree about other consequences of the divorce.

(2) The agreement under Para. 1 shall be confirmed by the court, after verifying if the children's interests have been protected. The court may request an opinion from Social Assistance Directorate.

(3) If the agreement is not complete or the children's interests have not been well protected, the court shall set term for removal the shortcomings. If the shortcomings have not been removed within the set term, the court shall reject the claim for divorce.

(4) Change in the place of residence, exercising the parental rights, the personal relations and the children's support may be requested in case of change of the circumstances.

### **Continuing the divorce case by the heirs.**

Art. 52. (1) The right of divorce shall not pass to the heirs.

(2) The descending, called for inheriting or parents may continue the process, if the claimant has requested pronouncing about the guilt, for establishing the reasons for the claim on the basis of the guilty behaviour of the survived spouse, indicated by the claimant.

(3) The court shall reject the claim, if the survived spouse is not guilty for the dissolved matrimony.

### **Family name after the divorce**

Art. 53. After the divorce, the spouse may restore his/her family name before this matrimony.

### **Dropping out the inheritance and of the orders in case of death**

Art. 54. (1) after the divorce, the former spouses shall cease to be legal heirs to each other and shall lose the benefits, resulting from the orders in case of death, made before that. These results occur in cases, where the reasons of the claim for divorce have been established under Art. 52, Para. 2.

(2) Para. 1 shall not apply, if the testator has explicitly indicated, the testament orders will be in force after the divorce as well.

### **Repeal of donations**

Art. 55. Donations, made in relation or during the matrimony of a spouse, may be repealed after the divorce in cases, indicated in the civil laws, or if the repeal has been envisaged in the donation agreement or the matrimony contract.

### **Placing the family home after the divorce**

Art. 56. (1) In case of admitting the divorce, when the family home cannot be used separately by both spouses, the court shall place its using by one of them in case he has requested this, and has housing needs. In cases, where from the matrimony there are minor children, the court shall pronounce officially about the use of the family home.

(2) In cases, where from the matrimony there are minor children and the family home is owned by one of the spouses, the court may give it to be used by the other spouse, who has been given the parental rights, while he/she exercises them.

(3) In cases, where from the matrimony there are minor children and the family home is owned by close people of one of the spouses, the court may give it to be used by the other spouse, who has the parental rights for the term of one year.

(4) The use of the family home shall be terminated before the term, if the user's home need drops out and in the cases under Para. 2 and 3 – if he/she contracts a new matrimony.

(5) In cases, where the spouses are owners or have common right to use the family home, the court shall give it to be used by one of them, taking into consideration the interests of the minor children, the guilt, the health condition and other circumstances.

(6) In case of change in the circumstances, which are significant for giving the use under Para. 5, each of the former spouses may request a change in the use of the home.

### **Rental relations**

Art. 57. (1) In the force of a court decision, which gives the right to use the family home under Art. 56, Para. 1, 2, 3 and 5, rental relations shall occur. The decision may be entered in the property register, where the registration shall have the action under Art. 237, Para. 1, of the Law on Obligations and Contracts.

(2) Any of the parties may request the court to determine the amount of the rent with the decision for divorce. Rent shall not be owed for the residential area, used by the minor children. The determined amount of the rent may be amended in case of change in the circumstances.

### **Priority of the matrimonial agreement**

Art. 58. The provision of Art. 54-57 shall be applied, in case that the matrimonial agreement does not provide otherwise.

### **Parental rights after the divorce**

Art. 59. (1) In case of divorce, the spouses shall decide upon mutual agreement upon the issues on raising and education of the minor children from the matrimony in their interest. The court shall confirm the agreement under Art. 49, Para. 5.

(2) In case that no agreement is reached under Art. 1, the court shall officially order with which parent the children shall live, which of them shall exercise the parental rights, shall determine the measures on the exercising these rights, as well as the regime of the personal relations between the children and the parents and the children's support.

(3) The determination of the regime of the personal relations between the parents and the children shall include determination of a period or days, in which the parent may see and take the children, including the school holidays, official holidays and personal holidays of the child, as well as during some other time.

(4) The court shall decide on the issues under Para. 2, after estimating all the circumstances in the interest of the children, as; the educational qualities of the parents, the cares, laid up to this moment and the attitude towards the children, the will of the parents, the children's attachment to the parents, the sex and age of the children, the possibilities for help from third persons – close people to the parents, the social environment and the material opportunities.

(5) The amount of the support must provide conditions of life for the child, which he/she has had before the divorce, unless this would create special difficulties of the parent, owing the support.

(6) The court shall hear the parents, as well as the children under the provisions of Art. 15 of the Law on the Child Protection take a statement from the Social Assistance Directorate and if it is appropriate, hear also other persons. In case of information for a syndrome of parental alienation, the court shall hear an expert – psychologist.

(7) Exceptionally, if the children's interests impose this, the court may order that they should live with grand parents, or the family of other relatives or close people, with their agreement. In case, that this is not possible, the child shall be placed in a foster family or in a specialized institution, indicated by the Social Assistance Directorate. In any case, the court shall determine an appropriate regime of personal relations between the child and the parents.

(8) If this is needed, the court shall determine appropriate protection measures to provide implementation of the decision under Para. 2 and 7, as:

1. personal relations to take place at the presence of a certain person;

2. personal relations to take place at a certain place;  
3. taking the costs for the child's trip, if this is necessary, also of the person, accompanying him/her.

(9) If the circumstances change, the court, upon a request of one of the parents, upon request of the Social Assistance Directorate, or by right of office, may amend the measures, ordered before and determine new ones.

(10) The decision under Para. 2 shall not impede undertaking measures for protection of the child under the Law on the Child Protection.

## **Chapter six. ORIGIN**

### **Origin from the mother**

Art. 60. (1) The origin from the mother is determined with the birth.

(2) The mother of the child shall be the woman, who has given birth to him/her, including in assisted reproduction.

(3) The origin from the mother, established by a birth certificate, may be challenged by a claim of the child, by the woman, indicated in the birth certificate as a mother, by her husband, by the woman, who is claiming to be the mother of the child, and by the man, who claims that the child was born by his wife.

(4) As party to the case shall also be called the husband of the mother, the husband of the woman, who challenges the origin, as well as the child.

(5) The origin from the woman, who has given birth to the child in case of assisted reproduction, may not be challenged on this ground.

### **Origin from the father**

Art. 61. (1) The husband of the mother shall be considered as the father of the child, born during the matrimony or before expiry of 300 days of its termination.

(2) If the child was born before the expiry of 300 days after the matrimony termination, but after the mother has contracted a new matrimony, the father of the child shall be the husband of the mother of the new matrimony.

(3) In case of declared absence of the husband, the suppositions under Para. 1 and 2 shall not apply, if the child was born after expiry of 300 days from the date of the last information about the husband, and in declared death – from the date of the supposed death.

(4) Paragraphs 1-3 shall also apply when the child is born under the conditions of assisted reproduction under Art. 60, Para. 2.

### **Contesting fatherhood**

Art. 62. (1) The husband of the mother may contest that he is the father of the child, by proving that he/she may not have been conceived by him. This may be claimed by the expiry of a year after learning about the birth.

(2) The mother may contest, that her husband is the father of the child, by proving, that he/she may not have been conceived by him. This can be claimed within one year after the birth.

(3) In the case under Art. 61, Para. 2, if the contest of the fatherhood of the second husband is approved, the as father of the child shall be considered the first husband. The first husband and the mother may claim for contesting fatherhood within one year after learning the decision, but not later than 3 years after it became effective.

(4) The child may contest the fatherhood within 1 year after full age.

(5) Contest of fatherhood shall not be admitted, when the child was born under the conditions of assisted reproduction, if the husband of the mother has given agreement in writing about its performing.

### **Parties of the claims for contesting fatherhood**

Art. 63. In case of contesting fatherhood as parties shall be called the mother, the child and the husband, and when the fatherhood is contested by the second husband, the first husband is also called as a party.

### **Recognition**

Art. 64. (1) Any parent may recognize his/her child. Recognized may also be conceived children, as well as died children who have left descendants.

(2) Recognition may perform also a parent, at the age of at least 16.

### **Form of recognition**

Art. 65. (1) The recognition shall be performed in person with a written statement before an official on the civil status or by a declaration with a notary certified signature, sent to the official on civil status. The application may be sent through the manager of the medical institution, where the child was born.

(2) The official on civil status shall announce the recognition within 7 days after its performance to the other, if he/she is notified, and to the child, if he/she is at least 14 years of age.

### **Contesting the recognition by the other parent and by the child**

Art. 66. (1) The parent or a child of at least 14 years of age may contest the recognition by a written application to the official on civil status within 3 months after the notification. If the recognition is not contested, it shall be entered into the birth certificate.

(2) When the recognition is contested, the recognizer may within 3 months after receiving the notification claim for establishing origin.

(3) If the recognition is made before issuing the birth certificate of the child, and the parent declares under Art. 65, Para. 1, that he/she will not contest it, the recognized person shall be entered immediately into the birth certificate as parent. Contesting the recognition by the parent after issuing the birth certificate shall not be admitted.

(4) If at the act of recognition the child is minor, he/she may contest it through a court procedure within 1 year after full age, or after learning about the recognition, if the learning was later. If the claim is approved, the recognition shall be stricken off with a relevant note in the birth certificate.



### **Invalidation of the recognition**

Art. 67. The recognizer may request invalidation of the recognition because of a mistake or fraud within 1 year after the recognition, because of a threat – within 1 year after ceasing the threat, and in case of incapacity – within 1 year after acquiring the incapacity.

### **Claim for establishing the origin from the mother**

Art. 68. The origin from the mother may be established with a claim by the child, by the mother or the father. The husband of the mother shall be called as defendant, who would be considered as father of the child, under Art. 61.

### **Claim for establishing the origin from the father**

Art. 69. The origin from the father may be established by with a claim by the mother – within 3 years after the child's birth, or by the child within 3 years after full age. In cases, where the claim is by the child, the mother shall be called to court as well.

### **Parental rights in case of establishing origin in a claiming procedure**

Art. 70. In cases, where the court approves the claims under Art. 68 and 69, it shall officially order with which of the parents the child should live, measures for exercising the parental rights, the regime of the personal relations between the child and the parents, as well as his/her support, in reference to Art. 59.

### **Obstacle for establishing origin**

Art. 71. Claim for establishing origin may not be brought and recognition may not be done, while the available origin, established by the birth certificate, by the supposition under Art. 61 or by recognition, is not refuted through a claiming procedure.

### **Claims by and against successors**

Art. 72. (1) The successors shall not have the right to lay claims, envisaged in this Chapter, but they may continue the case on the claim, laid by the legator.

(2) In cases, where the mother and the father have died, the claim for establishing or contesting origin shall be laid against their successors.

### **Terms**

Art. 73. The terms on this Chapter shall be applied officially and shall not be subject to suspension, termination and reinstatement.

## **Chapter seven. RELATIONSHIP**

### **Lineal and collateral relationship**

Art. 74. (1) Lineal relationship shall be the connection between two persons, of which one of them descends lineally or collaterally from the other.

(2) Collateral relationship shall be the connection between 2 persons, who have common ancestor, without one of them originating from the other

### **Levels of relationship**

Art. 75. (1) Between two lineal relatives there are as many levels as the number of generations.

(2) Between two collateral relatives, there are as many levels as the number of generations from one of them to the common ancestor and from the last one to the other relative.

### **Relationship by matrimony**

Art. 76. (1) The relatives of one of the spouses shall be relatives by matrimony of the other spouse, as well as of his/her relatives.

(2) In the line and level, in which one person is relative of the other, he/she shall be relative by matrimony of the other spouse.

(3) The level of relationship by matrimony between the relatives of one of the spouses and the relatives of the other spouse shall be determined by collecting the levels of relationship between one of the spouses and his/her relatives and the other spouse and his/her relatives.

(4) The wives of two brothers or the husbands of two sisters shall be relatives by matrimony on second level.

(5) Relationship by matrimony shall have legal meaning only in the provided by the law cases.

(6) Relationship by matrimony shall be ceased with the termination of the matrimony.

## **Chapter eight. ADOPTION**

### **Section I. Conditions for Adoption**

#### **The adopted**

Art. 77. (1) Adopted may be only a person, who at the time of filing the application for adoption has not accomplished 18 years of age.

(2) Twins shall be adopted together. Upon exception, they may be adopted separately, if for 6 months after entering into the register under Art. 83, they could not be adopted together and if their interests do not impose this.

(3) Brothers and sisters shall be adopted together, if they have emotional relations between themselves.

#### **Adopting parent**

Art. 78. Adopting parent can only be a legally able person who has not been deprived of parental rights.

### **Age difference**

Art. 79. The adopting parent must be at least fifteen years older than the adopted. Age difference shall not be required when a spouse adopts the child of his/her spouse. When the adoption is effected simultaneously or consecutively by two spouses and the age difference is present with one of them such difference shall not be required for the other person.

### **Prohibition of adoption between relatives**

Art. 80. (1) Not admitted shall be adoption between lineal relatives and between brothers and sisters.

(2) The grandfather and the grandmother or one of them may adopt their grandchild only when they were born out of wedlock or both or one of the parents has died. The court shall also hear out the other grandparents of the person to be adopted.

(3) On request for adoption of a grandchild by the grandparents on the sides of both the mother and the father, the court shall decide the issue in view of the interests of the child.

### **Prohibition of adoption by two persons**

Art. 81. (1) No one shall be adopted by two persons, unless they are spouses.

(2) No one may be adopted for the second time, by the time the existing adoption is terminated.

(3) The prohibitions under Para. 1 and 2 shall not apply in relation to the spouse of the adopting person

### **Additional condition for full adoption**

Art. 82. (1) Full adoption shall be admitted in cases, where:

1. the adopted person has been entered into the register under Art. 83, and
2. the adopting parent has been entered in to the register under Art. 85.

(2) Para. 1 shall not be applied when the spouse adopts the child of his/her spouse and in case of adoption of a grandchild by his/her grandfather and grandmother or by one of them, as well upon adoption by a relative of third collateral relationship.

(3) The requirement for entering into the register of adopting parents under Art. 85 shall not be applied in adoption by a guardian or trustee or by a family of relative or close people, in which the child has been placed by a judicial procedure, as provided by the Law on the Child Protection.

(4) The persons under Para. 3 shall be studied by the Social Assistance Directorate on their permanent address.

### **Registers of children for full adoption**

Art. 83. (1) the Social Assistance Agency shall maintain National Electronic Information System of the children, who may be adopted under the conditions of full adoption.

(2) The Regional directorates for social assistance shall keep registers of , who may be adopted under the conditions of full adoption.

(3) The important circumstances for the adoption, the procedure and the keeping of the registers shall be determined by an ordinance of the Minister of Labour and Social Policy.

#### **Entry in the regional registers children for full adoption**

Art. 84. (1) For a child placed under administrative procedure, in compliance with the Law on the Child Protection, whose parents are unknown or have given consent for full adoption, the Social Assistance Directorate on the present address of the child shall notify in writing, within 7 days of his/her placement, the relevant regional directorate for social assistance about his/her entry in the register.

(2) In cases, where the child has been placed in a specialized institution under an administrative procedure, in compliance with the Law on the Child Protection and the parent with no grounded reason has requested termination of the placement or a change of the measure for protection, the Social Assistance Directorate on the present address of the child shall notify in writing within 7 days after expiry of the term under Art. 93, Para 2, sentence one, the Regional directorate for social assistance about his/her entry into the register. The notification shall contain a copy of the request for placement by a court procedure under Art. 27, Para. 2 of the Law on the Child Protection.

(3) A child whose parents have died, deprived from parental rights or placed under full judicial disability may be entered in to the register upon a request of the guardian or trustee to the director of the Regional Social Assistance Directorate. The director shall request a statement for the interest of the child from Social Assistance Directorate and from the body on the guardian or trustee.

(4) The person, placed under guardianship may request to be entered into the register, as provided by Para. 3.

(5) Entering a child into the register may be done on the basis of a request of the parents, filed through the Social Assistance Directorate, if the entry is in the interest of the child.

(6) The entry, as well as the refusal for entry into the register shall be done by an order by the director of the Regional Social Assistance Directorate, which shall be subject to contestation under the Administrative Procedure Code.

#### **National register of adopting parents for full adoption**

Art. 85. The Social Assistance Agency shall keep National register of the persons, who wish to adopt a child under the conditions of full adoption. The entry into the register shall be done by the Regional Social Assistance Directorates in compliance with the Ordinance under Art. 83, Para. 3.

### **Permission for entry in the National register of adopting parents for full adoption**

Art. 86. (1) A person, who wishes to adopt a child under the conditions for full adoption shall file an application to the Social Assistance Directorate on his/her permanent address for permission for entry into the register.

(2) The Social Assistance Directorate shall conduct social study about the capacity of the person to adopt a child.

(3) A person, who has received permission from the Social Assistance Directorate shall be entered in the register officially.

(4) The refusal for permission may be contested under the Administrative Procedure Code.

(5) The permission shall be issued for the term of 2 years.

(6) The terms and conditions for conducting the social study, for issuance and deprivation of the permission for entry into the register shall be determined by the Ordinance under Art. 83, Para. 3.

### **Entries and deletion in the register**

Art. 87. (1) The person, who wishes to adopt a child shall be obliged to inform the Social Assistance Directorate in case of a change in the circumstances, significant for the issuing of the permission.

(2) The change of circumstances shall be indicated into the register. Withdrawal of the permission shall be done in case of a significant change in the circumstances after a new social study.

(3) Withdrawal of the permission shall be subject to contestation as provided by the Administrative Procedure Code.

(4) Entries and deletion shall be done after an order of the director of the Regional social assistance directorate

### **Personal data protection**

Art. 88. The Social assistance agency shall undertake measures for the personal data protection in the kept registers.

## **Section II. Consent of Adoption**

### **Consent of adoption**

Art. 89. (1) For the adoption is required the consent of:

1. the adopting parent;
2. the parents of the child to be adopted;
3. the spouses of the adopting parent and of the child to be adopted;
4. the child to be adopted, if he/she is at least 14 years of age.

(2) The mother's consent may be given earliest 30 days after the birth.

(3) The parents of the child to be adopted shall give consent also in the cases, where they are minor.

(4) The consent of the persons under Para. 1, item 2 and 3 shall not be requested, if they are minor or placed under judicial disability.

(5) In case of a full adoption, the Social Assistance Directorate shall explain to the persons under Para. 1, the consequences of admitting the adoption, before they express consent. In cases of incomplete adoption, the court shall give the explanations.

(6) The persons under Para. 1 shall produce a declaration with a notary certification of the signature, that the consent, given by them has not been bound with a material benefit.

### **Opinion on adoption**

Art. 90. (1) The child to be adopted, if he/she is not yet at the age of 14, shall be heard by the court, in compliance with the Law on the Child Protection.

(2) Opinion about the adoption shall give:

1. the guardian or the trustee;
2. the parents, if they are minors, placed under limited judicial disability or deprived of parental rights;
3. the spouses if they are placed under limited judicial disability.

### **Form of the consent and of the opinion**

Art. 91. (1) The consent under Art. 89 and the opinion of the persons under Art. 90 may be given before the court in person, by a declaration with a notary certification of the signature or through special attorney. The court may call and hear some of these persons in person in case this is necessary.

(2) The child to be adopted shall give his/her consent in person before the court.

(3) In case of full adoption, when the parent gives his/her opinion in person, he/she and the adopting parent shall be heard in separate sessions, unless the cases under Art. 82, Para. 2.

### **Withdrawal of preliminary given consent**

Art. 92. The parent may withdraw a preliminary given consent for full adoption by an application with a notary certification of the signature before the beginning of the procedure on the adoption before the court. The application shall be filed to the Social Assistance Directorate with a copy to the Regional social assistance directorate.

### **Adoption without the consent of the parent**

Art. 93. (1) Adoption shall be admitted when the parent does not accede if he/she permanently does not take care of the child, does not provide support and raises and brings him/her up in a way detrimental to his/her development.

(2) Adoption without consent of the parent shall also be admitted when he/she has been placed in a specialized institution and the parent within 6 months from the date of the placement under administrative procedure, as provided by the Law on the Child Protection without any reason has not requested for termination of the

placement or a change of the measure and returning of the child, or his/her placement in a family of relatives or close people, as provided by the Law on the Child Protection. The request may be made also during the procedure of placement by a judicial order, initiated in compliance with the Law on the Child Protection.

(3) In the cases under Para. 1, the parent shall be called to be heard by the court.

### **Adoption council**

Art. 94. (1) Under the Regional social assistance directorate, Adoption council shall be established.

(2) Chairperson of the Adoption council shall be the director of the Regional social assistance directorate. Members of the Council shall be: a lawyer, assigned by the regional Governor, a physician. Determined by the director of the Regional health centre, a pedagogue, assigned by the head of the Regional inspectorate on education, a psychologist, assigned by the head of the Social Assistance Directorate on the present address of the child, as well as the head of the specialized institution, in which the child is placed.

(3) The bodies under Para. 2 shall also assign permanent deputies of the Council members.

(4) The Council shall meet every week.

(5) The Council decisions shall be adopted by an open voting and by a majority of at least two thirds of the Council.

(6) (amend. – SG 74/09, in force from 01.10.2009) The Minister of Labour and Social Policy shall issue Rules of procedure for the Council activity under Para. 1, in coordination with the Minister of Health, the Minister of Education, Youth and Science, and the Minister of Justice.

(7) For their participation in every session of the Adoption council, the chairperson and the members shall receive remuneration in the amount, determined by the Minister of Labour and Social Policy.

### **Determining adopting parents for full adoption**

Art. 95. (1) within one month after registering the child into the register, the Adoption council shall determine for him/her appropriate adopting parents, in coordination with the entry of the adopting parents into the register, their preferences, as well as the circumstances, important for the child's interest.

(2) Apart of the cases under Para. 1, the Adoption council may determine an appropriate adopting person for the child, which performs foster care as a foster family, if he/she has been entered into the register under Art. 85 and has taken care of the child for not less than a year after his/her placement for being raised in the family.

(3) The Regional directorate for social assistance shall notify in writing the first appropriate adopting parent about the decision under Para. 1 and shall give him/her the information about the child. The Social Assistance Directorate on the child's present address shall assist for making personal contact.

(4) In the cases under Para. 2, the Regional social assistance directorate shall notify in writing the adopting parent.

(5) Within the term of 1 month after receiving the notification, the adopting parent may file an application for adoption to the court through the Regional social assistance directorate. The directorate shall send the application for adoption, together with the file within 3 days after its receiving.

(6) In case that the notified adopting parent refuses in writing the proposal or fails to file an application within the term under Para. 5, the Regional social assistance directorate within 14 day term shall notify the following appropriate adopting parent.

(7) The refusal, or failure to file an application within the term under Para. 5, shall be indicated in the National register of adopting parents for full adoption.

### **Jurisdiction**

Art. 96. (1) The application for full adoption shall be filed by the adopting parent through the Regional social assistance directorate, whose Adoption council has determined the adopting parent, to the District court on the location of the Regional directorate.

(2) The application for full adoption under Art. 82, Para. 2 and 3 may be filed by the adopting parent, by the parents of the child to be adopted, as well as by the child to be adopted, if he/she has 14 years of age, through the relevant Regional social assistance directorate to the District court on the permanent address of the applier

(3) The application for incomplete adoption shall be filed by the adopting parent to the District court on the permanent address of the applier.

### **Decision on the request for adoption**

Art. 97. (1) The district court shall examine the application, in a session in camera, within 14 days after its receipt. In case of a full adoption, the court shall hear the report of the Social Assistance Directorate and collect the evidence under the procedure of the Civil Procedure Code. The court, after hearing out the conclusion of the public prosecutor, shall rule by a motivated decision.

(2) The adoption shall be admitted if it is in the interest of the child to be adopted.

(3) The decision shall be announced in a court session and after its coming into force it shall be forwarded ex officio to the municipality at the permanent address of the prospective adoptive parents, and to the Social Assistance Agency, and if the adopting parent is a foreigner – to the Sofia municipality and to the Ministry of Justice.

### **Appeal against the decision**

Art. 98. (1) The decision under Art. 97, Para. 1 may be appealed by the adopting parent, the parents of the child to be adopted, unless in the cases under Art. 93, Para. 2 by the child to be adopted and by the prosecutor, before the Court of Appeal within 14 days after the decision is announced. In cases where the adopted child has 14 years of age, he/she may appeal the decision in person.

(2) Within 14 days after filing the claim, the court in a session in camera shall pronounce a decision, which shall be final.



### **Application of the provision**

Art. 99. Provisions of Art. 77 - 98 shall also be applied in adoption of a child with a usual residence in the Republic of Bulgaria, as well as in case of adoption by a foreigner with usual residence in the Republic of Bulgaria.

## **Section III. Effect of the adoption**

### **Types of adoption**

Art. 100. (1) The adoption may be full or incomplete.

(2) The adoption is full:

1. when the child to be adopted is a child of unknown parents;
2. when the parents have given preliminary consent for full adoption;
3. in the case under Art. 93, Para. 2.

(3) In the other cases the adoption may be full or incomplete. The type shall be determined by the parsons, whose consent is requested under Art. 89.

### **Full adoption**

Art. 101. (1) In case of full adoption, between the adopted child and his/her descendants – on one part and the adopting parent and his/her relatives– on the other, shall occur rights and obligations such as between relatives by origin, and the rights and obligations between the adopted child and his/her descendants with their relatives by origin shall be interrupted. The obstacles for contracting matrimony because of kinship under Art. 7, Para. 2, item 1 and 2 shall not fall.

(2) The court shall order that a new birth certificate shall be drawn up, in which the adopting parent shall be entered as the parent. The certificate shall be drawn up by the official on civil status in the municipality, city hall or the region on the permanent address of the adopting parent, and where the adopting parents are two – on the address, indicated in the judgment of the court.

### **Incomplete adoption**

Art. 102. (1) In case of incomplete adoption, rights and obligations shall occur as between relatives by origin only between the adopted child and his/her descendants – on one part and the adopting parent – on the other, and the rights and obligations between the adopted child and his/her descendants with their relatives by origin shall be kept. The parental rights and obligations shall pass on the adopting parent.

(2) The parents by birth shall owe support, if the adopting parent cannot give it. The parents by birth shall not inherit the adopted child.

### **Adopting by a spouse of a parent**

Art. 103. (1) In case of adopting a child by a spouse of a parent, the rights and obligations between this parent and his/her relatives – on one part, and the adopted child and his descendants – on the other shall be kept.

(2) In the case under Para. 1, in the existing birth certificate of the child, with the information about the birth parent, with whom the relations are kept, the information about the adopting parent shall be entered as well.

### **Monitoring after the adoption**

Art. 104. For two years after the full adoption, the Social Assistance Directorate on the present address of the adopting parent shall monitor the raising of the child and the observation of his/her rights and legal interests.

### **Right to information**

Art. 105. The adopting parents shall have the right to receive information about the origin of the child from the Social Assistance Directorate, if important reasons impose this. In case of important reasons, this right shall have the child, who has accomplished 16 years of age.

## **Section IV. Termination of Adoption**

### **Grounds for termination**

Art. 106. (1) The adoption shall be terminated by the District court, in case of:

1. nullifying because of violation of Art. 77, Para. 1, Art. 78, Art. 79, Art. 80, Para. 1 and Para. 2, sentence one, Art. 81, Art. 82, Para. 1, item. 1, Art. 89, Para. 1, items 1, 2 and 4 and Para. 2 and 3;

2. heavy breach by one of the parties or other circumstances, which deeply break up the relations between the adopting father and the adopted child.

(2) Claim for nullifying the adoption because of violation of Art. 89, Para 1, items. 1, 2 and 4 and Para. 3 may be filed by the person, which has not given consent, within 1 year, which runs for the adopting parent and for any of the parents of the adopted child after the having known about the fact of adoption. For the adopted child the term runs after accomplishing full age or after having known about the adoption,, if it has occurred later. The same rule shall apply also for the person, whose consent has been given as a result of a mistake, fraud or threat, as well as in case of violation of Art. 89, |Para. 2.

(3) Claim for nullifying of the adoption because of violation of Art. 82, Para. 1, item1 may be filed by the adopting father, the adopted child and any of the parents of the adopted child within one year after the adoption.

(4) In the rest of the cases of nullifying, termination may be requested by the adopting parent, the adopted child and any of the parents of the adopted child by accomplishing full age of the adopted child.

(5) In the cases under Para. 1, item 2, termination of the adoption may be requested by the adopting parents and the adopted child.

(6) The prosecutor shall have the right to request termination of the adoption within the terms under Para 3 and 4, if the public interest is concerned.

(7) Social Assistance Directorate shall have the right to request termination of the adoption within the terms of Para. 3 and 4, but not later than accomplishing full age by the adopted child, if the adoption contradicts his/her interest.

(8) The adoption may be terminated by the Regional court upon mutual consent of the adopting parent and the adopted child, when both of them are in judicial ability.

#### **Termination of the adoption in case of death**

Art. 107. (1) In case of full adoption, the court may terminate the adoption upon request of the adopted child, his/her parents, of the guardian and of the trustee or by the Social Assistance Directorate, in case of either one, or both adopting parents are dead, the adopted child has not accomplished full age and this is imposed by his interests.

(2) In case of incomplete adoption, if the adopting parent dies, as well as if the adopted child dies, without leaving descendants, the adoption shall be terminated, by the living person shall inherit the died person.

#### **Continuation of the case for termination of the adoption**

Art. 108. In case of dead of the adopting parent or of the adopted child occurs during the procedure for termination of the adoption under Art. 106, Para 1, the case may be continued by the inheritors of the applicant. In case that the court verifies the claim, the guilty living adopting parent or the adopted child shall not inherit the dead person.

#### **Effect of termination**

Art. 109. The effect of adoption shall stop with its termination

### **Section V.**

#### **Special Rules for International Adoption**

##### **Adopted child**

Art. 110. (1) Any child with habitual residence in the Republic of Bulgaria may be adopted by a person with habitual residence abroad, when the possibilities for his/her adoption in the country have been exhausted and he/she has been entered into the register under Art. 113, Para. 1, item1, unless in the cases under Art. 82, Para. 2.

(2) Adoption of a child – Bulgarian national with habitual residence in another state shall be done by observing the requirements of the legislation of that state.

##### **Adopting parent**

Art. 111. (1) Any person with habitual residence abroad may adopt any child with habitual residence in the Republic of Bulgaria, if he/she has been entered into the register under Art. 113, Para 1, item2, unless in the cases under Art. 82, Para. 2.

(2) Any person under Para. 1 may not adopt any child with habitual residence in the Republic of Bulgaria, if he/she has habitual residence in a state, which will not recognize the adoption decision of the Bulgarian court.

### **Powers of the Minister of Justice**

Art. 112. (1) The Ministry of Justice shall perform the functions of the central body, provided by the Convention on the Child Protection and Cooperation in the Field of International Adoption, drawn up in Hague, on 29 May 1993 (ratified by law, SGN. 16 of 2002) (SG, N. 78 of 2002), called hereinafter "the Hague Convention".

(2) The Minister of Justice shall:

1. perform the activity on the international adoptions;
2. exercise control over the activity of the accredited organizations for intermediation in cases of international adoptions;
3. issue an ordinance about the terms and conditions for keeping the registers of the international adoptions.

(3) In cases, where the adoption of a child with habitual residence in the Republic of Bulgaria has been performed in compliance with the Hague convention, the Minister of Justice shall certify this.

(4) The Minister of Justice shall express an opinion in the cases under Art. 110, Para. 2, where the legislation of the state, where the habitual residence of the child is, requests pronouncement on behalf of the Bulgarian central body on international adoption.

(5) Where for the term of 2 years after admitting the adoption, violations of the rights and the legal interests of the adopted child have been found, the Minister of Justice shall notify the competent bodies of the state on the habitual residence of the adopting parent.

(6) Where the register does not contain suitable adopting parents, the International Adopting Council cannot determine suitable adopting parents of the registered persons or the determined adopting parents have refused to adopt a child with a health problem, special needs or at the age of above 7 years, the Minister of Justice shall undertake the measures, provided by the ordinance under Art. 113, Para. 4.

### **Registers in cases of international adoption**

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

1. register of the children, which may be adopted by persons with habitual residence abroad under the conditions of full adoption;
2. register of adopting parents with habitual residence abroad, who wish to adopt a child the habitual residence in the Republic of Bulgaria under the conditions of full adoption;
3. register of adopting parents with permanent residence in the Republic of Bulgaria, who wish to adopt a child with habitual residence abroad;
4. public register of the accredited organizations for mediation in cases of international adoption.

(2) The adopting council under Art. 94 shall notify the International Adopting Council for entering a child into the register of the children, if within 6 months after his/her entering into the regional register for hi/her have been determined – under Art. 95 – at least 3 adopting parents, and neither of them has filed an application for his/her adoption, or where in spite of the efforts, or it is not possible to be determined a suitable adopting parent.

(3) The entering of a child into the register under Para. 1, item1, shall be noted into the regional register and this shall not be an obstacle for the relevant Adopting council to determine suitable adopting parent.

(4) The contents and the procedure for keeping the registers under Para. 1 shall be determined by an ordinance of the Minister of Justice.

### **International Adoption Council**

Art. 114. (1) (amend. – SG 74/09, in force from 01.10.2009) Under the Ministry of Justice, International Adoption Council shall be established, which shall consist of a Chairperson – Deputy Minister of Justice and members: one representative of 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 Agency for Child Protection.

(2) The Chairperson and any of the members shall have each one deputy.

(3) The Council shall meet at least 3 times per month.

(4) The Council decisions shall be adopted by open voting and by at least two thirds majority of the body.

(5) The Minister of Justice shall determine the names of the Council staff under Para. 1 and 2, upon proposal of the heads of the relevant institutions and shall issue rules for its activity.

(6) For their participation in every meeting of the International adoption council, the chairperson and the members shall receive remuneration in the amount, determined by the Minister of Justice.

(7) Within the term of 60 days after entering the children into the register, the International adoption council shall examine the applications for determining suitable adopting parent, while observing the indicated in Art. 95, Para. 1 criteria.

(8) The Council shall discuss all suitable applicants for determining the adopting parent.

### **Competency of the International Adoption Council**

Art. 115. The International Adoption Council shall:

1. make proposal to the Minister of Justice for determining suitable adopting parent;

2. express opinion before the Minister of Justice on the applications of persons with usual residence in the Republic of Bulgaria for adopting a child with usual residence abroad;

3. make proposal to the Minister of Justice for issuing permission under Art. 121;

4. express opinion and give recommendation to the Minister of Justice in relation to the international adoptions;

5. make proposal to the Minister of Justice for withdrawal of the permission of an accredited organization.

### **Mediation in international adoption**

Art. 116. (1) Mediation in international adoption may be done by a non-profit legal person for performing activity for public benefit, called hereinafter “accredited organization”, entered into the Central register under Art. 45, Para. 1 of the Law on Non-profit Legal Persons and which has received permission for this by the Minister of Justice.

(2) A foreign non-profit legal person, received accreditation for mediation in the area of the international adoptions by a foreign authority, may exercise its activity in the Republic of Bulgaria only through a branch, which has received permission by the Minister of Justice for performing mediation activity with the relevant state.

(3) The Minister of Justice shall determine by an ordinance the terms and conditions of issuing and withdrawal of permission for the activity of the accredited organizations, including of its termination.

### **Consent by the Minister of Justice**

Art. 117. (1) The Minister of Justice shall give consent for the adoption of a child with usual residence in the Republic of Bulgaria by the adopting parent, proposed by the International adoption council.

(2) The Minister of Justice shall refuse to give consent, in cases of:

1. establishing circumstances, which are not in the interest of the child;
2. significant violations in the adoption procedure.

(3) In the cases under Para. 2, the International adoption council shall make another proposal.

(4) For the consent for adoption a fee shall be paid in the amount, determined in a tariff of the council of Ministers.

### **Procedure upon an application for international adoption**

Art. 118. (1) When consent has been given under Art. 117, the Ministry of Justice shall send the application for adoption to the Sofia city court. The case shall be examined under Art. 97.

(2) The decision under Para. 1 may be appealed by the adopting parent, the parents of the adopted child, unless in the cases under Art. 93, Para. 2, by the adopted child and by the prosecutor before the Sofia court of appeal, within 14 days after the announcement of the decision. In cases, where the adopted child has accomplished 14 years of age, he/she may appeal the decision in person. The case shall be decided within the term under Art. 98, Para. 2.

### **Termination of international adoption**

Art. 119. (1) The Minister of Justice shall have the right to request termination of the adoption in the cases, where there are reasons and in the terms of Art. 106, Para. 1 and 7.

(2) The Minister of Justice shall claim for termination of the adoption, if the decision of the Bulgarian court for its admittance has not been recognized in the receiving state.

### **Data protection**

Art. 120. The Minister of Justice shall undertake the needed measures for the personal data protection.

### **Permission of mediation**

Art. 121. (1) For issuance of permission for mediation in international adoptions, an application shall be sent to the Minister of Justice.

(2) The permission shall be given for the term of 5 years.

(3) For the examination of the application for issuance of a permission, fee shall be paid in the amount, determined by the tariff of the Council of Ministers.

(4) Withdrawal of permission shall be done after a motivated proposal of the International adoption council.

## **Chapter nine.**

### **RELATIONS BETWEEN PARENTS AND CHILDREN**

#### **Parental rights and obligations**

Art. 122. (1) Entitled to parental rights and obligations in relation to the children under age shall be every parent.

(2) The parents shall have equal rights and obligations, notwithstanding whether they are in matrimony.

(3) The spouse of the parent shall assist the parent in exercising his/her obligations.

#### **Exercising the parental rights and obligations**

Art. 123. (1) The parental rights and obligations shall be exercised in the interest of the child by both parents together and separately. When the parent has acted alone, he/she shall be obliged to inform the other parent.

(2) The exercising the parental rights and obligations shall be done upon mutual agreement of the parents. In case of discontent, they may approach a mediator or to apply to the Regional court upon the present address of the child, which shall decide the dispute after hearing the parents, and if needed - the child. The court decision may be appealed following the general procedure.

#### **Rights and obligations of the child**

Art. 124. (1) The child shall have the right to be raised and educated in a way, which should secure his/her normal physical, mental, moral and social development.

(2) The child shall have the right to personal relations with his/her parents, unless the court has otherwise decided.

(3) In case of disagreement between a parent and a child, the child may personally approach the Social Assistance Directorate for assistance. If the child has accomplished 14 years and the disagreement is in significant issues, the child may approach through the Directorate for deciding the dispute before the Regional court upon his/her present address. The decision may be appealed following the general procedure.

(4) The children shall be obliged to respect their parents, grand parents and to help them. The same obligation shall have the children to the other family members, as well as to the spouse of his/her parent.

(5) Children of full age shall be obliged to take care of their elderly or sick parents.

### **Cares, education and supervision of children**

Art. 125. (1) The parent shall have the right and obligation to take care of the physical, mental, moral and social development of the child, for his/her education and his/her personal property interests.

(2) The parent shall raise the child, form his/her views and provide for his/her education in reference to his/her possibilities and in reference to the child's needs and aptitudes and in view to his/her growing up as an independent and responsible personality. The parent shall not use force, as well as methods of education, which lower the child's dignity.

(3) The parent shall provide permanent supervision in relation to his/her under aged child and appropriate control of the under aged child's behaviour.

### **Living together**

Art. 126. (1) The parents of the under aged children shall live together, unless important reasons impose their living separately.

(2) In cases, where the child is moved from his/her place of residence, the Regional court on present address of the parent upon his/her request, shall order returning of the child, after hearing him/her. The court decision may be appealed before the district court, but the appeal shall not stop the execution. The returning of the child shall be done in an administrative procedure.

(3) If the court established important reasons under Para. 1, it shall refuse the returning of the child to the parent and shall inform Social Assistance Directorate upon the child's present address, which shall immediately undertake measures for protection.

### **Dispute about the parental rights**

Art. 127. (1) In cases, where the parents do not live together, they may reach an agreement on the place of the child's residence, exercising the parental rights, the personal relations with him/her and his//her support. They may require the Regional court upon the place of the child's residence, to confirm their agreement. The agreement shall have the force of execution provision under Art. 404, item1 of the Civil Procedure Code.



(2) In case that the parents have not reached agreement under Para. 1, the dispute shall be decided by the Regional court upon the child's present address, which shall pronounce on the place of residence of the child, the exercising of parental rights, the personal relations with the child and his/her support, as provided by Art. 59, 142, 143 and 144. The decision may be appealed upon the usual procedure.

(3) Upon the parent's request, the Court shall determine temporary measures in the interest of the child, after requesting an opinion from the Social Assistance Directorate. The determination shall not be appealed, but may be altered by the same court.

(4) The court may apply the protection measures under Art. 59, Para 8.

### **Personal relations with close people**

Art. 128. (1) The grandfather and the grandmother may request from the Regional court on the present address of the child to determine measures for personal relations with him/her, if this is in the interest of the child.

(2) The court shall apply respectively Art. 59, Para. 8 and 9.

(3) If the parent, to who the court has determined a regime of personal relations with the child, temporarily cannot exercise it because of absence or sickness, this regime may be performed by the grand mother and the grand father of the child.

### **Representation and guardian assistance**

Art. 129. (1) Any of the parents may alone represent the under aged child and give consent about the legal acts of his/her under aged child in his/her interest.

(2) In case of contradictions between the interest of the parent and the child, a special representative shall be appointed.

### **Management and disposal of the child's property**

Art. 130. (1) The parents shall manage the child's property in his/her interest and with the care of a good owner.

(2) The profits from the child's property, which are not needed for his/her needs, may be used for the family needs.

(3) Performing acts of disposal with immovable property, with movable objects through formal deal and with bank deposits, as well as with securities, possessed by the child shall be admitted with permission of the Regional court on his/her present address, if the disposal does not contradict the child's interest.

(4) Donation, refusal, lending money and securing someone else's obligation by the child, who has not accomplished full age shall be void. By exception, securing someone else's obligation through pledge or mortgage may be done under the procedure of Para. 3 in case of need or evident profit for the child or in case of outstanding needs of the family.

(5) For the deals of an under aged child, entered into a matrimony contract, only the restriction of Art. 6, Para. 4 shall be applied.

### **Restricting the parental rights**

Art. 131. (1) In cases, where the behaviour of the parent is threatening the personality, health, education or the property of the child, the Regional court shall take the relevant measures in the child's interest, by restricting the parental rights – shall withdraw or put conditions for exercising some of them and may appoint another person to realize them. In case of necessity the place of the child's residence may be changed or he/she may be placed out of the family.

(2) The measures under Para. 1 shall also be taken, where because of long physical or mental sickness or other objective reasons the parent is unable to exercise his/her parental rights.

### **Depriving from parental rights**

Art. 132. (1) The parent may be deprived from parental rights:

1. in especially heavy cases under Art. 131;
2. when without valid reasons permanently fails to take care of the child and does not support hi/her.

(2) In case of depriving one of the parents from parental rights, when there is no other parent, or exercising the parental rights by him/her is not in the child's interest, the court shall undertake protection measures and shall place him/her out of the family.

### **Procedure for restricting and depriving of parental rights**

Art. 133. (1) The procedure for restricting and depriving of parental rights shall be initiated upon request of the other parent, of the prosecutor or of the Social Assistance Directorate before the Regional court on the child's present address.

(2) During the case shall be heard the prosecutor, representative of the Social Assistance Directorate and the parent, whose restriction or deprivation of rights is requested, unless he fails to appear without valid reasons.

(3) The court shall determine appropriate temporary measures in the child's interest, having regard the opinion of the Social Assistance Directorate. The decision shall not be subject of appeal, but it may be altered by the same court.

### **Support and measures in reference to the personal relations**

Art. 134. In case of restricted parental rights through placing the child out of the family, as well as in case of depriving of parental rights, the court shall determine:

1. the child's support, if it has not been decided before;
2. the measures of the personal relations between the parent and the child, applying Art. 59, Para. 8.

### **Alternation of the measures and reinstating the parental rights**

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

(2) The parent may request from the court to reinstate his/her parental rights, if the reason for their deprivation has dropped off.

### **Entering**

Art. 136. In the cases under Art. 131 and 132, the court shall announce ex officio to the municipality on the permanent address of the parent for entering the deprivation of the parental rights, of their reinstatement or of the change under Art. 135. The court shall send a copy of the decision to the Social Assistance Directorate on the child's present address, which shall undertake appropriate measures and if needed, shall propose establishing guardianship or trusteeship.

### **Substituting care**

Art. 137. (1) Any person, who has been assigned with a child's care, shall not acquire parental rights and obligations.

(2) The persons under Para. 1 may, without the agreement of the parents, take decisions and undertake actions for guarding the children's life and health, of whom they take care.

(3) The persons with whom the child has been placed by a court procedure, shall have the right and obligation to live with him/her, as well as the obligation of realising factual acts under art. 125. They shall also have the right under Art. 126, Para. 2.

(4) (amend - SG 82/09) The persons under Para. 3 shall perform the needed legal acts for protection of the child's personal rights, related to his/her health, education and civil status, as well as for issuing personal identification documents under the Law on the Bulgarian Personal Documents, after a positive opinion by the Social Assistance Directorate. The persons shall be obliged under Art. 165, Para. 3.

(5) In case of placement of the child in administrative procedure under Art. 27 of the Law on the Child Protection, the actions under Para. 4 shall be performed by the Social Assistance Directorate.

### **Participation of the child in court procedures**

Art. 138. In court procedures under this Chapter, the child shall be heard under the conditions of Art. 15, of the Law on the Child Protection.

## **Chapter ten. SUPPORT**

### **Right to support**

Art. 139. The right to support shall have a person, who is unable to work and cannot support himself/herself from his/her property.

### **Order of the persons who owe support**

Art. 140. (1) The person who has the right to support, may seek it in the following procedure from:

1. children and spouse;
2. parents;
3. former spouse;

4. grandchildren and great grandchildren;
5. brothers and sisters;
6. grandfather and grandmother and of ascending persons of upper level.

(2) If the persons of previous order are unable to give support, the persons of the next order shall owe support.

(3) When several persons of one and the same order owe support, the obligations between them shall be distributed in reference to their possibilities. If the support is given by one of them, he/she may seek from the rest of them, what they have been obliged to give, together with the legal interest.

### **Order of the persons, who have the right to support**

Art. 141. A person, obliged to several persons having right to support shall be obliged to give it in the following order:

1. children and spouse;
2. parents;
3. former spouse;
4. grandchildren and great grand children;
5. brothers and sisters;
6. grandfather and grandmother and of ascendants of a higher level.

### **Amount of the support**

Art. 142. (1) The amount of the support shall be determined according to the needs of the person, who has the right to support and the abilities of the person, who owes it.

(2) The minimal support of a child shall be equal to one forth of the amount of the minimal work salary.

### **Support of the under aged children by parents**

Art. 143. (1) Any parent shall be obliged in accordance with his/her possibilities and material situation to provide conditions for life, needed for the child's development.

(2) The parents shall owe support for his/her under aged children, notwithstanding of the fact whether they are working or may be supported by their property.

(3) The parents shall owe support also when the child has been placed out of the family.

(4) Upon request of a parent or a person, who performs replacement care under Art. 137, the court may determine supplement to the support, determined by the court for covering the exceptional needs of the child up to an amount, to which the parent is able to give it without some difficulties. The court shall also determine the term, for which the supplement is owed.

### **Support of full aged studying children by parents**

Art. 144. The parents shall owe support for their full aged children, if they study full time in high and higher educational institutions, for the term of education, up

to accomplishing 20 years of age for studying in a high school and up to 25 years of age for studying in higher school, and they cannot support themselves from their incomes from using their property and the parents can give it without special difficulties.

### **Support of former spouse**

Art. 145. (1) The person not guilty for the divorce shall have the right to support.

(2) The support shall be owed mostly up to 3 years after termination of the matrimony, if the parties have not agreed a longer term. The court may extend the term, if the person, receiving the support is in an extremely difficult situation and the person, owing the support may give it without special difficulties.

(3) The right to support of the former spouse shall be terminated, when he/she contracts a matrimony.

### **Paying monetary support**

Art. 146. (1) The monetary support shall be paid every month. In case of delay, legal interest shall be owed.

(2) The application for support shall be examined in the order of the fast procedure, as provided by the Civil Procedure Code.

### **Refusing support**

Art. 147. Refusal of support for future time shall be null and void.

### **Prohibition for deduction**

Art. 148. Deduction of taking with owing support shall not be admitted.

### **Support for previous time**

Art. 149. Support for previous time may be sought utmost for one year before the application.

### **Amendment and termination of the support**

Art. 150. In case of change in the circumstances, the adjudicated support or the supplement to it may be amended or terminated.

### **Loosing the right to support**

Art. 151. (1) A person may not seek support, who has committed an offence against the person, who owes support, against his/her spouse, descendent or ascendant persons.

(2) Para. 1 shall not be applied for support for children until they accomplish 16 years of age.

(3) A person, deprived from parental rights shall not be released from the obligation to support his/her child. A person, deprived from parental rights because of

guilty behaviour may not request support from hi/her child, in relation to whom the deprivation has been ordered.

### **Payment of adjudicated support by the state**

Art. 152. (1) The state shall pay adjudicated to a Bulgarian citizen support on the account of the remiss in payment in the amount, determined by the judicial decision, but not more than the maximum amount, determined every year by the Law on the State Budget of the Republic of Bulgaria.

(2) The payment under Para. 1 shall be owed when on the execution case sums of the full amount of 2 or more monthly payments have not come into the account, although executive actions against the debtor have been undertaken.

(3) The state shall pay the adjudicated support only when the debtor:

1. has no property, on which the execution may be directed;
2. has not known address in the country or abroad, or even with a known address, he/she is in a state, where the judicial decision cannot be executed;
3. is servicing punishment of deprivation of liberty.

(4) The state shall not pay adjudicated support under Art. 144 and 145.

(5) The support shall be paid, as from the first day of the month, after the month, in which the execution procedure was formed.

(6) The debtor shall be obliged to reimburse the paid by the state support together with the legal interest. The receivable shall be collected in a procedure, provided for the public state receivables.

(7) The Council of Ministers shall adopt an ordinance for determining the procedure for payment of the adjudicated support by the state.

## **Chapter eleven. GUARDIANSHIP AND TRUSTEESHIP**

### **Conditions for establishment**

Art. 153. (1) Guardianship shall be established on under aged children, whose parents are unknown, dead, placed under full prohibition or deprived from parental rights. Guardianship shall also be established on persons, placed under full prohibition.

(2) Trusteeship shall be established on under aged children, whose parents are unknown, dead or placed under full prohibition or deprived from parental rights. Trusteeship shall also be established on persons, placed under restricted prohibition.

(3) A person, who is aware, that guardianship or trusteeship is needed to be established, shall be obliged immediately to inform the body of guardianship and of trusteeship, and when it refers to a child – also the Social Assistance Directorate. In case that the child has been placed in a specialized institution, the notification is made by the director within 7 days after the placement.

### **Body of the guardianship and trusteeship**

Art. 154. Body of the guardianship and trusteeship shall be the Mayor of the Municipality or determined official by him/her.

### **Procedure for establishing guardianship and trusteeship**

Art. 155. (1) The body of guardianship and trusteeship shall be obliged to appoint a guardianship council and trustee or deputy trustee within 30 days. The terms shall start to run after receiving a copy of the judicial decision for placement under prohibition or deprivation of parental rights, as well as after knowing about the death of the parent.

(2) In notification under Art. 153, Para. 3, the body of guardianship and trusteeship shall perform a check up, and if there are reasons for this, shall appoint a guardianship council or trustee and deputy trustee within the term under Para. 1.

(3) The body of the guardianship and trusteeship shall obligatory hear the child under the conditions of Art/ 15 of the Law on the Child Protection and shall take opinion from the Social Assistance Directorate. In case of establishing guardianship on a person, placed under restricted prohibition, he/she shall also be heard.

### **Guardianship council**

Art. 156. (1) The body of guardianship and trusteeship on the permanent address of the person, shall appoint a guardianship, deputy guardianship and two advisers out of the relatives and close people of the under-aged child or of the person, placed under full prohibition, who will take care in the best way of his interests and have given a written consent about this. They shall form the guardianship council.

(2) In the guardianship council, also other appropriate persons may be included.

### **Trustee**

Art. 157. The body of guardianship and trusteeship on permanent address of the person shall appoint a trustee and deputy trustee out of the persons under Art. 156, who have given written consent about this.

### **Obstacles for appointment**

Art. 158. Persons, judicially disabled, deprived from parental rights and convicted for deliberate crimes shall not be members of the guardian council, trustee or deputy trustee.

### **Security measures**

Art. 159. (1) By the appointment of guardian or trustee the body of the guardianship and trusteeship shall take security measures for the personality and the property of the person, who has to be placed under guardianship or trusteeship. The body of guardianship and trusteeship shall personally or through a person, determined by it shall make an inventory of the property. If needed, it may assign a person to perform temporarily the guardianship or trusteeship functions.

(2) In case of establishing of guardianship or trusteeship over a child, the body of guardianship and trusteeship may request from the Social Assistance Directorate to undertake appropriate measures of protection.

### **Change in the body**

Art. 160. (1) The body of guardianship and trusteeship may make changes in the guardian council, when the interests of the under-aged child or the person, placed under full prohibition impose this. The members of the guardian council may also be changed upon their request.

(2) Para 1 shall also be applied to the trustee and the deputy trustee.

(3) Before pronouncing on the changes under Para 1 and 2, the body of the guardianship and trusteeship shall take the opinion of people, close to the person, placed under guardianship or trusteeship, and to the adult person, Art. 155, Para. 3 shall be applied.

### **Appeal of the body of guardianship and trusteeship actions**

Art. 161. The actions of the body of guardianship and trusteeship, as well as the refusal for establishing guardianship or trusteeship, or to take the measures under Art. 159, may be appealed by the persons interested, or by the prosecutor before the Regional court. This right shall also have the Social Assistance Directorate in the cases, referring to children. The decision of the Regional court shall be on the merits and shall not be subject to appeal.

### **Assistance**

Art. 162. The body of guardianship and trusteeship shall assist the guardian and trustee in executing their obligations. In cases, where the person, placed under guardianship or trusteeship is a child, such assistance shall be given also by the Social Assistance Directorate.

### **Place of residence of the person, placed under guardianship**

Art. 163. (1) A person under guardianship shall live with the guardian, unless important reasons impose separate living.

(2) When the person, placed under guardianship is moved from the determined place of residence, the guardian may request from the Regional court his/her returning, after hearing him/her. The decision of the court may be appealed before the District court, and the appeal shall not stop the execution. The returning shall be done in an administrative procedure.

(3) In the case under Para. 2, Art. 126, Para. 3 shall be applied.

### **Rights and obligations of the guardian**

Art. 164. (1) The guardian activity shall be honourable.

(2) The guardian of an under-aged child shall have the rights and obligations under Art. 125 and 129, and where the child is placed in a foster family – those under Art. 129.

(3) The guardian of the person, placed under prohibition shall be obliged to take care of him/her, to manage his/her property and to represent him/her before third persons.



### **Management and disposition with the property of the person under guardianship**

Art. 165. (1) The guardian shall manage the property of the person under guardianship with the care of a good owner and in his/her interest.

(2) The guardian within one month shall notify the body of guardianship or trusteeship about the acquired after establishing the guardianship property of a significant value, which shall be entered into the inventory, under Art. 159, Para. 1.

(3) The guardian shall be obliged to deposit the money of the person under guardianship on his/her name in a bank within 7 days after receiving them. He/she shall owe legal interest for failure to deposit sums timely..

(4) In case of deposition of peroperty of a person under guardianship, Art. 130, Para. 3 and 4 shall be applied. With the application for permission, the guardian shall also enclose the opinion of the guardian council.

### **Rights and obligations of the advisers in the guardian council**

Art. 166. (1) The advisers shall assist the guardian and the deputy guardian in executing their obligations and shall notify the body on guardianship and trusteeship about problems in the raising and educating the under-aged child, as well as in protecting the rights and interests of the person, placed under guardianship. They shall hear the report of the guardian and shall participate in its adoption by the body of guardianship or trusteeship. The advisers may propose liberation of the guardian and give opinion in the provided by the law cases.

(2) The guardian council shall give in righting an opinion about the adoption of the child under guardianship by the guardian in the case under Art. 82, Para. 3.

### **Place of residence of the person under trusteeship**

Art. 167. (1) The person under trusteeship shall live with the trustee, unless he/she has been placed somewhere else under a procedure, provided by the law. The trustee shall have the right under Art. 163, Para. 2.

(2) The deputy-trustee shall give opinion in the cases of adoption of the person, placed under trusteeship by the trustee.

### **Rights and obligations of the trustee**

Art. 168. (1) The activity of trustee shall be honourable.

(2) The provisions of Art. 164 and Art. 165, Para. 2 and 4 shall be applied respectfully to the trustee as well. The money of the person under trusteeship shall be deposited under his/her name in a bank.

### **Deputy guardian and deputy trustee**

Art. 169. (1) The deputy guardian shall substitute the guardian, when he cannot execute his/her duties or in case of contradiction between his interests and the

interests of the person under guardianship. In these cases the body of guardianship and of trusteeship may appoint special representative.

(2) The deputy guardian may propose to the body of guardianship and trusteeship to dismiss the guardian.

(3) Paragraphs 1 and 2 shall apply respectively to the deputy trusteeship.

### **Supervision over the guardian's and trustee's acts**

Art. 170. (1) The body of the guardianship and trusteeship shall exercise supervision over the guardian's activity. It may stop his/her acts and prescribe committing acts, after having taken the opinion of the guardian council.

(2) Para. 1 shall apply respectfully to the trustee.

### **Report of the guardian and trustee**

Art. 171. (1) Every year by the end of February the guardian shall give a report about his/her activity before the guardian council and shall present it before the body of guardianship and trusteeship. The guardian shall give report in case of his/her dismissal, as well as when the body of guardianship and trusteeship requests this.

(2) Upon request by the body of guardianship and trusteeship in the presence of the deputy trustee, the trustee shall give explanation about his/her activity.

(3) The body of guardianship and trusteeship shall pronounce on the report of the guardian and on the explanations of the trustee and in case of irregularities, shall request their dismissal. When the guardianship and trusteeship is established over an under-aged child, the Social Assistance Directorate shall also give a statement.

(4) Upon request of the body of guardianship and trusteeship, the Regional court shall issue an executive order against the guardian for the unreported amounts.

(5) When the guardian, without any reasonable grounds fails to appear or fails to present the report, the body of guardianship and trusteeship shall impose him/her a fine in the amount of BGN 50 to 500. It shall request the report from the deputy guardian.

(6) When the trustee, without any reasonable grounds fails to appear or fails to give explanation, the body of guardianship and trusteeship shall impose him/her the fine under Para. 5. It shall request the explanation from the deputy trustee.

(7) The establishment of the irregularity, the issuing and appeal of the execution of the penal order shall be performed as provided by the Law on the Administrative Breaches and Punishments.

### **Passing from guardianship to trusteeship**

Art. 172. (1) With Accomplishing 14 years of age, the guardianship shall be terminated and the body of guardianship and of trusteeship shall appoint a trustee and a deputy trustee. By their appointment, the activity shall be performed by the guardian.

(2) In passing from full to restricted prohibition by the appointment of a trustee, the activity shall be performed by the guardian.

### **Guardianship and trusteeship on right**

Art. 173. (1) A guardian or trustee of a child with unknown parents shall be the manager of the specialized institution, in which the child is placed.

(2) Guardian of a person under full prohibition or trustee of the spouse under restricted prohibition shall be his/her judicially able spouse. If there is no such, the parental rights and obligations shall be exercised by his/her parents, unless they are known, dead or deprived from them.

(3) In the cases under Para. 1 and 2, guardianship council or trustee and deputy trustee shall not be appointed and guardian cases shall not be initiated.

(4) The guardianship and trusteeship body shall dismiss the guardian or trustee under Para. 2, when the interests of the person under prohibition require this. In these cases, guardianship council or trustee and deputy trustee shall be appointed following the general procedure.

### **Register**

Art. 174. (1) In case of appointment of guardianship council or trustee and deputy trustee, as well as in the cases under Art. 173, Para. 2, the guardian and trustee shall be entered into a register. The register shall be kept by the guardianship and trusteeship body on the permanent address of the person under guardianship and trusteeship.

(2) In the cases under Art. 173, Para. 2, the entry shall be done after an application of the spouse or of the parents, after which the applicant shall be issued a certificate for his/her capacity of guardian or trustee.

## **Chapter twelve.**

### **ADMINISTRATIVE PENAL PROVISIONS**

Art. 175. (1) An official, who performs or admits performing a breach of Art. 83 - 88 and Art. 95 and of the issued for its application legislative acts, shall be punished by a fine of BGN 1000 to 2000, if the act is not a crime.

(2) If the act is repeated, the fine shall be from BGN 2500 to 5000.

Art. 176. (1) The acts of findings of breaches shall be drawn up by officials assigned by the Minister of Justice, respectively -by the Minister of Labour and Social Policy

(2) The punitive decrees shall be issued by the Minister of Justice, respectively – by the Minister of Labour and Social Policy or by officials, assigned by them.

(3) The establishment of breaches, issuing, appealing and execution of the punitive decrees shall be performed as provided by the Law on the Administrative Breaches and Punishments.

### **Additional provisions**

§ 1. "Family home" in the meaning of this Code shall be the home, which both spouses live with their under-aged children.

§ 2. "Repeated" in the meaning of this Code shall be the breach, committed within the term of 1 year after the punitive decree, which imposes punishment on the breaker for the same breach in kind, has come into force.

### **Transitional and concluding provisions**

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

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This Law was adopted by the 40 National Assembly on the 12th of June 2009 and has been stamped with the official seal of the National Assembly.

### **Concluding provisions**

## **TO THE LAW ON AMENDMENT AND SUPPLEMENTATION OF THE LAW FOR THE VOCATIONAL EDUCATION AND TRAINING**

(PROM. – SG 74/09, IN FORCE FROM 01.10.2009)

§ 48. The Law shall enter into force from the date of its promulgation in the State Gazette, except for § 1, which shall enter into force from the 15th of September 2009 and § 47, , which shall enter into force from the 1st of October 2009.