



No. ZKO-966/18

VERBAL NOTE

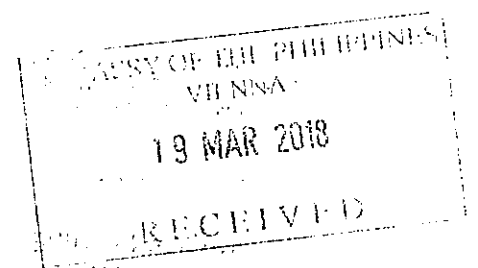
The Ministry of Foreign Affairs of the Republic of Slovenia presents its compliments to the Embassy of the Republic of Philippines in Vienna and, with reference to the Embassy's Note No. VN-PH-88-2018, has the honour to forward enclosed herewith the reply of the Ministry of Labour, Family, Social Affairs and Equal Opportunities of the Republic of Slovenia:

Marriage and the termination of marriage are regulated by the Family Code (Official Gazette of the Republic of Slovenia, No. 15/17), adopted on 21 March 2017. The Family Code will enter into force on 15 April 2019 (except for the provisions regulating the procedures prior to concluding marriage, the conclusion of marriage and repetition of ceremony for special wedding anniversary under Articles 30 to 41 of Family Code, which apply as of 1 January 2018). Before that date, the provisions of the Law on marriage and family relations, currently in force, apply (Official Gazette of the Republic of Slovenia, No. 69/04 – official consolidated text 1, Decisions of the Constitutional Court Nos. 101/07, 122/07, 90/11, 84/12, and 82/15, Decision of the National Assembly No. 15/17).

The Ministry has the honour to enclose herewith the English translations of the Family Code and the Law on marriage and family relations provided by the Ministry of Labour, Family, Social Affairs and Equal Opportunities.

The Ministry of Foreign Affairs of the Republic of Slovenia avails itself of this opportunity to renew to the Embassy of the Republic of Philippines in Vienna the assurances of its highest consideration.

Ljubljana, 13 March 2018



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Pursuant to indent two of paragraph one of Article 107 and paragraph one of Article 91 of the Constitution of the Republic of Slovenia, I hereby issue the

ORDER

promulgating the Family Code (DZ)

I hereby promulgate the Family Code (DZ), adopted by the National Assembly of the Republic of Slovenia at its session held on 21 March 2017.

No. 003-02-3/2017-3

Ljubljana, 29 March 2017

Borut Pahor m.p.

President

of the Republic of Slovenia

F A M I L Y C O D E (DZ)

Part One: INTRODUCTORY PROVISIONS

Article 1

(Subject)

This Code regulates marriage, cohabitation, relations between parents and their children, assistance provided by the state in cases of difficulties in cohabitation and family life, measures to protect the best interests of the child and maintenance obligations, adoption, granting of parental responsibility to a relative, foster care and guardianship for children and other adult persons requiring special protection.

Article 2

(Family)

(1) A family is a domestic community consisting of a child, regardless of the child's age, and both parents or one parent or another adult if such adult cares for the child and has certain obligations and rights in relation to the child pursuant to this Code.

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(2) A family shall enjoy special protection of the state for the purpose of protecting the best interests of children.

Article 3

(Marriage)

(1) Marriage is a domestic community of one man and one woman, the formalisation, legal consequences and termination of which shall be regulated by this Code.

(2) The purpose of marriage is to create a family.

Article 4

(Cohabitation)

(1) Cohabitation is a long-term domestic community of a man and woman who are not married but there are no reasons for marriage between them to be invalid. Such community shall have the same legal consequences for the relationship between them under this Code as if the partners had formalised their marriage, and this community shall have legal consequences in other areas if so provided by law.

(2) If a decision on a right or obligation depends on whether the domestic community referred to in paragraph one of this Article exists or not, the issue shall be resolved in proceedings to determine such right or obligation. A decision on such issue shall only have legal effect in the matter in which the issue was resolved.

Article 5

(Child)

For the purposes of this Code a child shall be a person under the age of 18 unless they have obtained full capacity to contract before that age.


Article 6

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(Parental responsibility)

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(1) Parental responsibility shall be the entirety of obligations and rights of parents to create, in accordance with their capacities, conditions for the comprehensive development of a child.

(2) Parental responsibility shall pertain jointly to both parents.

Article 7

(Principle of best interests of the child)

(1) Parents shall in all their actions concerning children consider the best interests of the child. They shall raise children in respect of their person, individuality and dignity.

(2) Parents shall have priority over any other person concerning responsibility and actions in the best interests of the child.

(3) Parents shall act in the best interests of a child if, considering the child's personality, their age, level of development and aspirations, they adequately satisfy their material, emotional and psycho-social needs, through conduct which demonstrates their concern and responsibility for the child, and provide them with adequate guidance and support for their development.

(4) In their activities and proceedings, national authorities and public authority holders, local authorities and other natural and legal persons shall act in the best interests of the child.

(5) The state shall provide the conditions for the operation of non-governmental organisations and professional institutions for developing positive parenthood.

Article 8

(Special protection of children)

Children shall be provided special protection by the state wherever their healthy development is threatened or wherever this is required to protect other interests of children.

Article 9

(Adoption)

Adoption is a special form of protection of children which establishes between the adoptive parent and the child a legal relationship equal to the relationship between parents and their children.

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Article 10

(Foster care)

Foster care is a special form of protection of children that need to be cared for and educated by persons other than their parents.

Article 11

(Guardianship)

(1) Guardianship is a special form of protection of children that are not taken care of by their parents, and of persons that are incapable of taking care of themselves, of their rights and interests.

(2) Under the provisions of this Code the state shall also provide protection to other persons that are incapable of taking care of their rights and interests.

Article 12

(Systems of protection and counselling)

The state shall, through its systems of education and training, health and social security, and counselling, enable people to be prepared in every respect for harmonious cohabitation and family life, and shall help them to resolve issues in their mutual relations and in their relations with children.

Article 13

(Mediation in family matters)

Mediation in family matters (hereinafter: mediation) is a process in which participants, on a voluntary basis and with the assistance of one or more neutral third parties acting as mediators, try to reach a peaceful settlement of a dispute arising from family relations.

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Article 14

(Jurisdiction of courts)

(1) On matters referred to in this Code that fall under the jurisdiction of courts in accordance with this Code, district courts shall have subject-matter jurisdiction at first instance, unless otherwise provided by another act.

(2) Cases under this Code concerning relations between parents and children, adoption, granting of parental responsibility to a relative, foster care and guardianship that fall under the jurisdiction of courts shall be settled by courts as a priority.

Article 15

(Jurisdiction of social work centres and of the ministry)

(1) Social work centres shall decide in administrative matters in cases under this Code, unless otherwise provided by this Code.

(2) The ministry responsible for the family shall decide on appeals against the decisions of social work centres.

(3) Administrative matters under this Code shall be settled as a priority.

Article 16

(Cooperation)

Social work centres and other holders of public authority, public service providers, state and judicial authorities, local community authorities and humanitarian and other non-governmental organisations shall cooperate in carrying out the tasks provided by this Code.

Article 17

(Resolution on family policy)


(1) On the proposal of the Government, the National Assembly shall adopt a resolution on family policy (hereinafter: resolution) for a period of ten years.

(2) The resolution shall be drawn up by the ministry responsible for family affairs in cooperation with other ministries, non-governmental organisations and experts in the field, and it shall contain in particular the following:

-- basic guidelines and objectives in the field of family policy

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- assessment of the situation and definition of key concepts and issues in the field of family policy,
- key measures and tasks in the field of family policy, bodies responsible for their implementation, and time limits for implementation,
- data which as part of the national statistics, research or surveys are to be collected, processed, linked, stored, analysed and shown,
- children and youth programme,
- monitoring and reporting requirements concerning implementation of the resolution,
- identification of the indicative level of funding necessary for implementation of the resolution and the method of providing it.

Article 18

(Council of the Republic of Slovenia for children and families)

(1) The Council of the Republic of Slovenia for children and families (hereinafter: council) is a professional consultative body established on the basis of this Code.

(2) The council shall perform the following tasks:

- monitor and assess the situation of children and families, with emphasis placed on the exercise of the rights of children,
- propose the technical principles for the adoption of legislation and strategic documents in the area of children and families,
- discuss proposed acts in the area of children and families and prepare professional opinions on proposed acts,
- prepare initiatives for the coordinated action of competent bodies in the area of children and families and for cooperation among competent authorities, professional institutions and non-governmental organisations,
- monitor the implementation of legislation and measures adopted in the area of children and families.

(2) The council shall report on its work once a year to the Government of the Republic of Slovenia. The report shall contain an assessment of the situation in the area of children's rights.

(4) Members of the council shall be representatives of non-governmental organisations and professional institutions in the area of children and families, and of the Government of the Republic of Slovenia.

(5) Members of the council shall be appointed by the Government of the Republic of Slovenia for five years on the proposal of the minister responsible for family affairs who shall, prior to making the proposal, issue a public invitation to non-governmental organisations and professional institutions to submit their proposals for council members.

(6) The council shall adopt its rules of operation defining the method of conducting its business.

(7) The ministry responsible for family affairs shall perform professional, administrative and technical tasks for the council.

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Article 19

(Funds from the budget)

(1) Unless funding is provided for by another Act, the Republic of Slovenia shall provide funds from its budget for the following:

- implementation of tasks defined in the Resolution referred to in Article 17 of this Code;
- operation of the council referred to in Article 18 of this Code,
- monitoring and reviewing the situation in the area of children and families,
- provision of training in the area of children and families,
- preparation of the technical basis for planning measures in the area of children and families.
- co-financing of programmes to support families.

(2) Where the amount of funds under a contract concluded for performing the tasks referred to in the preceding paragraph has been set under the assumption that the budget funds earmarked for this purpose will not be less than at the time when the contract was signed, but were later reduced to an extent which prevents the tasks being performed in the agreed scope, the contract shall be modified in the public interest.

Part Two: (MARRIAGE)

1. General provisions

Article 20

(Foundation and meaning of marriage)

A marriage shall be founded on the free decision to enter into a marriage, on a feeling of attachment on both sides, mutual respect, understanding, trust and mutual assistance.

Article 21

(Equality of spouses)

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Spouses shall be equal in marriage. DEPARTMENT OF FOREIGN AFFAIRS
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2. Conditions for existence of marriage

Article 22

(Conditions for existence)

In order for a marriage to exist, the following conditions must be fulfilled:

- the persons concluding the marriage shall be of different sex,
- the persons shall state their consent to concluding the marriage, and
- the persons shall state their consent before a competent state body.

3. Conditions for validity of marriage

Article 23

(Free expression of will)

(1) Marriage may not be concluded without consent given as a free expression of will of the future spouses that they desire to conclude the marriage. There is no consent given as a free expression of will if consent has been forced or given in error.

(2) Consent given as a free expression of will shall be deemed forced if the spouse gave it out of fear caused by a real threat.

(3) Consent to conclude marriage shall be deemed given in error in relation to the person of a spouse, if the spouse thought they were concluding marriage with the right person but concluded marriage with someone else, or concluded marriage with a person who is not the person they pretended to be.

Article 24

(Age of majority and exemption from impediment to marriage due to the person being underage)

(1) Marriage may not be concluded by a child.

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(2) A court may, on justifiable grounds, allow the conclusion of a marriage for a child aged fifteen who has appropriate physical and mental maturity enabling them to understand the meaning and consequences of the rights and obligations arising from marriage.

Article 25

(Soundness of mind)

Marriage may not be concluded by a person who is not sound of mind or a person who, at the time of concluding marriage is temporarily sound of mind, but who for reasons causing their unsoundness of mind is incapable of establishing with the other spouse a domestic community as provided by this Code.

Article 26

(Previous marriage)

A person may not conclude a new marriage until their previously concluded marriage is terminated.

Article 27

(Existence of family relationship and exemptions)

(1) Marriage may not be concluded by persons who are direct blood relatives, or who are collateral relatives up to four times removed.

(2) The provision referred to in the preceding paragraph shall not apply to relationships that are created by adoption, except for the conclusion of marriage between an adopter and adoptee.

(3) A court may, on justifiable grounds, allow the conclusion of a marriage between the children of brothers and sisters, and between the children of half-brothers and half-sisters.

Article 28

(Guardianship)

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During the existence of guardianship, marriage between the guardian and their ward may be concluded only if authorized by a court.

Article 29

(Opinion of social work centre)

In deliberating over proceedings pursuant to paragraph two of Article 24, paragraph three of Article 27, and Article 28 of this Code, the court shall consider the opinion of the social work centre, where it is obtained in compliance with the provisions of the act governing non-contentious proceedings.

4. Procedure prior to concluding marriage

Article 30

(Giving notice of marriage)

(1) Persons who intend to conclude marriage shall personally give notice of marriage at the administrative unit in the area in which they wish to marry.

(2) When notice is given, the public servant (hereinafter: registrar) shall advise the persons referred to in the preceding paragraph on the requirements for the existence and validity of marriage and the obligations and rights arising from marriage.

(2) In their notice the persons shall declare that they are concluding marriage freely and that they fulfil the conditions for a valid marriage.

(4) If at least one of the persons that intends to conclude the marriage is a foreign national (hereinafter: alien) and there are, at the time of giving notice, reasonable grounds for suspicion that they intend to marry exclusively or principally with the intent to obtain a residence permit in compliance with the act governing residence permits for aliens, or with the intent to obtain citizenship of the Republic of Slovenia in compliance with the act governing citizenship, and have no intention to create a domestic community in compliance with this Code, a special assessment procedure shall be carried out in compliance with the act governing general administrative procedure.


(5) Persons who intend to conclude marriage shall enclose with their notice evidence of those data that may not be recovered from official records of the Republic of Slovenia.

Article 31

(Assessment of conditions for existence of marriage and its validity)

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The registrar shall assess whether conditions for a valid marriage are met on the basis of data from the civil register and data referred to in paragraph five of Article 30 of this Code.

Article 32

(Decision refusing a marriage)

(1) If it is assessed that the conditions for a valid marriage under this Code are not met, the administrative unit where the persons gave notice of marriage shall issue a decision refusing to conclude the marriage.

(2) An appeal lodged against a decision referred to in the preceding paragraph shall be decided upon by the ministry responsible for family affairs.

5. (Conclusion of marriage)

Article 33

(Powers for concluding marriages)

(1) Marriage shall be concluded before the registrar and the head of the administrative unit or a person authorized by the latter.

(2) Marriage may also be concluded before the registrar and the mayor of the municipality in which the marriage is being concluded.

Article 34

(Conclusion of marriage in official premises)

(1) Marriage shall be concluded in official premises designated by the head of the administrative unit in agreement with the minister responsible for public administration.

(2) Funds for the use of premises for marriages referred to in the preceding paragraph shall be allocated in the budget of the Republic of Slovenia.

(3) The minister responsible for family affairs, in agreement with the minister responsible for public administration, shall determine the conditions to be met by the person authorised to conclude marriages, the minimum standards for official premises and their equipment, the manner and procedure of conclusion of marriage, the amount and method of payment of persons participating in the conclusion of marriage, and other issues concerning the conclusion of marriage.

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Article 35

(Conclusion of marriage outside official premises)

(1) Marriages may also be concluded outside official premises if so requested by the prospective spouses, and on condition they are willing to pay for the additional costs incurred thereby. Should such conclusion of marriage be difficult to carry out, the administrative unit shall issue a decision denying the application for marriage outside official premises.

(2) Notwithstanding the provisions of the preceding paragraph, funds in the budget of the Republic of Slovenia shall be allocated for cases where the prospective spouses marry outside official premises for reasons that prevent their presence in official premises.

(3) An appeal lodged against a decision referred to in paragraph one of this Article shall be decided upon by the ministry responsible for family affairs.

Article 36

(Persons present at the conclusion of marriage)

(1) In order to conclude a marriage, the presence of the prospective spouses, the registrar, the head of the administrative unit or a person authorized by them, or the mayor, and two witnesses is required.

(2) Notwithstanding the provision of the preceding paragraph marriage may be concluded without witnesses, if the prospective spouses so wish.

(3) Any person with capacity to contract may be witness to a marriage.

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(Act of contracting marriage)

(1) The registrar shall verify if the prospective spouses are the very persons who gave notice of marriage.

(2) The head of the administrative unit or the person authorized by them or the mayor shall then read the solemn address, and shall then ask each of the prospective spouses individually whether they wish to conclude marriage.

(3) Marriage shall be deemed concluded in a valid manner if both prospective spouses personally, and in simultaneous presence, reply in the affirmative to the question whether they wish to conclude marriage.

(4) After receiving the affirmative reply, the head of the administrative unit or the person authorized by them or the mayor shall declare the marriage concluded.

(5) The registrar shall deliver to the spouses the civil register extract of marriage entry.

(6) While concluding marriage under this Article and Article 39 of this Code the state body shall be authorized, as part of the ceremony, to broadcast music appropriate to the event.

Article 38

(Conclusion of marriage before registrar only)

Notwithstanding the provisions of Article 33 of this Code, at the request of the prospective spouses, marriage may be concluded before the registrar alone.

Article 39

(Act of contracting marriage before the registrar)

(1) The registrar shall verify if the prospective spouses are the very persons who gave notice of marriage.

(2) The registrar shall then ask each of the prospective spouses individually whether they wish to conclude marriage.

(3) Marriage shall be deemed concluded in a valid manner if both prospective spouses personally, and in simultaneous presence, reply in the affirmative to the question whether they wish to conclude marriage.

(4) After receiving the affirmative reply the registrar shall declare the marriage concluded.

(5) The registrar shall deliver to the spouses the civil register extract of marriage entry.

6. (Repetition of ceremony for special wedding anniversary)

Article 40

(Repetition of ceremony)

(1) Spouses wishing to repeat the ceremony for a special wedding anniversary (hereinafter: repeated ceremony) shall give notice to the administrative unit where they wish the event to take place.

(2) Repeated ceremonies shall be performed before the head of the administrative unit or the person authorized by them or the mayor.

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Article 41

(Procedure for repeated ceremony)

The minister responsible for family affairs shall, in agreement with the minister responsible for public administration, determine the procedure of repeated ceremonies, the amount and method of payment of persons participating in repeated ceremonies, and other issues concerning repeated ceremonies.

7. (Non-existent marriage)

Article 42

(Non-existent marriage)

If the conditions referred to in Article 22 of this Code are not met, the marriage shall be considered non-existent. Non-existent marriage shall have no legal consequences.

Article 43

(Action for establishing non-existence of marriage)

(1) Action for establishing non-existence of marriage may be lodged by persons that have a legal interest, and the state prosecutor.

(2) The motion to lodge an action for establishing the non-existence of marriage may be submitted to the state prosecutor by administrative and other state bodies, holders of public authority, public service providers and local authorities.

(3) There shall be no statute of limitation for exercising the right to request establishment of non-existence of marriage.

Article 44

(Continuing proceedings for establishing non-existence of marriage)

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Heirs may not lodge an action for establishing the non-existence of marriage, however, they may continue proceedings initiated by the deceased.

8. Invalid marriage

Article 45

(Invalid marriage)

A marriage concluded in contravention of the provisions of Article 23, paragraph one of Article 24, Articles 25 and 26, and paragraphs one and two of Article 27 of this Code shall be invalid.

Article 46

(Non-material breach of formality in concluding marriage)

A non-material breach of formality in concluding marriage shall not affect the validity of the marriage.

Article 47

(Material breach of formality in concluding marriage)

(1) A marriage shall be invalid without the presence of both prospective spouses upon the conclusion of the marriage.

(2) A marriage shall be invalid if it was not concluded with the intent to create a domestic community of the spouses.

Article 48

(Action for annulling a marriage)

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(1) An action for annulling a marriage concluded in contravention of the provisions of Article 23, paragraph one of Article 24, Articles 25 and 26, paragraphs one and two of Article 27, and Article 47 of this Code may be lodged by the spouses and by all persons with a legal interest in such annulment.

(2) An action for annulling a marriage concluded in contravention of the provisions of Article 23, paragraph one of Article 24, Articles 25 and 26, paragraphs one and two of Article 27, and Article 47 of this Code may also be lodged by the state prosecutor. A motion to lodge an action for annulment of marriage may be submitted to the state prosecutor by administrative and other state bodies, holders of public authority, public service providers and local authorities.

(3) After the reason referred to in Article 25 of this Code has ceased to exist, an action for annulment of marriage may be lodged only by one or the other spouse.

(4) An action for annulment on the grounds referred to in paragraph one of this Act may also be lodged after the termination of marriage.

(5) There shall be no statute of limitation for exercising the right to request annulment of marriage in cases referred to in paragraphs one, two and three of this Article.

Article 49

(Concluding a new marriage during the existence of a previous marriage)

(1) A new marriage concluded at the time when a previous marriage of either of the partners was still valid shall not be annulled if the previous marriage has been terminated.

(2) Legal consequences of the new marriage shall ensue on the termination of the previous marriage.

Article 50

(Validity of marriage concluded between relatives)

A marriage concluded between relatives without the permission of a court shall remain valid if the court before which the proceedings for annulment of the marriage are being conducted finds that circumstances exist for which reason permission could have been given for concluding the marriage.

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(Annulment of marriage concluded under duress or in error)

(1) The annulment of a marriage which was concluded under duress or in error may be requested only by the partner who was coerced or who consented to marriage in error.

(2) The annulment of marriage referred to in the preceding paragraph may not be requested if a year has passed since the day on which the coercion ended or the error was recognised, and the couple have lived together during this time.

Article 52

(Validity of marriage concluded by a child)

A marriage concluded by a child without the authorization of a court shall remain valid if the court before which the proceedings for annulment of the marriage are being conducted finds that circumstances exist for which reason authorization could have been given for concluding a marriage and the child reached the age of eighteen during the proceedings.

Article 53

(Continuation of proceedings for annulling a marriage)

Heirs may not lodge an action for annulling a marriage, however, they may continue the proceedings initiated by the deceased.

Article 55

(Legal effects of annulment of marriage)

If a marriage is annulled, it ceases to have effect from the day of the annulment.

Article 55

(Application of provisions to annulment proceedings)

The provisions applying to divorce proceedings shall apply to property relations and gifts between spouses in annulment proceedings.

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9. Rights and obligations of spouses

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Article 56

(Basis of obligations)

Relations between spouses shall be based on mutual respect, trust and assistance.

Article 57

(Freedom of choice in childbearing)

Spouses shall freely decide on the birth of children. They shall have the same rights and obligations towards their children.

Article 58

(Freedom to choose a profession and work)

Each spouse shall freely choose their profession and work.

Article 59

(Accommodation protection)

(1) Spouses shall determine the accommodation in which they will live and which will be their home and the home of the children that will live with them by common agreement.

(2) Spouses may alienate, encumber or rent, establish easement rights or other rights on the common property accommodation referred to in the preceding paragraph, which could hinder its use, only together and by common agreement.

(3) If a tenant of the accommodation referred to in paragraph one of this Article is one of the spouses, this spouse shall not be allowed to terminate the tenancy without the written consent of the other spouse. If not, the termination of tenancy shall have no legal effect.

(4) If a spouse refuses the consent referred to in paragraphs two and three of this Article without a justified reason, the matter shall be decided by a court. The court shall, in its deliberation, consider the spouses' housing

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needs, their legitimate interests. the needs and the best interests of children that live with them, and other circumstances of the case.

Article 60

(Decision-making on joint matters)

Spouses shall decide on joint matters by agreement.

Article 61

(Contribution of spouses)

Spouses shall contribute to the subsistence of the domestic community and for the subsistence of the family in proportion to their capacities.

Article 62

(Maintenance between spouses during marriage)

(1) A spouse who does not have the means of subsistence and through no fault of their own is unemployed shall have the right to be maintained by the other spouse insofar as this is within their power.

(2) The provisions of this Code on maintenance relations between divorced spouses shall apply to maintenance relations between spouses during marriage.

10. Property relations between spouses

Article 63

(Property regime)

Property regime shall mean all the rules governing property relationships between spouses and in relation to third parties.

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Article 64

(Concluding legal transactions)

(1) Spouses may conclude any legal transaction between them that may also be concluded with other persons, and may establish rights and obligations on such basis.

(2) Agreements concerning property rights and obligations concluded between spouses shall be composed in the form of a notarial protocol.

(3) Notwithstanding the provision of the preceding paragraph there shall be no requirement to conclude agreements in the form of a notarial protocol for routine small gifts that are proportional to the material status of the giver, unless disposal of such property is otherwise regulated by law.

Article 65

(Presumption of legal marital property regime)

A legal marital property regime shall apply to spouses, unless they agree on the contents of the property regime through an agreement on property relationships. In such case, the agreed property regime shall apply to them.

Article 66

(Legal marital property regime)


A legal marital property regime between spouses shall be a community property regime for the co-owned property of spouses and a separate property regime for the personal property of each spouse.

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Article 67

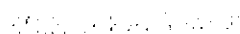
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(Co-owned property)


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Co-owned property shall be all property rights acquired by work or against payment during the marriage or domestic community of the spouses. Co-owned property of spouses shall also be property acquired on the basis and by means of the co-owned property or the property that arises from such property.





Article 68

(Spouses' shares in co-owned property)

(1) Co-owned property of spouses shall belong jointly to both spouses. Shares belonging to each spouse shall not be specified in the co-owned property.

(2) A spouse may not dispose of their unspecified share of co-owned property by legal transactions *inter vivos*, and in particular, they may not expropriate or encumber it.

(3) Items that are part of co-owned property shall be jointly owned by the spouses.

Article 69

(Joint management and use)

(1) The co-owned property of spouses shall be managed and disposed of jointly and by agreement.

(2) If one of the spouses uses movable property of small value or if such spouse manages the co-owned property it shall be deemed that they have the consent of the other spouse.

Article 70

(Agreement on joint management and use)

(1) Spouses may agree on the management and use of co-owned property which differs from the provisions of Article 69 of this Code.

(2) If they agree that the co-owned property will be managed and disposed of by only one spouse, this spouse shall consider the interests of the other spouse. Either of the spouses may withdraw from such agreement on management and disposal at any time, but they may not do this at an unfavourable time.


(3) The agreement referred to in paragraph one of this Article shall not be in contravention of paragraphs two and three of Article 59 of this Code.

Article 71

(Division of co-owned property)

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(1) Co-owned property of spouses shall be divided if their marriage is terminated. During marriage, co-owned property may be divided by agreement or on the proposal of either of the spouses.

(2) The agreement referred to in the preceding paragraph shall also contain an agreement between the spouses on the amount of their co-owned property.

(3) If the marital property agreement whereby the spouses modify the legal property regime does not define the manner of division of co-owned property, such co-owned property shall be divided according to the legal property regime rules, unless the spouses agree otherwise. Division shall be carried out according to the status of property as at the date of effect of the marital property agreement.

Article 72

(Debts and claims against co-owned property)

Prior to establishing the amount of each spouse's share in the co-owned property, the spouses' debts and claims against this property shall be established.

Article 73

(Spouses' shares in co-owned property)

Spouses may themselves decide on their share of co-owned property, or one of them may request that a court determine such shares.

Article 74


(Spouses' shares in dividing co-owned property)

(1) In dividing co-owned property, the shares of the spouses in the co-owned property shall be deemed to be equal, however, the spouses may prove that they have contributed to the co-owned property in a different proportion. A negligible difference in an individual spouse's contribution to co-owned property shall not be taken into consideration.

(2) In a dispute on the amount of each spouse's share in co-owned property, a court shall consider not only the circumstances of the case but also the income of each spouse, the assistance that the spouses provide to each other, the care and upbringing of children, performing household work, care for home and family, concern for maintaining the property, and any other form of work and cooperation in managing, maintaining and increasing the co-owned property.

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Article 75

(Manner of dividing property)

(1) After establishing the shares of co-owned property, spouses may agree on the manner of dividing the property. Their agreement to become co-owners of items in proportion to their shares of co-owned property shall also be considered division of property.

(2) If there is no agreement on division of property, a court shall divide the property in accordance with the rules applying to the division of co-owned property.

Article 76

(Objects for carrying out occupation and personal objects)

(1) In dividing co-owned property, on the proposal of a spouse and against their share, that spouse shall be allocated those objects which are intended for carrying out their occupation or that enable them to earn income.

(2) The same shall be done with objects which are intended for the personal use of one of the spouses and are not their separate property.

Article 77

(Separate property)

(1) Separate property of spouses is the property acquired before marriage or received by a spouse without consideration during marriage.

(2) Items of small value intended for exclusively personal use, regardless of the manner of acquisition, shall be separate property.

Article 78

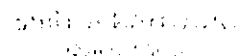
(Disposing of separate property)

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(1) A spouse shall exercise autonomously their property right to items that are separate property of one of the spouses.

(2) The provision of the preceding paragraph shall also apply, *mutatis mutandis*, to other separate property of each spouse.

Article 79

(Investments in immovable property)

(1) If a spouse invests in immovable property which is separate property of the other spouse, they may agree on the existence and amount of the first spouse's claim against the second spouse's separate property and its insurance.

(2) If there is no agreement, a spouse may request that a court decides on the existence and the amount of their claim and its insurance in accordance with property law and the provisions of the act regulating enforcement and insurance.

Article 80

(Investments in business)

(1) If a spouse invests in a business or another legal person or a sole trader business which is a separate property of the other spouse, the spouses shall regulate by contract the form of participation of the spouse investing their share.

(2) In the absence of such agreement, the participation shall be deemed to be governed by the rules of the law of obligations on contract of members.

Article 81


(Corporate assets of spouses)

(1) If spouses carry out or participate in a gainful occupation and have concluded a contract of members, a work contract or other similar contract governing the specific relationship, the rules of their property regime under this Code shall not apply in addressing property issues relating to such occupation.

(1) If the spouses did not conclude a contract referred to in the preceding paragraph but have concluded a marital property agreement in which they did not expressly define issues arising from a common gainful occupation or participation in the same, the rules of their contractual property regime shall apply to decision-making on such issues.

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(3) If the spouses did not conclude a contract referred to in paragraph one of this Article, or either they did not conclude a marital property agreement or concluded it but the issues arising from a common gainful occupation or participation in the same may not be solved through the interpretation of its provisions, the rules of the legal property regime shall apply.

Article 82

(Joint obligations of spouses)

(1) Joint obligations of spouses are obligations that are binding on both spouses under the general regulations, obligations created in connection with their co-owned property, and obligations which one spouse undertakes for the current needs of the domestic community or the family. The liability for such obligations shall be assumed jointly and severally by the spouses through their co-owned property and also through the separate property of each of them.

(2) A spouse shall have the right to claim from the other spouse refund of the sum paid in excess of a spouse's share in paying for joint obligations.

Article 83

(Determination of debtor's share of co-owned property)

(1) On the basis of a final judgement, a creditor may demand that a court determine the debtor's share in co-owned property and then demand enforcement against such share.

(1) If the sale of the share that a spouse has in co-owned property is allowed in enforcement proceedings, the other spouse has the right to purchase that share before all other buyers at a price that is determined according to the provisions of the act governing claim enforcement and security.

(3) In civil bankruptcy proceedings against a spouse the court conducting the proceedings shall, on the proposal of the receiver, determine by means of a decision on the testing of the right of exclusion that the share of the debtor in bankruptcy in the co-owned property shall be equal to one half, unless the other spouse has notified the right of exclusion referred to in paragraph five of this Article.


(4) If the receiver considers that the debtor's share in the co-owned property exceeds one half, the receiver in their capacity of legal representative of the debtor in bankruptcy shall demand that the debtor's share be determined. Paragraph two of Article 74 of this Code shall apply to the dispute referred to in the preceding paragraph.

(5) In civil bankruptcy proceedings against a spouse the other spouse may notify the right of exclusion in which they claim that their share in co-owned property is larger. If the other spouse fails to make such notification, in the civil bankruptcy proceedings such spouse shall be deemed to have notified the right of exclusion on the share of common property that is equal to one half.

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Article 84

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(Specific obligations of a spouse)

(1) Specific obligations of a spouse shall be those a spouse had before concluding marriage, and those assumed after concluding marriage, which, however, are not joint obligations of spouses under paragraph one of Article 82 of this Code.

(2) The liability for specific obligations shall be assumed by a spouse with their separate property and their share in co-owned property.

Article 85

(Marital property agreement)

(1) A marital property agreement is a contract whereby the spouses determine their property regime that differs from the legal property regime. The agreement may, by their common accord, regulate other property affairs during the marriage and also in the case of divorce.

(2) The agreed property regime shall apply to spouses as of the date of conclusion of the agreement, unless the parties agree otherwise.

(3) A marital property agreement concluded by future spouses shall take effect on the day of conclusion of marriage or on a later day determined by the spouses in the marital property agreement.

(4) The marital property agreement shall be entered in the register of marital property agreements.

(5) Unless otherwise provided by this Code, the provisions of this Code on the conclusion of marital property agreements between spouses (post-nuptial contracts) shall apply to the conclusion of marital property agreements between future spouses (pre-nuptial contracts).

(6) Before concluding a marital property agreement the spouses shall inform the other spouse of their material standing; otherwise the marital property agreement shall be challengeable.

(7) The provisions of this Code on conclusion of marital property contracts between spouses shall apply, *mutatis mutandis*, to the conclusion of marital property contracts between cohabiting partners.

Article 86

(Agreement on maintenance in marital property agreements)

An agreement on mutual spousal maintenance and an agreement on maintenance in the event of divorce may also be part of the marital property agreement.

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Article 87

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(Notary's obligation to explain)

(1) Before concluding a marital property agreement a notary shall have the obligation to explain to the spouses the legal marital regime and advise them on property rights and obligations under this Code.

(2) Before concluding a marital property agreement a notary shall give spouses unbiased advice and make sure that both fully understood the meaning and legal consequences of the marital property agreement they wish to conclude; the notary shall likewise make sure that the content of the agreement is not in contravention of the Constitution, mandatory regulations and moral principles.

(3) The notary shall inform the spouses of the register of marital property agreements and of the data that are entered in this register, and shall inform them that the marital property agreement is entered in the register of marital property agreements, and of the legal consequences of such entry.

Article 88

(Deposit and access to marital property agreement)

(1) Marital property agreements shall be deposited with notaries in accordance with the regulations governing the notary service.

(2) The contents of marital property agreements may be accessed by persons identified by the act governing notary service. These persons may also request a transcript of a notarial record, either certified or not.

(3) The contents of marital property agreements may also be accessed by courts in proceedings where the decision of the court depends on the contents of the marital property agreement.

Article 89

(Invalidity of marital property agreement)

(1) The legal marital property regime shall apply to spouses in the case of invalidity of the marital property agreement.

(2) Where the provisions of the marital property agreement are unclear such that the contents of the marital property regime the spouses wished to agree upon or the rule by which they wished their marital property regime to be governed may not be ascertained, the legal marital regime shall apply.

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Article 90

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(Register of marital property agreements)

(1) The register of marital property agreements is an electronic database maintained by the Chamber of Notaries of Slovenia.

(2) When future spouses who have signed a marital property agreement marry, they shall send the extract from the register of births, marriages and deaths (civil register) containing data on the marriage to the notary that drew up the marital property agreement.

(3) A notary who draws up a marital property agreement or an amendment to a marital property agreement shall send to the Chamber of Notaries of Slovenia a request to enter such agreement in the register of marital property agreements within eight days of the date of receipt of the extract from the civil register containing data on marriage or within eight days from the conclusion or amendment of the marital property agreement concluded or amended after the conclusion of marriage. (3) Where the spouses conclude or amend a marital property agreement which does not come into effect on the day of conclusion of marriage or on the day of conclusion or amendment of the marital property agreement, the notary shall send to the Chamber of Notaries of Slovenia a request to enter such agreement in the register of marital property agreements within eight days of the date of effect of the marital property agreement.

(4) Where spouses conclude marriage abroad, they shall send to the notary the extract from the civil register containing data on the marriage, unless otherwise provided by an international treaty. (3) The notary shall send to the Chamber of Notaries of Slovenia a request for entry of the agreement in the register of marital property agreements within eight days of the date of receipt of the extract.

(5) A notary who draws up a marital property agreement or an amendment to a marital property agreement shall indicate in the request for entry in the register of marital property agreements the data referred to in paragraph two of Article 93 of this Code that are available to them.

(6) A request for entry of termination of validity of a marital property agreement shall be sent to the notary that drew up the agreement of the spouses who had concluded the marital property agreement or by their legal successors. The notary shall send to the Chamber of Notaries of Slovenia a request for entry of termination of marital property agreement complete with termination date, within eight days of the date of receipt of the request.

Article 91

(Contents of the register)

(1) The register of marital property agreements shall contain data on concluded marital property agreements.


(2) The register of marital property agreements shall contain the following data:

- the number and date of the entry,
- personal names of spouses or cohabiting partners, personal identification number (EMŠO) or date, place and country of birth of a spouse or cohabiting partner who is a foreign citizen, address of permanent or temporary residence of spouses or cohabiting partners,
- personal name and registered office of the notary depository of the marital property agreement,
- date of conclusion, date of effect, date of amendment and date of termination of marital property agreement.

(3) Data entered in the register of marital property agreements shall be kept permanently.

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Article 92

(Establishing a register)

The register of marital property agreements shall be established by the Chamber of Notaries of Slovenia.

Article 93

(Data in the register)

(1) Data referred to in Article 92 of this Code shall be collected and used to prove the existence of a marital property agreement.

(2) The following data relating to a marital property agreement entered in the register of marital property agreements shall be public:

- personal name and address of permanent and/or temporary residence of spouses or cohabiting partners,
- personal name and registered office of the notary depository of the marital property agreement,
- date of entry in the register of marital property agreements, date of conclusion, date of effect, date of amendment and date of termination of marital property agreement.

(3) The public nature of the information on the existence of a marital property agreement shall not negate the rules on trust in the land register and on apparent ownership regulated by the act governing property law relations and the act governing the land register.

Article 94

(Marital property agreement not entered in the register)

If a marital property agreement is not entered in the register of marital property agreements in relation to third parties it shall be presumed that the legal marital regime applies to property relations between the spouses.

11. Termination of marriage

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Article 95

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(Manner of termination of marriage)

A marriage shall terminate upon the death of one of the spouses, on the declaration of the death of one of the spouses, annulment or with divorce.

Article 96

(Consensual divorce)

(1) A court shall grant a divorce on the basis of the agreement of the spouses provided they have reached an agreement on the care, upbringing and maintenance of joint children and their contacts with the parents according to the provisions of this Code, and if they have submitted, in the form of an enforceable notarial act, an agreement on the division of co-owned property and on which of them remains or becomes a tenant, and on the maintenance of the spouse that does not have the means of subsistence and is unemployed without fault.

(2) Before a court grants a divorce, it shall establish whether the care, upbringing and maintenance of joint children and their contacts with the parents have been provided for by an agreement of the spouses in the best children's best interests. If the court finds that the agreement referred to in the preceding paragraphs is not in the children's best interests, it shall reject the motion for consensual divorce.

(3) The court shall send the judgment on divorce referred to in paragraph one of this Article to the administrative unit, which shall enter the divorce in the civil register within eight days of the rendering of the judgment.

Article 97

(Consensual divorce before a notary)

(1) Spouses without joint children over whom they exercise parental care that wish to divorce, and have concluded an agreement on the division of co-owned property and on which of them remains or becomes a tenant of the home in which they live, and on the maintenance of the spouse who does not have the means of subsistence and is unemployed without fault, shall request a notary to draw up a notarial act on the agreement of the spouses to divorce.


(2) The divorce shall be final as of the day of signing of the notarial act referred to in the preceding paragraph. The notarial act referred to in the preceding paragraph shall be the legal basis for entering the divorce in the civil register.

(3) Within eight days of the signing of the notarial act the notary shall send the notarial act referred to in paragraph one of this Article to the administrative unit which shall enter the divorce in the civil register.

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Article 98

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(Divorce)

(1) If the marriage is unsustainable for whatever reason, either of the spouses may sue for divorce.

(2) When a court grants a divorce on the basis of the preceding paragraph, it shall also decide on the care, upbringing and maintenance of joint children and their contacts with the parents in accordance with this Code.

(3) Before granting a divorce the court shall establish in what way the best interests of the child will be best protected.

(4) The court shall send the decree of divorce referred to in paragraph one of this Article to the administrative unit, which shall enter the divorce in the civil register within eight days of the rendering of the decree.

Article 99

(Application of provisions)

In the case of marriage annulment the provisions on relations with joint children in the case of annulment shall apply, *mutatis mutandis*, to the relations of the spouses of an invalid marriage with their joint children.

12. Relations between divorced spouses

Article 100

(Right to spousal maintenance)

(1) A dependent spouse who does not have the means of subsistence and is unemployed without fault, may request maintenance in divorce proceedings, as well as in a special suit that must be filed within one year of the marriage being terminated in a final judgment.

2) In the action referred to in the preceding paragraph, a spouse may request maintenance after the conclusion of divorce proceedings only if the reasons for the maintenance existed at the time of divorce and continue to exist when the spouse requests the maintenance.

(3) A court may reject a maintenance request if the payment of maintenance to the person entitled would be unfair for the person liable, considering the reasons leading to the unsustainability of marriage, or if the person requesting the maintenance has committed a criminal offence against the other spouse, the child or the parents of the other spouse, prior to or during the divorce proceedings.

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Article 101

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(Maintenance arrangement)

(1) The spouses may conclude a maintenance agreement in the event of divorce in the form of an enforceable notarial act at the time of concluding the marriage, during the marriage or at the time of divorce.

(2) The agreement referred to in the preceding paragraph, in particular an agreement on waived right to maintenance, shall not jeopardize the best interests of the children.

Article 102

(Limited time maintenance)

The spouse referred to in Article 100 of this Code who needs a shorter period of time to arrange living conditions may be granted maintenance for a limited period of time.

Article 103

(Calculating the maintenance amount)

The amount of maintenance shall be calculated with regard to the needs of the beneficiary and the resources of the person liable.

Article 104

(Assessment of maintenance)

(1) Maintenance shall be assessed in a monthly payment to be paid in advance; it may be requested from the day of filing a maintenance action.

(2) By exception, maintenance may be assessed in a single amount or in any other manner if this is justified by special reasons.

(3) The maintenance assessed in the manner referred to in the preceding paragraph shall not significantly impair the situation of the person entitled which would exist if they received maintenance in monthly payments paid in advance, nor may it impose an excessively heavy burden on the person liable.

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Article 105

(Priority in assessing maintenance)

The obligation of maintenance between spouses shall not exist where such maintenance would jeopardise their own subsistence or the subsistence of minors who they have the obligation to support under Article 183 of this Code.

Article 106

(Changing the amount of maintenance and cancellation of maintenance)

(1) At the request of the person entitled or the person liable the court may increase, reduce or cancel the maintenance assessed by an enforceable act where the needs of the person entitled and the resources that are the basis for calculating the maintenance payable by the person liable change or where the person entitled has committed a criminal offence against the person liable, the child or the parents of the person liable.

(2) The person entitled and the person liable may conclude an agreement on the increase, reduction or cancellation of maintenance in the form of an enforceable notarial act, which, however, shall not jeopardize the best interests of the children.

Article 107

(Adjustment of maintenance)

(1) The maintenance assessed by an enforceable act shall be annually adjusted to the consumer price index in the Republic of Slovenia. The adjustment shall be made in January, taking into account the cumulative rise in consumer prices since the month in which maintenance was last determined or adjusted. The minister responsible for family issues shall publish the maintenance adjustment index in the Official Gazette of the Republic of Slovenia.

(2) A notary or judge shall send a court settlement, final judicial decision, or an enforceable notarial act to the competent social work centre, unless the adjustment has been arranged otherwise.

(3) The social work centre shall notify in writing the person entitled and the person liable of each adjustment and the new maintenance amount. The notification from the social work centre together with the court settlement, final judicial decision, or an enforceable notarial act shall be the title of enforcement.

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Article 108

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(Cessation of the right to spousal maintenance)

The right to maintenance shall cease if the divorced spouse who is receiving it obtains assets or their own income by which they are able to subsist or if they remarry or cohabit.

Article 109

(Accommodation protection upon divorce)

(1) Upon a divorce each of the spouses may request that the other spouse leaves them in exclusive possession of the accommodation in which they both live or have lived, or a part thereof.

(2) A court may assign exclusive use of the accommodation to one spouse where this is in the interests of the children, however, the accommodation needs of the spouses and their legitimate interests shall be taken into consideration.

(3) If upon a divorce one of the spouses is the owner or has the right to dispose of a right of superficies or usufruct or use of the land on which the accommodation stands, or if only one of the spouses is a commonhold unit owner or the dominant owner, or if one of the spouses holds such right with a third person, the court shall assign exclusive use of the accommodation or part thereof to the other spouse only if such spouse has no other adequate accommodation or the refusal of their request would result in an extremely difficult living situation for them and their children.

(4) The court may assign exclusive use of the accommodation to one spouse for only a definite period necessary for the other spouse and the children to adjust to the new situation and arrange their living conditions.

(5) The court shall assign exclusive use of the accommodation to one spouse for a maximum of six months. On the proposal of the spouse requesting exclusive use of the accommodation the court may extend the measure for a maximum of another six months.

(6) Where the court grants exclusive use of the accommodation it shall, at the request of the other spouse, determine the amount of user fees the other spouse shall pay as compensation for the use of the accommodation, unless the other spouse has insufficient means of subsistence.

(7) The spouse who is bound to relinquish the accommodation to the other spouse, shall be bound to refrain from any actions that impede or prevent the use of the accommodation or a part thereof by the other spouse.

(8) Upon a divorce, where a spouse is the victim of violence inflicted by the other spouse, or where violence is inflicted on their children, if such spouse requests that the other spouse leaves them in exclusive possession of the accommodation in which they both live or have lived, the act governing domestic violence prevention shall apply.

Article 110

(Returning gifts)

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(1) Small gifts exchanged by spouses before and during marriage shall not be returned, provided that they are in proportion to the financial situation of the donor.

(2) Other gifts, in particular those that are not in proportion to the financial situation of the donor shall be returned, unless the spouses agree otherwise in the form of a notarial act.

(3) The gifts shall be returned in the state they were in at the moment of the lodging of the action for their return.

(4) For alienated gifts their value in money or the thing received in exchange for them shall be returned.

Article 111

(Continuation of divorce proceedings by legal successors)

(1) The right to lodge an action for divorce shall not be vested in heirs, but the applicant's heirs may continue already commenced proceedings in order to prove the merits of the claim.

(2) The gifts which the surviving spouse has received from their former spouse, as well as the gifts which they have given to the latter, shall be returned according to the rules which apply with regard to gifts upon divorce.

Part Three: RELATIONSHIPS BETWEEN PARENTS AND CHILDREN

1. Establishing paternity and maternity

Article 112

(The mother)

The woman who has given birth to a child shall be considered the mother of the child.


Article 113

(Father of a child born within a marriage)


(1) The husband of the child's mother shall be considered to be the father of a child born within marriage.

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(2) If the marriage terminates with the death of the husband of the child's mother, and the child is born within 300 days of the termination of marriage, the late mother's husband shall be considered to be the child's father.

(3) The mother's husband from a new marriage shall be considered to be the father of a child born in a new marriage concluded by the mother 300 days after the termination of a previous marriage, regardless of the manner in which the previous marriage ended.

Article 114

(Father of a child born outside marriage)

If a child is born outside marriage or within 300 days of the termination of a marriage due to the death of the mother's husband, the man who acknowledges the child as his own or whose paternity is established by a court decision shall be considered to be the father.

Article 115

(Acknowledgement of paternity)

A man shall acknowledge paternity before a social work centre, civil registry officer, in an official instrument or in a testament.

Article 116

(Conditions for acknowledging paternity)

Paternity may be acknowledged by any man who is capable of understanding the meaning and consequences of such acknowledgment.


Article 117

(Consent to acknowledgement of paternity)

(1) Acknowledgement of paternity shall be valid and shall be entered in the civil register only if consent to such acknowledgement is given by the mother and the person who acknowledged paternity, if such person is at

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least fifteen years old and is capable of understanding the meaning and the consequences of consent to acknowledgment.

(2) The mother may give her consent to paternity acknowledgment if she is capable of understanding the meaning and consequences of consent to acknowledgment.

Article 118

(Consent in special cases)

(1) Where the mother is no longer alive or her residence is unknown, and the child in accordance with paragraph one of Article 117 of this Code is not capable of giving their consent to paternity acknowledgement, a social work centre may authorize the child's guardian to give such consent.

(2) Where the mother is no longer alive or her residence is unknown, and a child who left descendants was acknowledged by a man after the child's death, the consent to paternity acknowledgment may be given by the father's children, or in their absence, the child's first generation descendants.

Article 119

(Acknowledgment in special cases)

(1) Paternity of a child who is conceived but not yet born may be acknowledged on condition the child's mother agrees.

(2) The acknowledgment of paternity of an unborn child shall have legal effect only if the child is born alive.

(3) A child may also be acknowledged after their death, but only if such child has descendants.

(4) Notwithstanding the provision of the preceding paragraph, acknowledgement of a stillborn child or a child who died immediately after birth shall be permitted.

Article 120

(Acknowledgment of a child born outside marriage)

(1) Where a registrar receives notification of the birth of a child born out of wedlock or within 300 days of the termination of marriage due to the death of the child's mother's husband, they shall notify the competent social work centre which shall call on the child's mother to state who she considers the father of her child. The mother may make such statement without being called.

(2) If the mother gives the statement referred to in the preceding paragraph, the competent social work centre shall call on the person indicated by the mother as the child's father to acknowledge paternity.

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Article 121

(Mother's action for establishing paternity)

(1) The mother may lodge an action for establishing paternity within one year of a child's birth or one year from the day she learned of the circumstances that are decisive for lodging an action.

(2) If in cases referred to in Article 120 of this Code, the person indicated by the mother to be the father of her child refuses to acknowledge paternity, the mother may lodge an action for establishing paternity within one year of the day of her statement as to whom she considers to be the father of her child.

Article 122

(Child's action for establishing paternity)

(1) A child who was born outside marriage or within 300 days of the termination of marriage due to the death of the child's mother's husband, or a child for whom paternity was challenged, may lodge an action for establishing paternity within five years of the day when they learned of the circumstances that are decisive for lodging the action.

(2) The five-year period for lodging an action by a child shall not start before the child may independently carry out procedural acts in accordance with the act governing civil procedure.

Article 123

(Action for establishing paternity after the death of the presumed father)

After the death of the man whose paternity is to be established, the persons referred to in Articles 121 and 122 of this code may lodge an action against his legal successors.

Article 124

(Action for establishing paternity in absence of mother's consent)

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(1) If the mother does not agree to the acknowledgment of paternity or if she does not make a statement within one month of receiving notification of the acknowledgment of paternity from a civil register official, the person who has acknowledged the child as his own may lodge an action for establishing paternity of the child.

(2) This person may lodge the action within one year of the acknowledgment of paternity.

Article 125

(Man's action for establishing paternity)

A man who believes himself to be the child's father may, within one year of the day he learned of circumstances that led him to presume that he is the child's father, lodge an action for establishment of paternity.

Article 126

(Father's contribution towards the costs of pregnancy and birth)

The child's father shall, within his capacities, contribute towards the costs borne by the mother in connection with pregnancy and birth.

Article 127

(Establishment of maternity)

The provisions of this Code on establishment of paternity shall apply, *mutatis mutandis*, to the establishment of maternity.


2. Challenging paternity and maternity

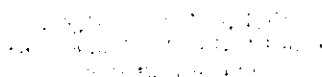
Article 128

(Action by the child's father)

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(1) The man who is considered to be the child's father under this Code may challenge the paternity of a child if he doubts that he is the child's father.

(2) He must lodge an action within one year of the day he learned of the circumstances that lead him to doubt that he is the child's father.

Article 129

(Action by the child's mother)

(1) The mother may challenge the paternity of the man considered to be the child's father under this Code.

(2) She must lodge an action within one year of the day she learned of the circumstances that lead her to doubt the paternity.

Article 130

(Child's action)

(1) A child may challenge the paternity of the person considered to be their father under this Code within five years of the day they learned of the circumstances that lead them to doubt the paternity.

(2) The five-year period for lodging an action by a child shall not start before the child may independently carry out procedural acts in accordance with the act governing civil procedure.

Article 131

(Action by the child's presumed father)

(1) A man who believes himself to be the child's father may challenge the paternity of the person considered to be the child's father under this Code provided that at the same time he requests that his paternity be established.

(2) He shall lodge the action within one year of the day he learned of the circumstances that lead him to presume that he is the child's father.

Article 132

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(Challenging maternity)

The provisions of this Code on challenging of paternity shall apply, *mutatis mutandis*, to the challenging of maternity.

3. Paternity and maternity of children conceived by medically assisted reproductive technologies

Article 133

(Maternity of children conceived by medically assisted reproductive technologies)

(1) The maternity of a mother who agreed to conceive by means of medically assisted reproductive technology in accordance with the regulations governing assisted human reproduction may not be challenged.

(2) If the child was conceived with medically assisted reproductive technology using a donor's ovum, it shall not be permitted to determine the donor's maternity.

Article 134

(Paternity of children conceived by medically assisted reproductive technologies)

(1) The husband of the mother or her cohabitant shall be considered to be the father of a child conceived with medically assisted reproductive technology, provided that they both have given their consent to the procedure in accordance with the regulations governing assisted human reproduction.

(2) The paternity of the man who, according to the preceding paragraph is considered to be the child's father, may not be challenged, unless the person who challenges alleges that the child was not conceived with medically assisted reproductive technology.


(3) If the child is conceived with medically assisted reproductive technology using a donor's sperm cell, it shall not be permitted to determine the donor's paternity.

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4. Obligations and rights of parents and children

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Article 135


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(Principle of priority and equal responsibility of parents for children)

Parents shall have the principal and equal responsibility for care and upbringing of children, and for their development. The child's best interests shall be their primary concern. The State shall assist them in the exercise of their responsibility.

Article 136

(Parental responsibility)

(1) Parental responsibility shall be the obligations and rights of parents concerning care for the child's life and health, upbringing, care and treatment, supervision of the child and providing for the child's education, as well as the obligations and rights of parents concerning representation and maintenance of the child and managing the child's property.

(2) Parental responsibility may be restricted to or withdrawn from one or both parents by the competent authority subject to the conditions laid down in this Code.

Article 137

(Parental obligations)

(1) Parents shall be obliged to care for the life and health of their children, providing safety, basic care, upbringing and supervision.

(2) Parents shall be obliged to provide their children with conditions for healthy growth, balanced personal development and independent life and work.

(3) Parents shall maintain their children in accordance with the provisions of this Code.

(4) Parents shall, within their powers, provide for the schooling and professional education of their children according to their capacities, talents and wishes.

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Article 138

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(Custody of children)

(1) If the parents do not live or will no longer be living together, they shall agree on the custody of their joint children in accordance with the children's best interests. They may agree that both have or retain the custody of the children, or that all the children are in the custody of one of them, or that some children are in the custody of one and the others in the custody of the other parent. If parents cannot reach an agreement, a Social Work Centre or, at their request, a mediator, shall assist them to conclude an agreement.

(2) If the parents reach an agreement on the custody of their children, they may propose that a court pass a decree in a non-litigious civil procedure. If the court finds that the agreement is not in the child's best interests, it shall reject the motion.

(3) If the parents fail to reach an agreement on the custody of their children, the matter shall be decided by a court. In compliance with the provisions of this Code the court may, ex officio, decide on any measures to protect the best interests of the children. In custody proceedings the court shall always decide on the maintenance of joint children and their contacts with the parents in accordance with this Code.

(4) The court shall issue a new decision on the custody of the children if so required by changed circumstances or the interests of the children.

Article 139

(Joint custody of children)

A court settlement or decision on joint custody shall define the child's permanent residence, which of the parents shall be delivered mail addressed to the child, and maintenance of the child.

Article 140

(Maintenance of children)

(1) Parents that do not live or do not intend to live together, and also parents that live together, shall agree on the maintenance of joint children. If parents cannot reach an agreement, a Social Work Centre or, at their request, a mediator, shall assist them to conclude an agreement.

(2) If the parents fail to agree on maintenance of their joint children, the matter shall be decided by a court.

Article 141


(Contacts with the parents)

(1) A child shall have the right to have contacts with both parents and both parents shall have the right to have contacts with their child. Such contacts shall provide for the best interests of the child.

(2) The parent with whom the child lives in custody, or another person with whom the child lives, shall refrain from anything that might hinder or prevent such contacts. They shall strive to maintain the appropriate attitude of the child concerning contact with the other parent or the parents. The parent who exercises contacts should refrain from any action that would aggravate the custody of the child.

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(3) Parents that do not live or do not intend to live together shall agree on contacts. If parents cannot reach an agreement, a Social Work Centre or, at their request, a mediator, shall assist them to conclude an agreement.

(4) If the parents reach an agreement on contacts they may propose a court settlement. If the court finds that the agreement is not in the child's best interests, it shall reject the motion.

(5) If the parents fail to agree on contacts, the matter shall be decided by a court.

(6) The court may withdraw or limit the right to contact in accordance with Article 173 of this Code.

(7) If the parent with whom the child lives prevents contact between the child and the other parent, and that contact cannot be carried out with the professional assistance of a social work centre, the court may, upon the request of the other parent, decide that the parent preventing contact be deprived of the custody of the child and the child be entrusted to the other parent, if the court believes that the latter would ensure contact and that the child's best interests could only be protected in this way.

(8) The court shall issue a new decision on contacts if required by changed circumstances or the interests of the children.

Article 142

(Contacts with other persons)

(1) A child shall have the right to contacts with other persons with whom they are related by family and to whom they are personally attached, unless this is not in the best interests of the child. Such persons are considered to be in particular the child's grandparents, siblings, half-siblings, former foster parents, a former or a present spouse or a cohabitant of one or the other parent.

(2) The contacts shall be agreed by the child's parents, the child if capable of understanding the meaning of an agreement and the persons referred to in the preceding paragraph. If parents cannot reach an agreement, a Social Work Centre or, at their request, a mediator, shall assist them to conclude an agreement. The extent and the manner of contacts shall be in the best interests of the child.

(3) If the child's parents, the child and the persons referred to in paragraph one reach an agreement on contacts they may propose a court settlement. If the court finds that the agreement is not in the child's best interests, it shall reject the motion.

(4) If the child's parents, the child and the persons referred to in paragraph one fail to reach an agreement the court shall decide on contacts.

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Article 143

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(Opinion of child and of social work centre)


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(1) In deciding on custody, upbringing and maintenance of a child, contacts, exercise of parental responsibility and attribution of parental responsibility to a relative, a court shall also take into account the child's opinion if it has been expressed by the child or by a person the child trusts and was chosen by the child, provided that the child is capable of understanding its meaning and consequences.

(2) In deciding on custody, upbringing and maintenance of a child, contacts, exercise of parental responsibility and attribution of parental responsibility to a relative in the best interests of the child, the court shall consider the opinion of a social work centre, where it is obtained in compliance with the provisions of the act governing non-contentious proceedings.

Article 144

(Advance expression of will by parents)

(1) For the event of death or permanent incapacity to exercise parental responsibility, parents may express their will concerning the following:

- the person in whose custody the child should be placed,
- the relative to whom the parental responsibility should be attributed,
- the adoptive parent,
- the guardian.

(2) The validity of the parental advance expression of will shall be assessed in the same way as the validity of a will in accordance with the act governing inheritance.

(3) If the parental expressions of will differ between the parents, a court shall decide which document shall be considered.

(4) The court shall consider the advance expression of will if it is not counter to the best interests of the child.

Article 145

(Representing children)


(1) Children shall be represented by their parents, unless otherwise provided by law.

(2) Anything to be delivered or communicated to a child may be delivered or communicated in a valid manner to one or the other of the parents; if the parents do not live together, delivery or communication shall be made to the parent with whom the child lives or to the parent indicated in the court settlement or court decision on joint custody of the child referred to in Article 139 of this Code.

Article 146


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(Concluding legal transactions)

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(1) A child who has reached fifteen years of age may conclude legal transactions independently, unless otherwise provided by law.

(2) Parental consent shall be necessary for concluding legal transactions that significantly affect the child's life before or after they reach majority.

(3) The legality of a transaction concluded by a child without the parents' consent shall be assessed in accordance with the rules of the law of obligations.

Article 147

(Management of child's property)

A child's property shall be managed by their parents in the best interests of the child.

Article 148

(Income from child's property)

Parents shall be allowed to use the income from a child's property in particular for the child's maintenance, education and schooling if they have insufficient means; and also for the immediate needs of the family.

Article 149

(Disposal or encumbering of things from child's property)

(1) Parents shall be allowed to dispose of or encumber things from their child's property only for the purpose of the child's maintenance, education and schooling and if this is in the best interests of the child.

(2) If there is a risk that by disposing of or encumbering things from their child's property the parents will endanger the child's best interests, the court shall adopt measures provided by this Code for protecting the property interests of the child.

Article 150

(Disposal of wages)

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A child who is fifteen years old may freely dispose of their wages. In so doing, children must contribute to their own maintenance and education.

5. Exercise of parental responsibility

Article 151

(Exercise of parental responsibility)

(1) Parental responsibility shall be exercised, by common agreement, by both parents in the best interests of the child. If parents cannot reach an agreement, a social work centre or, at their request, a mediator, shall assist them to conclude an agreement.

(2) If the parents do not live together and the child does not live in the custody of both parents, the parents shall decide on issues that are critical for the child's development by common accord and in the best interests of the child. If parents cannot reach an agreement, a social work centre or, at their request, a mediator, shall assist them to conclude an agreement.

(3) The parent with whom the child lives in custody shall decide on issues pertaining to the child's everyday life and on the child's permanent residence, if such decisions do not affect issues that are critical for the child's development.

(4) If parents fail to reach an agreement on issues that are critical for the child's development in cases referred to in paragraphs one, two and three of this Article, the matter shall be decided by a court.

(5) If one parent is prevented from exercising their parental responsibility, the other parent shall exercise it alone.

(6) If one of the parents is dead or unknown, or has been deprived of their parental responsibility, their parental responsibility shall belong to the other parent.

6. Termination of parental responsibility

Article 152

(Termination of parental responsibility)


(1) Parental responsibility shall terminate when the child attains the age of majority, i.e. when the child reaches the age of eighteen, or earlier if the child gains full capacity to contract before the age of majority.

(2) A child shall gain full capacity to contract through marriage.

(3) A court may acknowledge full capacity to contract for a child that has become a parent and has reached adequate physical and mental maturity to be capable of independent life.

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7. Measures to protect child's interests

7.1. General provisions

Article 153

(General authorization)

The courts and social work centres shall be obliged to carry out necessary measures concerning custody of children or the protection of their property and their other rights and interests.

Article 154

(Obligation of the State to protect child's best interests)

(1) Parents shall have priority over any other person concerning the right and obligation to protect a child's interests; consequently, the State shall adopt measures to protect a child's rights and interests (hereinafter: measures to protect a child's best interests) only in cases where parents fail to exercise these rights and obligations or exercise them contrary to the child's best interests.

(2) Unless otherwise provided by this Code, measures to protect a child's best interests may be implemented until the child gains full capacity to contract.

Article 155

(Power to adopt measures to protect child's best interests)


Measures to protect a child's best interests shall be issued by the courts.

Article 156

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(Principle of the least restrictive measure)

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In deciding on a measure to protect the child's best interests two restrictions shall be considered:

- if the adopted measure is able to provide adequate protection of the child's best interests, such measure should be the least restrictive for the parents in the exercise of their parental responsibility;
- if the adopted measure is able to provide adequate protection of the child's best interests, such measure should not seek to take the child away from their parents.

Article 157

(Conditions for measures to protect child's best interests)

(1) A court shall adopt a measure to protect the child's best interests where it establishes that the child is endangered.

(2) A child is endangered when they suffer or are very likely to suffer damage, or where the damage or the likelihood of damage is the consequence of action or lack of action of parents or the consequence of the child's psychosocial problems that manifest themselves as behavioural, learning and other difficulties in growing up.

(3) The damage referred to in the preceding paragraph shall include damage to the child's physical and mental health and development, and to the child's property.

Article 158

(Child's opinion)

(1) In deciding on a measure to protect the child's best interests the courts shall consider the child's opinion if it has been expressed by the child or by a person the child trusts and was chosen by the child, provided that the child is capable of understanding its meaning and consequences.

(2) A court may issue an interim injunction without obtaining the prior opinion of the child.

Article 159

(Types of measures)

Measures to protect the child's best interests shall be interim injunctions, emergency removal of a child and measures of a more permanent nature.

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Article 160

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(Deciding on measures and monitoring their implementation)

(1) A court shall, ex officio or on a proposal, adopt measures to protect the child's best interests, decide on the termination of a measure where reasons for it no longer exist, adopt another measure to protect the child's best interests if during implementation the measure proves to be detrimental to the child's health, development or property, decide to extend the measure or to reapply the measure.

(2) The court shall send the final decision containing the measure to protect the child's best interests to the competent social work centre, which shall monitor the implementation of the measure.

(3) Measures to protect the child's best interests shall apply for no more than the period provided for by this Code for each measure, unless the court decides to extend the period of application of the measure.

7.2 (Interim injunctions)

Article 161

(Condition for issuing an interim injunction)

A court shall issue an interim injunction in cases where the fact that the child is endangered is demonstrated as probable.

Article 162

(Types of interim injunctions)

(1) In order to protect the child's best interests, a court may issue interim injunctions for the purpose of temporarily protecting the child, particularly the following:

– an injunction to remove a child from the parents and place them in the care of another person, a crisis centre, a foster carer or an institution;

– a warrant allowing access to the dwelling or other premises where the child is, against the will of the parents;

– an injunction prohibiting or restricting contacts;

– an injunction on the manner of carrying out contacts;

– an injunction on custody of the child;

– an injunction on the child's maintenance;

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- an injunction prohibiting crossing of the state border with the child;
- an injunction on evicting a violent family member from the common dwelling;
- an injunction prohibiting persons that endanger the child from approaching the child;
- an injunction on freezing of parents' or child's property;
- an injunction on medical examination or treatment.

(2) The court shall, in the injunction referred to in the first indent of the preceding paragraph, name the other person, the crisis centre, the foster carer or the institution. The child shall not be placed with a person who may not be a guardian. The provisions of the act governing foster care shall apply, *mutatis mutandis*, to the obligations of the other person with whom the child is placed and to supervision of the placement.

Article 163

(Interim injunction on supervised contacts)

(1) In an interim injunction a court may decide that contacts shall take place in the presence of a professional of the social work centre or institution where the child is placed. The court shall determine the time and the place of contacts by prior agreement with the social work centre or institution where the child is placed. The contacts shall last for no more than two hours per week.

(2) The interim injunction on supervised contacts shall apply for no more than nine months and, notwithstanding the provisions of paragraphs one and three of Article 160 of this Code, shall not be reissued or extended.

(3) The professional shall monitor the contacts and shall prepare monthly reports on contacts and submit them to the court.

(4) The ministry responsible for the family shall provide the premises and staff for ensuring supervised contacts.

Article 164

(Professional's role in supervised contacts)


(1) A professional worker of the social work centre or institution where the child is placed shall prepare the persons involved in the contact for such contact.

(2) The professional shall assess whether the contact represents for the child a psychological stress which endangers their physical or mental development. In such cases in its report the professional shall propose to the court a modification of the measure.

(3) Where an interim injunction is issued due to a prolonged discontinuation of contacts the professional shall help the persons involved to resume contacts by counselling.

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Article 165

(Interim injunction on medical examination or treatment)

Where a child is capable of consenting to treatment or health care in accordance with the act governing patient's rights, an interim injunction on medical examination or treatment may only be issued on the basis of their consent.

Article 166

(Court decision following an interim injunction)

(1) Where an interim injunction was issued before the initiation of proceedings for issuing a decision on education, custody and maintenance of a child, on the exercise of parental responsibility or on a measure of a more permanent nature to protect the best interests of a child, these proceedings shall be instituted within seven days of the issuance of the interim injunction.

(2) Where the proceedings referred to in the preceding paragraph are not instituted within seven days, the court shall stay the proceedings and, if need be, annul already performed acts.

7.3. (Emergency removal of child from parents)

Article 167

(Emergency removal of child)

(1) If there is a likelihood that a child is in great danger, and that their best interests may only be protected by immediate removal of the child from their parents, the social work centre shall remove the child and place them with another person, in a crisis centre, with a foster family or in an institution before a court decides on a motion to issue an interim injunction. The child shall not be placed with a person who may not be a guardian. The provisions of the act governing foster care shall apply, *mutatis mutandis*, to the obligations of the other person with whom the child is placed and to supervision of the placement.

(1)The police shall assist the social work centre with the emergency removal of the child in accordance with the regulations governing the tasks and powers of the police.

(3) In placing a child in accordance with paragraph one of this Article the social work centre shall fill in a form with the following information:

– indication of the social work centre and personal name of the professional worker who carried out the emergency removal of a child in accordance with paragraph one of this Article,

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- personal name of the child and of the person from whom the child was removed,
- date and time of emergency removal of the child,
- short description of follow-up activities.

(4) The form referred to in the preceding paragraph shall be served directly or by registered mail on the person from whom the child was removed, on the child's parents or on the child's guardian.

Article 168

(Issuing interim injunction)

(1) Within twelve hours of the removal of a child, the social work centre shall propose to the court the issuing of an interim injunction regarding the removal of the child. The court shall decide on the motion immediately, at the latest within twenty-four hours.

(2) If the social work centre fails to propose the issuing of an interim injunction within the time period referred to in the preceding paragraph, and if the court fails to decide on the motion of the social work centre within the time period referred to in the preceding paragraph or if the court rejects the motion, the child shall be returned to their parents.

7.4. Measures of a more permanent nature

Article 169

(Opinion of social work centre on measures of a more permanent nature)

In deciding on a measure for the protection of a child's best interests of a more permanent nature, the courts shall consider the opinion of the social work centre.

Article 170

(Assistance plan for family and child)

(1) Before a court decides on a measure of a more permanent nature, the social work centre shall prepare an assistance plan for the family and the child. The report on the implementation of the assistance plan shall be submitted to the court once a year.

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(2) The assistance plan shall contain a description of the situation, the children's needs, the capacities of the family, the monitoring method, forms of assistance and a description of the implementation of the measure.

(3) The social work centre may include in the assistance plan for the family and the child a family therapy programme, psychiatric treatment, alcohol and other drug addiction treatment, other health, educational and psychosocial programmes where it is likely that the parents will be able to assume custody of the child after the treatment or therapy, or in other cases where this is in the best interests of the child.

Article 171

(Restriction of parental responsibility)

(1) A court may prohibit one or both parents from exercising certain rights pertaining to parental responsibility where the child is endangered or where, considering the circumstances, such a measure ensures that the best interests of the child are sufficiently protected.

(2) In order to protect the child's property rights the court may decide that the parents act as guardians managing the child's property. The court may prohibit the parents from managing the child's maintenance or other property, or prohibit only the disposal or encumbering of the child's property.

(3) The court may, considering the circumstances of the case, decide that the social work centre shall supervise the exercise of parental responsibility and shall define the method of such supervision.

(4) The court shall, in deciding on a measure, place the child under legal guardianship in relation to those rights the parents may not exercise under the restriction of parental responsibility, and shall appoint a guardian.

(5) The measure of restriction of parental responsibility shall apply for no more than one year. Where the court issues a measure to restrict parental responsibility together with the measure of removal of the child or the measure of placing the child in an institution, the measure to restrict parental authority shall apply for no more than three years.

Article 172

(Decision on medical examination or treatment)

A court may decide on medical examination or treatment of a child without the consent of the parents or contrary to their decision where this is necessary due to endangerment of the child's life or where the child's health is at serious risk. Where the child is capable of consenting to medical treatment or care in accordance with the act governing patient's rights, such measure may only be implemented on the basis of their consent.

Article 173

(Restriction or withdrawal of right to contacts)

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(1) A court may restrict or withdraw the right to contacts of one or both parents, and also of the person who obtained the right to contacts with the child by court decision or settlement, in cases where such contacts endanger the child, and the child's best interests may only be sufficiently protected by restricting or withdrawing the right to contacts. The court may decide that contacts shall not be in person or by social contact, but in some other form, where this is the only way to protect the best interests of the child.

(2) A decision on supervised contacts shall be permitted only on the basis of the interim injunction referred to in Article 163 of this Code.

Article 174

(Removal of child from parents)

(1) A court shall remove a child from parents and place them with another person, in foster care or in an institution where the child is endangered and only removal may sufficiently protect the best interests of the child, and the circumstances of the case indicate that the parents will, after a certain time, reassume the custody of the child. In such cases the court shall appoint the other person, the guardian or the institution. The child shall not be placed with a person who may not be a guardian. The provisions of the act governing foster care shall apply, *mutatis mutandis*, to the obligations of the other person with whom the child is placed and to supervision of the placement.

(2) Other obligations and rights of parents in relation to the child shall not cease with the removal, unless the court additionally restricts the parental responsibility in accordance with Article 171 of this Code.

(4) Where the court decides on removal it may also restrict or withdraw the right to contacts from one or both parents in accordance with Article 173 of this Code.

(3) The measure of removal of a child from parents shall apply for no more than three years.

(5) In deciding on the measure referred to in paragraph one of this Article the court shall also decide on the maintenance obligations of each parent in accordance with Article 184 and other provisions of this Code on the obligation of maintenance among parents and children.

Article 175

(Placing a child in an institution)

(1) A court shall decide to place a child in an institution owing to the child's psychosocial problems which manifest themselves as behavioural, emotional, learning or other difficulties in their growing up, if the child is endangered or if other children in the family are endangered, and it is possible to protect the best interests of the child or of other children in the family only by placing such child in an institution. In such cases the court shall name the institution.

(2) Other obligations and rights of parents in relation to the child shall not cease with the measure referred to in the preceding paragraph, unless the court in the same measure restricts the parental responsibility in

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accordance with Article 171 of this Code. (4) Where the court decides on placing a child in an institution it may also restrict or withdraw the right to contacts from one or both parents in accordance with Article 173 of this Code.

(3) The measure referred to in this Article shall apply for not more than three years.

(4) A child who has gained full capacity to contract may stay in an institution only on the basis of their written consent.

(5) In deciding on the measure referred to in paragraph one of this Article the court shall also decide on the maintenance obligations of each parent in accordance with Article 184 and other provisions of this Code on the obligation of maintenance among parents and children.

Article 176

(Withdrawal of parental responsibility)

(1) A court may withdraw parental responsibility from one or both of the parents where the child is endangered or the circumstances of the case indicate that there is little likelihood that they will be able to resume custody of the child, in particular if they have severely violated their obligations or abused their rights related to parental responsibility, or if they abandoned the child or their conduct has manifestly shown that they will not assume custody.

(2) Parental responsibility shall be reinstated by a decision of the court where the reason for which it had been withdrawn ceases to exist, except in cases where in the meantime the child has been adopted.

(4) Where the court decides on withdrawal of parental responsibility it may also restrict or withdraw the right to contacts from one or both parents in accordance with Article 173 of this Code.

(4) In deciding on the measure referred to in paragraph one of this Article the court shall also decide on placing the child with another person, in foster care or in an institution and on guardianship, if such decision has not yet been adopted. In such cases the court shall appoint the other person, the foster carer or the institution, and the guardian. The child shall not be placed with a person who may not be a guardian. The provisions of the act governing foster care shall apply, *mutatis mutandis*, to the obligations of the other person with whom the child is placed and to supervision of the placement.

(5) In deciding on withdrawal of parental responsibility the court shall also decide on the maintenance obligations of each parent in accordance with Article 184 and other provisions of this Code on the obligation of maintenance among parents and children.

7.5. Common provisions

Article 177

(Restriction of parental rights in proceedings at social work centres)

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(1) In proceedings concerning children, a social work centre may interview the child without the parents' consent if it considers this is in the best interests of the child.

(2) In order to protect the best interests of the child the social work centre may refuse the parents access to the record of the interview with the child.

Article 178

(Restrictions regarding access to decision on placement)

In order to protect the best interests of the child a social work centre or court may decide not to inform one or both parents of the location where the child is placed. In such cases the original decision indicating the person with whom the child is placed, and the appointed guardian, other person or institution shall be sealed, and a copy of the decision without the information on where the child is placed shall be served.

Article 179

(Termination of appointment of foster carer and guardian)

(1) The courts shall, on the grounds set out in the act governing foster care, terminate the appointment of foster carer appointed in accordance with the provisions of this Code, and appoint a new foster carer.

(2) The courts shall, on the grounds set out in this code, terminate the appointment of guardian appointed in accordance with the provisions of this Code, and appoint a new guardian.

Article 180

(Obligation to inform)

(1) National authorities, bodies of self-governing local communities, public authority holders, public service providers and non-governmental organisations which in their daily work learn of circumstances from which it may be presumed that a child is endangered, shall have the obligation to immediately inform thereof the competent social work centre or court.

(2) Everyone, in particular health professionals and staff in child-care centres, educational institutions and social institutes, and providers of content for children in sports and cultural associations shall, notwithstanding the provisions on professional secrecy, immediately inform a social work centre where in their daily work they learn of circumstances from which it may be presumed that a child is endangered.

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Article 181

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(Application of provisions of this Chapter where child is placed with another person)

The provisions of this Code on measures to protect the best interests of the child shall be applied, *mutatis mutandis*, in cases where the child is placed with another person.

Article 182

(Child's right to advocate)

(1) An advocate shall protect the best interests of the child in proceedings and activities that concern the child where the best interests of the child may not be protected in other, more appropriate ways.

(2) Advocacy for children shall be regulated by a special act.

8. Maintenance obligations among parents and children

Article 183

(Maintenance obligations towards children)

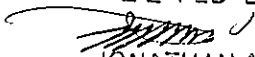
(1) Parents shall maintain their children until the age of majority by providing, in accordance with their capacities, the conditions necessary for the child's development.

(2) Parents shall have the obligation to maintain a child enrolled in secondary education until the age of majority, if the child is in regular full-time attendance at a secondary school and is not employed and not registered as seeking employment, specifically, until the first termination of secondary schooling or the moment of obtaining the highest level of general or professional qualification that may be obtained in accordance with secondary education regulations. The obligation of maintenance shall apply at a maximum up until the child reaches the age of 26.

(3) Parents shall have the obligation to maintain a child enrolled in short-cycle higher education, if the child is in regular full-time attendance and is not employed and not registered as seeking employment, until the first termination of short-cycle higher education in accordance with the provisions of the act governing short-cycle higher education. Parents shall have the obligation to maintain a child enrolled in higher education, if the child is in regular full-time attendance and is not employed and not registered as seeking employment, until the first termination of an undergraduate study programme or a single masters study programme in accordance with the provisions of the act governing higher education. If the programme in which the child is enrolled lasts for more than four years, the obligation of maintenance shall be extended for the duration of the study programme exceeding four years. The obligation of maintenance shall apply at a maximum up until the child reaches the age of 26.

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(4) Notwithstanding the provisions of paragraphs one, two and three of this Article the parents shall have the obligation to maintain a child that is married or cohabits in cases where the child's spouse or cohabitant are unable to maintain them.

(5) If parents do not maintain a child in their household, they shall contribute to their maintenance with a monthly maintenance payment.

Article 184

(Maintenance obligations towards a child where a measure is imposed)

(1) A parent whose parental responsibility has been withdrawn shall not be discharged from the obligation to maintain the child. Equally, parents whose child is placed with another person, in foster care or institution and parents whose child is placed under guardianship shall not be discharged from this obligation.

(2) Where a measure of a more permanent nature of placing a child with another person is imposed, the court shall decide that the parents shall pay maintenance to a separate child's account to be opened for this purpose by the child's guardian.

(3) Where a measure of more permanent measure of placing a child in foster care is imposed, the court shall decide that maintenance up to the amount of material costs provided by the act governing foster care, shall be paid to the budget of the Republic of Slovenia. If maintenance exceeds these costs the court shall decide that the difference shall be paid to a separate account of the child to be opened for this purpose by the child's guardian.

(4) Where a measure of a more permanent nature of placing a child in an institution is imposed, the court shall decide that maintenance up to the amount of the cost of institutional care shall be paid to the budget of the Republic of Slovenia. If maintenance is equal to or less than the cost of institutional care the court shall decide that maintenance in the amount of 25% of the maintenance benefit provided by the act governing maintenance shall be paid to a separate account of the child to be opened for this purpose by the child's guardian. If maintenance exceeds the cost of institutional care the court shall decide that the difference, which shall not be less than 25% of the maintenance benefit, indicated above, shall be paid to a separate account of the child to be opened for this purpose by the child's guardian.

Article 185

(Maintenance obligation towards parents)

(1) A child who has reached the age of majority shall have the obligation within their means to maintain their parents who have insufficient resources to support themselves or are unable to obtain them, but only for as long as the parents had actually maintained the child.

(2) A child who has reached the age of majority shall have no obligation to maintain a parent who, for reasons that are unjustified, failed to fulfil their maintenance obligations towards the child.

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Article 186

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(Shared maintenance obligations)

Where several persons must jointly maintain another person, this obligation shall be distributed among them in relation to their capacities and also in relation to how much care and assistance each person had received.

Article 187

(Maintenance obligations towards children of spouse or cohabitant)

(1) A spouse or cohabitant shall have the obligation to maintain the child of their spouse or cohabitant who lives with them unless one or the other parent is able to maintain the child.

(2) The obligation of the spouse or cohabitant referred to in the preceding paragraph shall cease with the termination of marriage or cohabitation with the child's mother or father, except where the marriage or cohabitation was terminated due to the death of the child's mother or father. In such cases the surviving spouse or cohabitant shall maintain the child of their deceased spouse or cohabitant only if the child was living with them at the time of termination of marriage or cohabitation.

Article 188

(Renouncing right to maintenance)

Renunciation of the right to maintenance shall have no legal effect.

Article 189

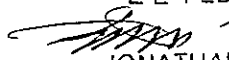
(Calculating the maintenance amount)

The amount of maintenance shall be calculated with regard to the needs of the beneficiary and the material and earning capacity of the person liable.

Article 190

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(Assessment of maintenance)

(1) The courts shall, in assessing maintenance, consider the best interests of the child, so that maintenance adequately provides for their good physical and mental development.

(2) Maintenance shall cover the costs of the child's basic needs, in particular the costs of accommodation, food, clothes, footwear, care, schooling, education, leisure, free time and other needs.

Article 191

(Agreement on child's maintenance)

If the parents reach an agreement on the child's maintenance they may propose a court settlement. If the court finds that the agreement is not in the child's best interests, it shall reject the motion.

Article 192

(Agreement on maintenance to be paid by parents to a child who has reached the age of majority)

The person entitled and the person liable may conclude an agreement on maintenance to be paid by parents to a child who has reached the age of majority in the form of an enforceable notarial act.

Article 193

(Agreement on maintenance to be paid by a child who has reached the age of majority to their parents)

The person entitled and the person liable may conclude an agreement on maintenance to be paid by a child who has reached the age of majority to their parents in the form of an enforceable notarial act.

Article 194

(Ways of child maintenance)

(1) Parents shall maintain children in their household, unless this is contrary to the best interests of the child.

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(2) Except in cases of obligation of the parents to maintain their children the person liable may pay maintenance to the entitled person or take them in their household or provide for their maintenance in another way.

(3) On grounds of important reasons the entitled person may request that maintenance be assessed in cash.

Article 195

(Priority in assessing maintenance)

Maintenance of children whom the person liable is obliged to maintain in accordance with Articles 183 and 187 of this Code, and of the spouse the person liable is obliged to maintain in accordance with this Code, shall have priority over maintenance of the spouse's parents.

Article 196

(Assessment of maintenance)

Maintenance shall be assessed in a monthly sum and in advance, and may be claimed from the date of lodging the application or the motion for assessment of maintenance.

Article 197

(Changing the amount of maintenance and cancellation of maintenance)

(1) At the request of the person entitled or the person liable the court may increase, reduce or cancel the maintenance determined by an enforceable act where the needs of the person entitled and the resources of the person liable, which are the basis for calculating the maintenance, change.

(2) If the parents agree on an increase or reduction of maintenance determined by an enforceable act, they may propose a court settlement. If the court finds that the agreement is not in the child's best interests, it shall reject the motion.

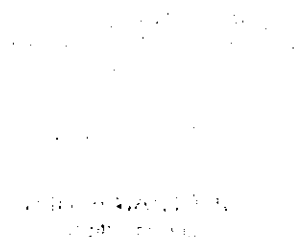
(3) The person liable and the entitled person may conclude an agreement in the form of an enforceable notarial act on the increase, reduction or cancellation of maintenance that the parents are obliged to pay to a child who has reached the age of majority and on the increase, reduction or cancellation of maintenance that a child who has reached the age of majority is obliged to pay to their parents.

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Article 198



(Adjustment of maintenance)

(1) The maintenance assessed by an enforceable act shall be annually adjusted to the consumer price index in the Republic of Slovenia. The adjustment shall be made in January, taking into account the cumulative rise in consumer prices since the month in which maintenance was last determined or adjusted. The minister responsible for family issues shall publish the maintenance adjustment index in the Official Gazette of the Republic of Slovenia.

(2) A notary or judge shall send a court settlement, final judicial decision, or an enforceable notarial act concerning maintenance to the competent social work centre, unless the adjustment has been arranged in a way which is more favourable for the entitled person.

(3) The social work centre shall notify in writing the person entitled and the person liable of each adjustment and the new maintenance amount. This notification together with the court settlement, final judicial decision, or enforceable notarial act shall be the title of enforcement.

(4) If in the year in which the adjustment is made an entitled person who is over 18 years of age is not in regular full-time attendance at school, the social work centre shall not be obliged to notify the person liable and the person entitled in writing of the adjustment of maintenance.

(5) An entitled person who is over 18 years of age shall submit to the social work centre a certificate of enrolment at a school within 30 days of obtaining the status of student or inform it of the school in which they are in regular full-time attendance. If the person entitled fails to act in accordance with the preceding paragraph, the social work centre shall not adjust maintenance for that year.

(6) After the child has reached the age of majority, the person liable for paying maintenance shall have the right to check with the social work centre whether the child has the status of student. If the person entitled does not have the status of student, the person liable shall have no obligation to pay maintenance, regardless of the notification of maintenance adjustment issued before the child lost their status of student.

Article 199

(Reimbursement of maintenance)

(1) Anyone who incurred expenses by maintaining a person they were not liable to maintain shall have the right to claim reimbursement of such expenses from the person who would be liable to maintain such person, provided that such expenses were necessary.

(2) Several persons liable for maintenance shall be jointly liable for reimbursing maintenance expenses to the person who incurred expenses by maintaining a person they were not liable to maintain.

Part Four: PRIOR COUNSELLING AND MEDIATION

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1. Prior counselling

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Article 200

(Counselling before initiating matrimonial litigation proceedings)

(1) Before lodging an application or motion for consensual divorce the spouses shall attend marriage counselling at the social work centre, except in cases when:

- they do not have joint children over whom they exercise parental responsibility;
- one of the spouses is incapable of judgment;
- one of the spouses is missing or their residence is unknown;
- one or both spouses live abroad.

(2) The aim of prior counselling is to help the spouses establish whether their relations are broken down to such an extent that the marriage has become, for at least one of the spouses, unsustainable, or whether there is a possibility of saving the marriage.

(3) Spouses shall attend prior counselling without their representatives.

Article 201

(Professional counselling to couples)

(1) If following prior counselling the spouses consider that there is a possibility of saving their marriage, the social work centre worker shall inform them of the possibility of voluntarily attending professional counselling sessions aimed at preserving their marriage.

(2) Professional counselling shall also be open to cohabitants.

(3) Professional counselling shall be provided by social work centres.

Article 202

(Aim and procedure of divorce mediation)

(1) If during prior counselling the spouses establish that, for at least one of them, marriage is unsustainable, the social work centre worker shall inform them of the consequences of divorce for themselves and for the domestic community, and shall explain the aim and the procedure of mediation.

(2) If spouses give their consent, the social work centre may provide mediation as a follow up to counselling, or the spouses may attend mediation provided by other providers.

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Article 203

(Counselling before initiating proceedings to protect the best interests of the child)

(1) Before asking a court to decide on the child's custody, maintenance and contacts with parents and other persons or on issues concerning the exercise of parental responsibility which significantly affect the child's development, the parents shall attend prior counselling sessions at the social work centre, except in cases where:

- one of the spouses is incapable of judgment;
- one of the spouses lives abroad, is missing or their residence is unknown.

(2) Where contacts with other persons are concerned, such other person and the child, if the child is the applicant, shall attend counselling before lodging a motion.

(3) The aim of prior counselling is to draw the attention of the parents or the other person to the fact that the best interests of the child shall be protected when relations with the child are being arranged, to the positive impact that arranging these relations by mutual agreement has on the child, and to explain to them the aim of mediation.

(4) Counselling shall be carried out also before lodging a motion for a new decision on any of the issues referred to in paragraph one of this Article.

(5) The parents or the persons indicated in paragraph two of this Article shall attend counselling without their representatives.

(6) If spouses or persons indicated in paragraph two of this Article give their consent, the social work centre may provide mediation as a follow up to counselling, or these persons may attend mediation provided by other providers.

Article 204

(Prior counselling procedure)

(1) The social work centre shall, within fourteen days of receiving a motion for prior counselling, invite the parties to a prior counselling session.

(2) The social work centre shall make a record of the prior counselling provided, shall show that counselling was attended by spouses who intend to file a motion for consensual divorce or an application for divorce, or by the person who intends to lodge a motion for initiating proceedings to protect the best interests of the child.

(3) If persons referred to in the preceding paragraph fail to attend the session, the social work centre shall indicate in the minutes which person failed to attend the session and the reasons for not attending, if the centre knows them.

(4) The minister responsible for the family shall prescribe in detail the provision of prior counselling.

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2. Mediation

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Article 205

(Providing mediation)

(1) Mediation may be carried out before the commencement, during or after the end of court proceedings; it shall provide assistance in arranging personal and property relationships.

(2) Mediation shall primarily be carried out before the commencement of court proceedings with the aim of drafting a motion for consensual divorce or a motion for court settlement for child custody, maintenance and contacts with parents and other persons, and issues pertaining to the exercise of parental responsibility which significantly affect the child's development.

(3) The act governing alternative dispute resolution shall apply to mediation during court proceedings. In proceedings that involve children, the court may reject the motion of parties to the proceedings who agree to carry out a mediation attempt, and refuse to stay the proceedings if it considers that such stay would not be in the best interests of the child.

Article 206

(Mediators)

(1) Mediation during court proceedings shall be carried out by mediators in the framework of programmes adopted and implemented by the courts in accordance with the act governing alternative dispute resolution.

(2) Mediation before and after court proceedings shall be carried out by mediators on the list of mediators held by the ministry responsible for family affairs (hereinafter: the list).

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Article 207

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(The list)

(1) Any person who meets the following conditions shall be included on the list:

- has the capacity to contract,
- has not been convicted in a final ruling of a premeditated criminal offence prosecuted ex officio,
- has at least a degree obtained in a first-cycle higher education programme,
- has concluded a mediation skills training course according to the programme defined by the minister responsible for family affairs in agreement with the minister responsible for justice.

(2) A mediator shall be deleted from the list where they:

- so request personally,
 - no longer fulfil the conditions referred to in indents one and two of the preceding paragraph,
 - act contrary to the law or contrary to the principles of a mediator's code of ethics,
 - are unreliable or negligent in carrying out their tasks regarding mediation, or
 - fail to attend mandatory training courses determined by the minister responsible for family affairs in agreement with the minister responsible for justice.
- (3) The minister responsible for family affairs shall decide on inclusion on the list and deletion from it.

Article 208

(Contents, public nature and aim of the list)

(1) The list shall contain the following data:

- personal name of the mediator,
- date and place of birth,
- address of permanent or temporary residence,
- contact information: telephone number and e-mail address,
- name and address of the social work centre or the provider of alternative dispute resolution or other address where the mediator carries out mediation,
- professional or academic title,
- profession,
- employment data,
- date of inclusion on the list.

(2) To ensure effective implementation of mediation under this Code the part of the list containing the following data shall be public:

- personal name of the mediator,
- professional or academic title,
- name and address of the social work centre or the provider of alternative dispute resolution or other address where the mediator carries out mediation,
- date of inclusion on the list.

(3) The data referred to in the preceding paragraph shall be published by the ministry responsible for family affairs on its website.

(4) Data contained in the list referred to in paragraph one of this Article shall be kept for two years from the deletion of the mediator from the list. After this period the data shall be anonymised.

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(5) Data on the list shall be collected and used to prove the status of mediator and to appoint a mediator for individual mediation procedures.

Article 209

(Management of statistical data and supervision of mediators' work)

(1) The ministry responsible for family affairs shall manage statistical data on mediations carried out before and after court proceedings, supervise the work of mediators referred to in paragraph two of Article 206 of this Code and decide on complaints concerning their work.

(2) For the purpose of managing statistical data mediators referred to in paragraph two of Article 206 of this Code shall report to the ministry responsible for family affairs the total number of mediations carried out, the number of successful mediations, the number of unsuccessful mediations, the number of partially successful mediations and the number of cases where consent to mediation was withdrawn before the first session.

Article 210

(Specifics of mediation in matters of parental responsibility)

(1) A mediator may include in mediation a child who is capable of understanding the meaning and the consequences of mediation if the mediator considers this will be in the best interests of the child.

(2) In mediation the mediator shall always consider the principle of the best interests of the child.

(3) No mediation shall be carried out between parties in cases of suspected domestic violence.

(4) A mediator who in the process of mediation learns that a child is endangered shall be obliged to inform a social work centre thereof.

(5) A social work centre worker who participated in mediation shall not be allowed to participate in the drafting of the opinion for the court in proceedings for the protection of the best interests of the child.

Article 211

(Fee and costs)

(1) The fee and the travel expenses of mediators referred to in paragraph two of Article 206 of this Code incurred in mediations in matters of parental responsibility shall be paid by the state budget in the amount determined by the minister responsible for family affairs in agreement with the minister responsible for justice.

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(2) A mediator referred to in paragraph two of Article 206 of this Code shall be entitled to a fee and reimbursement of travel expenses in the amount determined by the minister responsible for family affairs in agreement with the minister responsible for justice.

Part Five: ADOPTION

1. Conditions for adoption and relationships resulting from adoption

Article 212

(Adoption of a child)

Only children may be adopted.

Article 213

(Adoptive parent)

(1) Spouses or cohabitants may adopt a child only jointly, except in cases where one of them adopts the child of their spouse or cohabitant.

(2) By exception, a single person who is not married or cohabiting may adopt a child in cases where this is in the best interests of the child.

Article 214

(Prohibition on adopting a relative or ward)

(1) Adoption of a relative in a direct line shall not be permitted. Neither may a brother or a sister be adopted.

(2) A guardian shall not be permitted to adopt their ward while they are bound by the guardianship relationship.

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Article 215

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(Age of adoptive parent and statement of child)

(1) Only a person who has reached majority and is at least 18 years of age may be an adoptive parent. By exception a person who is not eighteen years older than the child may be allowed to adopt where all the circumstances of the case have been examined and it is established that such adoption would be in the best interests of the child.

(2) In adoption proceedings the courts shall also consider the opinion of the child where such opinion was given by the child themselves or another person the child trusts and has chosen themselves, if the child is capable of understanding its meaning and consequences.

(3) The child shall give their consent to the adoption, provided that the child is capable of understanding the meaning and consequences of the consent.

Article 216

(Eligibility to adopt)

A person may not become an adoptive parent:

- if their parental responsibility was withdrawn from them;
- if they live with a person whose parental responsibility was withdrawn;
- if they have been sentenced in a final judgment for a premeditated criminal offence prosecuted ex officio, or for a criminal offence against life and limb, or a criminal offence against sexual integrity prosecuted upon a motion;
- if they live with a person who has been sentenced in a final judgment for a premeditated criminal offence prosecuted ex officio, or for a criminal offence against life and limb, or a criminal offence against sexual integrity prosecuted upon a motion;
- where suspicion exists that they would use the adoption to the detriment of the child;
- who provides no guarantee that they will exercise parental responsibility in the best interests of the child;
- if they lack the capacity to contract or have such mental developmental disorder or illness that adoption would not be in the best interests of the child.

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Article 217

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(Adoption by foreign nationals)

(1) In exceptional cases a foreign national may be the adoptive parent if the social work centre was unable to find a suitable adoptive parent for the child to be adopted among nationals of the Republic of Slovenia. This condition shall not apply in cases where the child is adopted by the spouse or cohabitant of one of the child's parents or a child's relative.

(2) The minister responsible for family affairs must consent in order for adoption to be made by a foreign national. This consent shall not be required in cases where the child is adopted by the spouse or cohabitant of one of the child's parents or a child's relative.

Article 218

(Conditions for adoption of a child)

(1) A child may be put up for adoption only if their parents consented to adoption at a social work centre or a court after the child's birth. In cases of a child of less than eight weeks of age the parents shall reiterate their consent after the child reaches the age of eight weeks, otherwise the consent shall have no legal effect. Consent of a parent whose parental responsibility has been permanently withdrawn or who is permanently unable to express their will shall not be required.

(2) A child whose parents are unknown or whose residence is unknown for more than a year may also be put up for adoption.

(3) Adoption shall be possible six months after the condition referred to in paragraph one or two of this Article is fulfilled. By exception, adoption shall be possible also before the expiry of this period if a court establishes this would be in the best interests of the child. In particular, this shall be the case where parental responsibility is withdrawn from both parents.

(4) A child whose parents are dead may also be put up for adoption.

(5) The social work centre shall enter a child who fulfils the conditions for being put up for adoption in a central database of children needing adoption.

Article 219

(Relations between child and adoptive parent)

Adoption shall establish the same relations between the child and their descendants, and between the adoptive parent and their relatives as between relatives, unless otherwise provided by law.


Article 220

(Legal consequences of adoption)

(1) Upon adoption, the rights and obligations of a child to their parents and other relatives, and the rights and obligations of parents and relatives to the child, shall cease.

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(2) If the child is adopted by a spouse or cohabitant of one of the child's parents the child's rights and obligations to this parent and their relatives and the rights and obligations of this parent and their relatives to the child shall not cease.

Article 221

(Revocation of adoption)

Adoption may not be revoked.

Article 222

(Entering personal data of biological parents and of the adopted child and access to them)

(1) After adoption the adoptive parents shall be entered in the civil register as the child's parents.

(2) After the decision on adoption is final the adopted person shall have no right to access the personal data of their biological parents entered in the civil register and other personal databases; similarly, biological parents shall have no right to access personal data of the child that they put up for adoption. Access to such data shall be possible only on the basis of written consent of the person to whom these data refer. A child over fifteen may consent on their own behalf if they are capable of understanding its meaning and consequences; otherwise consent shall be given by the child's representative. Consent shall be obtained by a social work centre on the motion of the adopted child or the biological parents.

(3) Notwithstanding the provisions of the preceding paragraph an adopted person or their legal representative may request from a social work centre data on the health status of the biological parents within the scope and under the conditions provided by law. In such cases the social work centre shall obtain data from health institutions and shall send them in anonymised form to the adopted person or their legal representative.


(4) The provisions of paragraphs two and three of this Article shall not apply in cases where the child has been adopted by the spouse or the cohabitant.

2. Procedure for assessing conditions for adoption

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Article 223

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(Application)

The spouses or cohabitants or individuals (hereinafter: applicant) shall lodge with a social work centre a written application in which they express their wish to adopt.

Article 224

(Assessing eligibility of applicant)

(1) Following receipt of the written application the social work centre shall assess the eligibility of the applicant, that is the fulfilment of conditions provided in Articles 213, 214, and 215 of this Code, their motives for adoption and other relevant circumstances that are adoption-related.

(2) On the basis of findings referred to in the preceding paragraph the Social work centre shall prepare an expert opinion on the applicant, who is assessed before the adoption.

(3) The process of assessment of eligibility shall not last for more than one year from the date the application was lodged.

Article 225

(Status of candidate adopter)

(1) If the social work centre expert opinion shows that the applicant is suitable to adopt, the social work centre shall grant them the status of candidate adopter and shall enter them in the central database of candidate adopters. The social work centre shall conclude with the candidate adopter an agreement on preparing for adoption.

(2) If the social work centre expert opinion shows that the applicant is not suitable to adopt, the social work centre shall issue a decision refusing them the status of candidate adopter.

(3) The provisions of the first and second paragraph of this Article shall also apply to adoption proceedings carried out in another country on the motion of the applicant.

Article 226

(Selection of most suitable candidate adopter)

(1) Among possible candidate adopters the social work centre, considering the child's characteristics and needs, the candidate's wishes, the expert opinion of the social work centre, the wishes of the biological parents concerning future adoptive parents, and the time of entry in the central database of candidate adopters, shall select the most suitable candidate and lodge a proposal for adoption with the court.

(2) The time of entry shall not necessarily be considered when adoption by a certain candidate is in the best interests of the child.

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3. Decision-making procedure regarding adoption

Article 227

(Placement for the purpose of adoption)

(1) In order to establish whether the child and the future adoptive parent will be able to adapt to the new situation and whether the adoption will be in the best interests of the child, the court may decide that the child shall spend a certain time in the future adoptive parent's family before taking the decision on adoption.

(2) The provisions of the act governing foster care shall apply, *mutatis mutandis*, to the obligations of the future adoptive parent with whom the child is placed and to supervision of the placement.

Article 228

(Specifics of adoption of a child of spouse or cohabitant)

(1) Where an application for adoption is lodged by a spouse or cohabitant of one of the child's parents, the provisions of indent four of Article 216 and of Articles 223 to 227 of this Code shall not apply.

(2) In its decision the court shall consider the opinion of the social work centre.

Article 229

(Adoption decision)

(1) Where a court establishes that the conditions laid down by this Code for adoption are fulfilled, and in particular that the adoption is in the best interests of the child, it shall issue an adoption decision.


(2) Where the court establishes that the conditions laid down by this Code for adoption are not fulfilled or that the adoption would not be in the best interest of the child, it shall reject the motion.

(3) The court shall send the final adoption decision within fifteen days of the decision becoming final to the competent social work centre, which shall enter the data in the database referred to in Article 284 of this Code, and to the administrative unit which shall enter the adoption in the civil register.

4. Challenging adoption

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Article 230

(Invalid adoption)

Adoption shall be invalid if the conditions referred to in paragraphs 212, 213, 214, 215, 216, 217 or 218 of this Code are not fulfilled.

Part Six: GRANTING PARENTAL RESPONSIBILITY

Article 231

(Granting parental responsibility)

(1) A court may grant parental responsibility for a child whose parents are dead to a relative if this is in the best interests of the child, if the relative is ready to assume custody of the child and fulfils the conditions for adoption of the child referred to in paragraph one of Article 216 and Article 216 of this Code. For the purposes of this Article a relative is a person who is related to the child in a direct line up to four times removed or related collaterally up to four times removed.

(2) The court may only grant parental responsibility to be exercised jointly to relatives who are married or cohabiting, or to a relative and their spouse or cohabitant who fulfil the conditions referred to in the preceding paragraph.

(3) By being granted parental responsibility the person who is granted parental responsibility for a child shall acquire the rights and obligations that the child's parents would have had, and shall become the child's legal representative. a person who has been granted parental responsibility shall have the obligation to maintain the child in accordance with Article 183 of this Code.

(4) The provisions of this Code shall apply to the exercise and termination of granted parental responsibility and to measures for the protection of the best interests of the child. During the time of exercising granted parental responsibility the conditions for adoption shall not be fulfilled.

(5) The court shall send the final decision on granting or termination of parental responsibility within fifteen days of the decision becoming final to the administrative unit. The granting and termination of parental responsibility shall be entered in the civil register; the name of the relative to whom the parental responsibility was granted and their personal identification number (EMŠO) shall be entered.

Part Seven: FOSTER CARE

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1. The purpose of foster care

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Article 232



(The purpose of foster care)

(1) The purpose of foster care is to allow children healthy growth, education, schooling, balanced personal development and training for independent life and work with persons other than their parents.

(2) The conditions for providing foster care, the procedure for acquiring authorisation for performing this activity, the method of implementing foster care activity, its financing and other issues related to providing foster care shall be regulated by the act governing foster care.

Article 233

(Rights and obligations retained by parents or guardian)

Where a child is placed in foster care the parents or the guardian shall retain those rights or obligations under this Code that are compatible with the purpose of foster care, unless otherwise provided by this Code with the aim of protecting the best interests of the child.

Article 234

(Reasons for placing a child in foster care)

(1) Children shall be placed in foster care where they are without a family of their own, for various reasons they may not live with their parents, or their physical and mental development is threatened in the environment where they live.

(2) Notwithstanding the provisions of the preceding paragraph a child may be placed in foster care where they need training in accordance with the act governing education and training of children with special needs.

2. Placement of a child

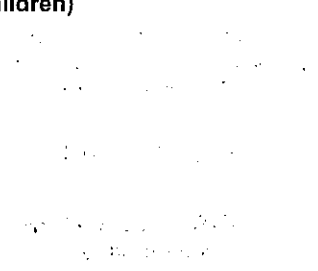
Article 235

(Jurisdiction to decide on placement of children)

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(1) The courts shall decide on the placement of children in foster care and on the appointment of a guardian in deciding on measures issued by the courts in accordance with this Code, and where there are reasons for placing a child in foster care as provided by this Code.

(2) The court shall send the final decision on the placement of a child in foster care to the competent social work centre.

(3) In deciding on placing a child in foster care in accordance with paragraph one of this Article the court shall also decide on the maintenance obligations of each parent in accordance with Article 184 and other provisions of this Code on the obligation of maintenance among parents and children.

Article 236

(Role of social work centre in the process of placing a child in foster care)

After placement in foster care, the social work centre shall endeavour to eliminate the reasons for which the child was placed in foster care.

3. Termination of foster care

Article 237

(Termination of foster care)

1. Foster care shall terminate:

- if the reasons for which placement of a child in foster care was necessary cease to exist;
- before the child reaches majority if the foster child is capable of independent life, if the foster child became a parent or if the foster child was granted full capacity to contract by a court decision;
- when the foster child reaches majority.

(2) The termination of foster care in accordance with indents one and two of the preceding paragraph shall be decided by the court.


(3) Notwithstanding paragraph one of this Article, placement of a child with a foster family may continue after the child's majority but not after 26 years of age if:

- due to a physical or mental development disorder the foster child is unable to live and work independently and the person and their guardian give their consent,
- the foster child consents to remain in the foster family in order to be able to continue their schooling.

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Article 238

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(Role of social work centre after termination of foster care agreement)

In the event of termination of a foster care agreement the social work centre shall take the necessary steps to ensure the child's further care and upbringing.

Part Eight: GUARDIANSHIP

1. The purpose of guardianship

Article 239

(Purpose of guardianship)

(1) The purpose of guardianship of children is to allow them to become accomplished persons and be capable of independent life and work by providing them with care, education and schooling.

(2) The purpose of guardianship for adults is protecting their personality, carried out mainly by managing matters these persons are unable to manage themselves, and by arranging healthcare and providing training for independent life.

(3) A further purpose of guardianship is to protect the property and other rights and interests of individuals.

2. The guardian

Article 240

(Guardian)

(1) A person who has the personal characteristics and capacities necessary for exercising the duty of a guardian and who consents to be a guardian, shall be appointed guardian.

(2) The duty of a guardian shall be voluntary and honorary.

Article 241

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(Conditions to be fulfilled by a guardian)

They following persons may not become a guardian:

- if their parental responsibility was withdrawn from them;
- they have no capacity to contract;
- their interests are in conflict with the interests of the ward;
- they have concluded with the ward a contract of lifelong maintenance;
- their spouse or cohabitant concluded with the ward a contract of lifelong maintenance;
- due to their personal characteristics or relations to the ward or the ward's parents, they may not be expected to correctly carry out their guardianship duties.

Article 242

(Person of guardian)

(1) As far as possible and if not in conflict with the ward's interests, the ward's spouse, cohabitant or a relative shall be appointed guardian.

(2) A guardian may also be a legal person that shall appoint one of its employees as the responsible person for carrying out guardianship duties.

Article 243

(Wishes of ward and relatives)

In appointing a guardian a social work centre or court shall primarily consider the wishes of the ward, provided they expressed them and are capable of understanding their meaning and consequences, and if this is in the best interests of the ward. They shall also consider the wishes of the ward's spouse or their relatives, if this is in the best interests of the ward.

Article 244

(Social work centre as guardian)

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(1) A social work centre or court may decide to appoint a social work centre as guardian to a person. The social work centre shall appoint one of its workers as the responsible person for carrying out guardianship duties.

(2) The social work centre or the court may, by way of a decision, restrict the guardian's rights and decide that certain duties shall be carried out by the social work centre.

Article 245

(Obligations of guardian)

(1) The guardian shall represent the ward.

(2) The guardian shall exercise due diligence in caring for the personality, rights and interests of the ward and in managing their property.

Article 246

(Inventory of property)

(1) If the ward has property, the social work centre or the court shall order that the property be inventoried, assessed and entrusted to the management of the guardian.

(2) The method of inventorying and assessing the property shall be prescribed by the minister responsible for family affairs.

Article 247

(Regular operations and management)

(1) The guardian shall, on behalf and for the account of the ward, independently carry out the activities representing regular operations and management of the ward's property. They shall carry out these activities in the best interests of the ward.

(2) The guardian shall consult the ward before carrying out any important task. The guardian shall consider the ward's opinion provided that the ward has expressed it and is capable of understanding its meaning and consequences.

(3) The guardian shall not be allowed to do anything that would exceed the framework of regular operations and management of the ward's property without the authorisation of the social work centre.

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Article 248

(Social work centre authorisation)

(1) A guardian shall require the authorisation of the social work centre to do the following:

- alienate or encumber the ward's real estate;
- alienate movable assets of major value from the ward's property or dispose of movable assets of major value from the ward's property;
- renounce an inheritance or bequest or refuse a gift;
- lodge a claim in a child's name for establishing or challenging paternity;
- take any other measures if so provided by law.

(2) In cases referred to in the preceding paragraph the social work centre shall issue a decision on the motion of the guardian.

Article 249

(Legal transactions between guardian and ward)

The guardian shall be allowed to conclude a legal transaction with the ward they care for only if authorized by the social work centre, which shall authorize such legal transaction provided that it is in the best interests of the ward.

Article 250

(Guardian's report)

(1) The guardian shall report to the social work centre on their work and financial management of the property once a year or whenever required by the social work centre.


(2) The guardian's report shall show the activities the guardian undertook to protect the ward's person, in particular their health, and actions undertaken concerning the ward's education and schooling, and other needs of the ward.

(3) The report shall also contain data on the management of the ward's property and on its disposal, data on the ward's income and expenditure and the final balance of their assets.

(4) Detailed rules on the composition and contents of the guardian's reports shall be prescribed by the minister responsible for family affairs.

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Article 251

(Examination of the report)

(1) The social work centre shall carefully examine the guardian's report. The examination shall comprise a visit to the ward that shall be made by the social work centre at least once a year.

(2) If the report show minors irregularities in the guardian's work, the social work centre shall take the necessary steps to eliminate them.

(3) If there are major irregularities which indicate the likelihood that the guardian has failed to exercise due diligence in caring for the personality, rights and interests of the ward and in managing the ward's property with care, the social work centre shall initiate the procedure for dismissal of the guardian, and shall, if necessary, take steps to protect the best interests of the ward.

Article 252

(Reimbursement of expenses)

(1) The guardian shall have the right to reimbursement of the costs incurred in carrying out guardianship obligations.

(2) The social work centre may assign a fee to the guardian if the guardian is required to have special qualifications due to the complexity of their tasks and responsibilities.

Article 253

(Reimbursement of damage)

The guardian shall compensate a ward for the damage caused by improper or negligent carrying out of guardian's duties or by arbitrary omission of the guardian's due diligence obligations.

Article 254

(Court decision on dismissal of a guardian and appointment of a new guardian)

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(1) A social work centre shall propose to a court the dismissal of the guardian and appointment of a new one if it establishes that the guardian was negligent in carrying out their duties, abused their rights or by their actions put at risk the interests of the ward, or if it establishes that it would be best for the ward to have another guardian. In its decision on dismissal the court shall set a time limit for the guardian to submit their final report and report on the financial management of the property and transfer the management of the property to the newly appointed guardian.

(2) The court shall dismiss a guardian if the guardian so requests. It shall do so within three months of receipt of a request from the guardian.

Article 255

(Social work centre decision on dismissal of a guardian and appointment of a new guardian)

(1) A social work centre shall dismiss the guardian and appoint a new one if it establishes that the guardian was negligent in carrying out their duties, abused their rights or by their actions put at risk the interests of the ward, or if it establishes that it would be best for the ward to have another guardian. In its decision on dismissal the social work centre shall set a time limit for the guardian to submit their final report and report on the financial management of the property and transfer the management of the property to the newly appointed guardian.

(2) The social work centre shall dismiss a guardian if the guardian so requests. It shall do so within three months of receipt of a request from the guardian.

Article 256

(Objection to work of guardian)

(1) An objection to the work of a guardian or of a social work centre concerning guardianship may be made by a ward who is capable understanding the meaning and the consequences of the objection, their relatives, competent authorities and professional institutions.

(2) Objections concerning the work of a guardian shall be resolved by the competent social work centre; objections to the work of the social work centre shall be resolved by the ministry responsible for family affairs.

(3) The authority that resolves the objections referred to in the preceding paragraph shall examine their admissibility, establish which steps should be taken and inform the person who lodged the objection thereof.

3. Guardianship of children

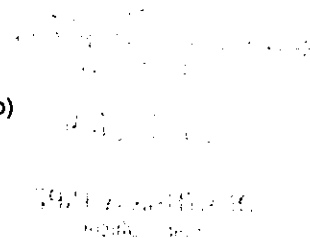
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Article 257

(Placing a child under guardianship)



(1) A child without parents or a child who is not taken care of by their parents shall be placed under guardianship and appointed a guardian by a court.

(2) The court shall immediately send to the social work centre the final decision by which it placed the child under guardianship and appointed a guardian for the child.

Article 258

(Obligations of guardian)

The guardian shall care for a child with the same diligence as the parents, but shall not be obliged to maintain a ward or take the ward into their home.

Article 259

(Validity of legal transactions)

(1) The guardian's consent shall be necessary for concluding legal transactions that significantly affect the child's life before and after maturity.

(2) The validity of transactions concluded by a child without the guardian's consent shall be assessed in accordance with the rules of the law of obligations.

Article 260

(Social work centre authorisation)


(1) The guardian shall need the authorisation of the social work centre to do the following:

- enrol the child at a school or withdraw a child from school, or change the type of the child's education;
- decide on the selection of the child's profession or the carrying out of the child's profession;
- implement other important measures concerning the child, if so provided by another act.

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Article 261

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(Termination of guardianship)

Guardianship of a child shall terminate when the child obtains full capacity to contract, upon adoption or by a court decision where the reasons for guardianship no longer exist.

4. Guardianship of adults

Article 262

(Placing adults under guardianship)

(1) A court shall place a person who for reasons of mental development disabilities or mental health problems or on any other grounds that affect their capacity to decide is not capable to defend their rights and interests on their own, under guardianship and appoint them a guardian.

(2) In the decision on placing a person under guardianship the court shall define the scope of the guardian's obligations and rights.

(3) The court shall immediately send to the social work centre the final decision by which it placed the adult under guardianship and appointed a guardian.

Article 263

(Validity of legal transactions)

The validity of transactions concluded by a ward who should have been represented by a guardian and of transactions concluded without the guardian's consent shall be assessed in accordance with the rules of the law of obligations.


Article 264

(Obligations of guardian)

(1) The guardian shall, within the scope of their obligations and rights, exercise due diligence in caring for the ward's personality while considering the reasons why the person had been put under guardianship, and strive for the implementation of health measures aimed at eliminating these reasons and preparing the ward for independent life and work.

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(2) Protecting the ward's personality means that the guardian shall allow the ward to live, within the limits of their capacities, their lives according to their wishes and perceptions.

Article 265

(Temporary guardian)

(1) Where necessary, the court at which proceedings for placing a person under guardianship are initiated shall place the person for whom the proceedings are initiated under temporary guardianship and shall appoint a temporary guardian. In the same decision the court shall define the scope of the temporary guardian's obligations and rights.

(2) The court shall immediately send to the social work centre the final decision by which it placed a person under temporary guardianship and appointed a temporary guardian.

(3) The obligations of a temporary guardian shall terminate when the court appoints a guardian or when the decision whereby the court establishes the absence of reasons for placing a person under guardianship becomes final.

Article 266

(Termination of guardianship)

If the reasons for guardianship no longer exist, guardianship of a person shall terminate with a court decision.

5. Guardianship in special cases

Article 267

(Appointing a special-case guardian)

(1) A social work centre shall appoint a special-case guardian or a guardian for specific kinds of tasks of an absent person whose residence is unknown and who has no representative, of an unknown property owner, where it is necessary that someone takes care of such property, and also in other cases where this is required for the protection of rights and interests of an individual.

(2) A special-case guardian may not be appointed where the conditions are fulfilled for placing a child under guardianship or the conditions are fulfilled for placing an adult under guardianship, unless otherwise provided by law.

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Article 268

(Appointing a special-case guardian in proceedings at another authority)

In cases referred to in Article 267 of this Code and under the conditions provided by this Code the authority at which the proceedings are conducted may appoint a guardian. This authority shall immediately inform the social work centre thereof. The rights of the social work centre towards this guardian shall be equal to its rights towards a guardian appointed by the social work centre.

Article 269

(Collision guardian)

(1) A social work centre or court shall appoint a collision guardian to a child for whom parents exercise parental responsibility, in cases where their interests are in conflict.

(2) The social work centre or the court shall appoint a collision guardian to a ward in cases where the interests of the ward and the ward's guardian are in conflict.

(3) If the interests of children for whom the same person exercises parental responsibility, or the interests of children who have the same guardian, are in conflict, the social work centre or the court shall appoint a collision guardian for each child.

Article 270

(Protection of a foreign national)

Unless otherwise provided by international treaty, a social work centre or court shall, in accordance with the provisions of this Code, take all necessary steps to protect the personality, rights and interests of a foreign national until the authority of their country takes the necessary action.

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Article 271

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(Termination of special-case guardianship)


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Special-case guardianship shall terminate when the reasons for it terminate.

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6. Procedure

Article 272

(Procedure in guardianship matters)

(1) Whenever a social work centre learns that someone needs to be put under guardianship or be appointed a guardian, it shall immediately take all necessary steps to protect their personality, rights and interests.

(2) In cases where, in accordance with the provisions of this Code a court has jurisdiction to place a person under guardianship and appoint a guardian, the court shall immediately take all necessary steps to protect their personality, rights and interests. In the decision on placing a person under guardianship the court shall define the scope of the guardian's obligations and rights.

(3) Where the social work centre is the initiator of the proceedings referred to in the preceding paragraph it shall indicate in its motion the name of the person the court should appoint as guardian. Where the social work centre is not the initiator of the proceedings referred to in the preceding paragraph it shall, at the request of the court, give its opinion on which natural or legal person the court shall appoint as guardian.

(4) Where the social work centre or the court appoints a guardian for a special case, it shall also define the scope of the guardian's obligations and rights.

(5) The provisions of this Chapter shall apply to any other authority at which proceedings for appointing a guardian are conducted.

Article 273

(Capacity to sue and to be sued)

(1) The social work centre shall enable a child who has attained the age of fifteen and is capable of understanding the meaning and legal consequences of their acts, to perform procedural acts independently as a party to proceedings in accordance with the act governing general administrative procedure, in proceedings concerning the appointment and dismissal of a special-case guardian.

(2) The legal representative of the child referred to in the preceding paragraph may perform procedural acts unless and until the child declares that they will perform procedural acts independently.

(3) A child who has not yet attained the age of fifteen and who is considered by the social work centre as incapable of understanding the meaning and legal consequences of their acts shall be represented by their legal representative.

(4) If there is a conflict of interests between the child and their legal representative, a court shall appoint a collision representative for the child. The social work centre and the court shall also act in the above manner in other cases where, considering the circumstances of the case, they consider this is necessary to protect the best interests of the child.

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Article 274

(Informing the child about the procedure)

(1) The social work centre shall inform a child who is capable of understanding the meaning of the procedure and the consequences of the decision, in an appropriate manner, of the initiation of proceedings and on their right to express their opinion. The social work centre shall conduct an interview with the child, taking into consideration the age of the child and other relevant circumstances. Such interview may also be attended by a person whom the child trusts and whom the child has chosen. This person may help the child express their opinion. The social work centre may prohibit the presence of such person if it considers that the participation of such person in the proceedings would not be in the best interests of the child.

(2) The social work centre worker shall draft a record of the interview. To protect the interests of the child, the social work centre may decide not to allow the child's parents to view the record.

(3) A child who has reached the age of fifteen and has expressed their opinion in proceedings shall be served with the social work centre decision, against which they may lodge an appeal.

Article 275

(Obligation to inform)

The following entities shall have the obligation to inform a social work centre or court that a person needs to be placed under guardianship or that a guardian for a special case should be appointed:

– administrative and other state bodies, holders of public authority, public service providers, local community authorities, employers and non-governmental organisations, where in the exercise of their powers or performance of their work they learn of such case;

– spouse, cohabitant, relatives, members of the household and other persons who learn of such case.

Article 276

(Considering the best interests of the ward)

In deciding on the form of protection to be granted to the ward the social work centre or the court shall consider primarily the needs and the best interests of the ward.

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Article 277

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(Sending the decision and entry in the civil register)

The social work centre or the court shall send the final decision on placing a person under guardianship, appointment of a new guardian or termination of guardianship within fifteen days of the decision becoming final to the administrative unit. The placing under guardianship and termination of guardianship for children and other persons shall be entered in the civil register; the name of the guardian and their personal identification number (EMŠO) shall be entered. Where guardianship is exercised by a legal person, only the name of the legal person shall be entered in the civil register.

Article 278

(Notice in land register)

If the ward has property, the social work centre or the court shall send the final decision on placing a person under guardianship or termination of guardianship within fifteen days of the decision becoming final to the competent court, which shall enter the notice of guardianship or termination thereof in the land register.

Article 279

(Covering of expenses)

(1) Expenses incurred in implementing measures related to guardianship for children and adults in the best interests of wards, and the guardian's fee, shall be covered in the following order from:

- the ward's income;
- funds obtained from persons who are obliged to maintain the ward;
- the ward's property;
- the budget of the Republic of Slovenia.

(2) The provision of the preceding paragraph shall also apply, *mutatis mutandis*, to special-case guardianship.

Part Nine: FAMILY SUPPORT PROGRAMMES

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Article 280

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(Family support programmes)

(1) The aim of family support programmes is to prepare for parenthood, to promote positive parenting and strengthening of parenting competences, as well as improved communication and relations within a family, to promote creative and active spending of leisure time of children and families, easier reconciling of professional and family life, to provide psychosocial assistance to children and parents and other measures to improve the quality of family life.

(2) Family support programmes may be financed in full or in part on the basis of public calls for tenders for periods not exceeding five years.

(3) Where the amount of funds under a contract to finance family support programmes has been set under the assumption that the budget funds earmarked for this purpose shall not be less than at the time when the contract was signed, but was later reduced to an extent which prevents the programme from being performed in the agreed scope, the contract shall be modified in the public interest.

(4) The provider of the family support programme shall ensure premises and staff and meet the requirements concerning technical equipment, appropriate share of financial funds and shall meet other conditions laid down in the public tender.

Part Ten: SOCIETIES AND OTHER ORGANISATIONS OPERATING IN THE PUBLIC INTEREST IN THE FIELD OF FAMILY POLICY

Article 281

(Society operating in public interest)

(1) A society operating in the field of family policy may be granted the status of a society operating in the public interest in accordance with the act governing societies.

(1) The status of a society that operates in the public interest shall be granted to a society if its operation contributes to the development of the field of family policy and if it regularly carries out activities that positively affect the dynamics and development of families.

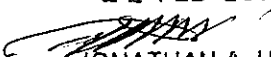
(3) By applying, *mutatis mutandis*, the act governing societies, the status of an entity that operates in the public interest in the field of family policy may be granted, provided that the conditions referred to in the preceding paragraph are fulfilled, also to another legal person governed by private law that is not established for the sole purpose of generating profit and uses any surplus of income over expenditure exclusively to carry out and develop the activities for which it was established.

(4) Detailed criteria for fulfilling the conditions referred to in paragraph two of this Article shall be prescribed by the minister responsible family affairs.

Part eleven: DATABASES

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Article 282



(Application of the act governing personal data protection)

Unless otherwise provided by this Code for individual cases, the provisions of the act governing the protection of personal data shall apply to the collecting, processing, filing, communicating and use of data contained in the records in accordance with this Code.

Article 283

(Databases of personal data)

(1) The ministry responsible for family affairs shall establish the two central databases in the field of adoption and maintenance. In its capacity of administrator of these databases the ministry shall process these data for the purpose of monitoring, planning and developing the relevant fields and for the purpose of scientific research and statistics, and for the purpose of carrying out internal control over the use of these data.

(2) For the purpose of carrying out their tasks in accordance with this Code, the social work centres shall process data from central databases administrated by the ministry responsible for family affairs.

Article 284

(Central database in the field of adoption)

(1) The central database in the field of adoption shall contain databases of personal data on:

- candidates for adoption;
- children in need of adoption;
- biological parents of children in need of adoption;
- completed adoptions in the Republic of Slovenia.

(2) Personal data shall be entered in the databases referred to in the preceding paragraph by social work centres, each for the territory under their jurisdiction.

(3) Social work centres may access the following data contained in the central database: personal data of candidates for adoption from the entire territory of the Republic of Slovenia; by contrast, personal data of children in need of adoption, personal data of parents of children in need of adoption and personal data concerning completed adoptions shall be accessed only for the territory under their jurisdiction.

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Article 285

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(Contents of database of personal data in the field of adoption)

(1) The database of personal data of candidates for adoption shall contain the following:

- date of birth;
- nationality;
- sex;
- data on status (education, employment, self-employment, status of secondary school/university student, retirement, farmer, housewife);
- data on the type of domestic community (marriage, cohabitation, formal civil union, non-formal civil union, single person, divorced person, widowhood);
- date of entry;
- identification number assigned to the candidate or candidates for adoption upon their registration in the information system;
- administrative file number.

(2) The database of personal data of children in need of adoption shall contain the following:

- date of birth;
- nationality;
- sex;
- identification number assigned to the child upon their registration in the information system;
- administrative file number.

(3) The database of personal data of biological parents of children in need of adoption shall contain the following:


- age upon their registration in the information system;
- data on status (education, employment, self-employment, status of secondary school/university student, retirement, farmer, housewife);
- data on the type of domestic community (marriage, cohabitation, formal civil union, non-formal civil union, single person, divorced person, widowhood);
- nationality.

(4) The database of personal data of completed adoptions shall contain the following:

- the reference number and date of the adoption decision;
- date of adoption;
- age of the adoptive parent at the time of adoption;
- age of the child at the time of adoption.

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Article 286

(Central database in the field of maintenance)

(1) The central database in the field of maintenance shall contain databases of personal data on:

- persons eligible for maintenance (spousal support);
- legal representatives of persons entitled to maintenance (spousal support);
- persons liable to pay maintenance;
- maintenance decisions.

(2) Personal data shall be entered in the databases referred to in the preceding paragraph by social work centres, each for the territory under their jurisdiction; they shall also have access to these databases for the territory under their jurisdiction.

Article 287

(Contents of database of personal data in the field of maintenance)

(1) The database on persons entitled to maintenance shall contain the following:

- personal name;
- personal identification number (EMŠO);
- address of permanent residence;
- nationality;
- data on status (education, employment, self-employment, status of secondary school/university student, retirement, farmer, housewife).

(2) The database on legal representatives of persons entitled to maintenance shall contain the following:


- personal name;
- personal identification number (EMŠO);
- address of permanent residence;
- nationality;
- relationship to the person entitled to maintenance (mother, father, guardian, foster parent, other).

(3) The database on persons liable to pay maintenance shall contain the following:

- personal name;

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- personal identification number (EMŠO);
- address of permanent residence;
- nationality;
- relation to the person entitled to maintenance (mother, father, spouse, cohabitant, partner in a formal civil union, partner in a non-formal civil union, child, other).

(4) The database on maintenance decisions shall contain the following:

- amount of maintenance;
- monetary unit;
- reference number and date of the document establishing maintenance;
- date from which the maintenance shall be paid;
- date from which maintenance shall be adjusted;
- data on non-collectability of maintenance;
- identification number assigned to maintenance related to designated persons eligible and liable upon their registration in the information system;

Article 288

(Collecting of personal data)

(1) Personal data shall be collected directly from the individual as well as from official records that are managed in the Republic of Slovenia by authorised authorities and organizations.

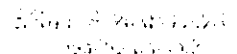
(2) For the purpose of exercising public authority in accordance with this Code the social work centres shall acquire personal data from the existing databases of personal data files from the following administrators:

- the Ministry of the Interior – data on the individual and family members (personal name, date of birth, EMŠO, citizenship, residence, date of death), data on marriages, divorces and registered and terminated partnerships that can be found in the Central Population Register information on residence permits for aliens;
- providers of education and schooling – data on enrolment in education institutions;
- the Ministry of Health, Institute of Public Health and other healthcare providers – data on health status or disability, subject to the written consent of the person concerned;
- the Pension and Disability Insurance Institute of the Republic of Slovenia – data on persons insured and persons entitled to pension and disability insurance rights;
- Public Guarantee and Maintenance Fund of the Republic of Slovenia – data on paid maintenance compensation;
- the Employment Service of the Republic of Slovenia – data on unemployed persons as well as on the date and reasons for cancellation of entries in the records of unemployed persons and reasons for cancellation of material rights payments;

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– social work centres – data from databases kept in accordance with the act governing parental care and family income (personal name, EMŠO of the entitled person and type of right), in accordance with the regulations governing social security (personal name, EMŠO of the entitled person and type of right or service), data on maintenance entered by a social work centre with jurisdiction over another territory (personal name, EMŠO of the entitled person; personal name and EMŠO of the legal representative; personal name and EMŠO of the person liable; amount of maintenance, date of the maintenance decision), data on placement under guardianship and appointment of guardian or special-case guardian in accordance with this Code (personal name and EMŠO of the ward, personal name and EMŠO of the guardian; date the decision of placement under guardianship became final, type of guardianship) and data from databases in accordance with the act governing foster care (personal name and EMŠO of the foster parent; date of placing in a foster family; period of foster care);

– employers – information on employment;

– administrator of the current account register – data on current accounts: number of the account and name of the payment transaction provider holding the current account.

Article 289

(Retention of personal data)

(1) Personal data referred to in Article 285 of this Code shall be retained for five years from the date the court decision on adoption becomes final; personal data referred to in Article 287 of this Code shall be retained for five years from the date the person ceases to be entitled to receive maintenance. After this period the data shall be anonymised.

(2) Documents concerning adoptions that are the basis for entering the adoption in the civil register shall be kept permanently.

Part Twelve: TRANSITIONAL AND FINAL PROVISIONS

Article 290

(Proceedings in matters falling within the jurisdiction of the courts)

(1) Proceedings pursuant to the Marriage and Family Relations Act [*Uradni list RS*], No. 69/04 – official consolidated text, 101/07 – Constitutional Court Decision, 90/11 – Constitutional Court Decision, 84/12 – Constitutional Court Decision and 82/15 – Constitutional Court Decision) initiated pending the application of this Code at the competent courts shall be terminated pursuant to the provisions of the Marriage and Family Relations Act [*Uradni list RS*], No. 69/04 – official consolidated text, 101/07 – Constitutional Court Decision, 90/11 – Constitutional Court Decision, 84/12 – Constitutional Court Decision and 82/15 – Constitutional Court Decision).

(2) If the first instance decision adopted in proceedings referred to in the preceding paragraph is abrogated after the date of application of this Code, the proceedings shall be continued pursuant to the provisions of this Code.

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Article 291

(Proceedings in matters falling within a changed jurisdiction, and legal effects of decisions)

(1) Proceedings in matters that fell within the jurisdiction of social work centres before the date of application of this Code and fall within the jurisdictions of courts pursuant to this Code which were initiated before the date of application of this Code shall be terminated at social work centres pursuant to the provisions of the Marriage and Family Relations Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 69/04 – official consolidated text, 101/07 – Constitutional Court Decision, 90/11 – Constitutional Court Decision, 84/12 – Constitutional Court Decision and 82/15 – Constitutional Court Decision). Appeals against these decisions shall be decided by the ministry responsible for family affairs.

(2) The provisions of this Code shall apply to the legal effect of social work centre decisions that will become final after the date of application of this Code. The day a social work centre decision becomes final shall be deemed to signal the start of the maximum period of validity of the measure as defined for each measure by this Code, unless a shorter period is provided for by a final social work centre decision issued pursuant to the provisions of the Marriage and Family Relations Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 69/04 – official consolidated text, 101/07 – Constitutional Court Decision, 90/11 – Constitutional Court Decision, 84/12 – Constitutional Court Decision and 82/15 – Constitutional Court Decision).

(3) Where the first instance decision is annulled or abrogated in a matter referred to in paragraph one of this Article the proceedings shall be continued at the competent court in accordance with this Code. The social work centres shall refer such cases to competent courts *ex officio*. Records shall be drawn up of the referral of cases and shall be signed by the director of the social work centre which refers the case and the president of the court to which the case is being referred.

Article 292

(Proceedings in matters falling within the jurisdiction of social work centres)

Proceedings pursuant to Article 111 of the Marriage and Family Relations Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 69/04 – official consolidated text, 101/07 – Constitutional Court Decision, 90/11 – Constitutional Court Decision, 84/12 – Constitutional Court Decision and 82/15 – Constitutional Court Decision) initiated by social work centres before the day of application of this Code shall be stayed by a decision.

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Article 293

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(Decisions on extension of parental rights)


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The provisions of this Code shall apply to the legal effect of final court decisions on the extension of parental rights. It shall be deemed that a person who is the subject of an extension of parental rights has the status of a child over the age of 15, except in cases where the court's decision on extension of parental rights has ruled that the person has the status of a child under the age of 15.

Article 294

(Final decisions of social work centres or courts)

(1) The provisions of this Code on measures of a permanent nature shall apply to the legal effect of final decisions of social works centres providing for measures to be implemented by the social work centre, adopted pursuant to the Marriage and Family Relations Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 69/04 – official consolidated text, 101/07 – Constitutional Court Decision, 90/11 – Constitutional Court Decision, 84/12 – Constitutional Court Decision and 82/15 – Constitutional Court Decision). The date of the application of this Code shall be deemed to signal the start of the maximum period of validity of a measure as defined for each measure by this Code, unless a shorter period is provided for by a final social work centre decision issued in accordance with the provisions of the Marriage and Family Relations Act [*Uradni list RS*], No. 69/04 – official consolidated text, 101/07 – Constitutional Court Decision, 90/11 – Constitutional Court Decision, 84/12 – Constitutional Court Decision and 82/15 – Constitutional Court Decision).

(2) The provisions of this Code on measures to protect the interests of the child shall apply to the legal effect of final decisions of courts providing for measures for the protection of the child's property, adopted pursuant to the Marriage and Family Relations Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 69/04 – official consolidated text, 101/07 – Constitutional Court Decision, 90/11 – Constitutional Court Decision, 84/12 – Constitutional Court Decision and 82/15 – Constitutional Court Decision). The day of the application of this Code shall be deemed to signal the start of the maximum period of validity of the measure as defined by this Code, unless a shorter period is provided for by a final court decision issued pursuant to the provisions of the Marriage and Family Relations Act [*Uradni list RS*], No. 69/04 – official consolidated text, 101/07 – Constitutional Court Decision, 90/11 – Constitutional Court Decision, 84/12 – Constitutional Court Decision and 82/15 – Constitutional Court Decision).

Article 295

(Decision on deprivation of capacity to contract)

(1) The provisions of this Code shall apply to the legal effect of final court decisions on full or partial deprivation of the capacity to contract. A person who had been fully deprived of their capacity to contract in compliance with the provisions of the Non-Litigious Civil Procedure Act (Official Gazette of the socialist Republic of Slovenia [*Uradni list SRS*], Nos 30/86 and 20/88 – Corr., Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 87/02 – SPZ, 77/08 – ZDZdr and 10/17 – ZPP-E) shall be deemed to be placed under guardianship and may not enter into legally binding relations independently. A person who had been partially deprived of their capacity to contract in compliance with the provisions of the Non-Litigious Civil Procedure Act (Official Gazette of the socialist Republic of Slovenia [*Uradni list RS*], Nos 30/86 and 20/88 – Corr., Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 87/02 – SPZ, 77/08 – ZDZdr and 10/17 – ZPP-E) shall be deemed to have the status of a child over 15 years of age, unless decided otherwise by the competent authority.

(2) Full deprivation of the capacity to contract as defined in other regulations shall mean the placing of a person under guardianship pursuant to this Code so that such person may not enter into legally binding relations independently. Partial deprivation of the capacity to contract as defined in other regulations shall mean the placing of a person under guardianship pursuant to this Code so that such person may not enter into certain legally binding relations or may enter into certain binding relationships only with the guardian's approval.

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Article 296

(Validity of provisions on adoption)

(1) Adoptions completed in accordance with the provisions in force before 1 January 1977 shall be subject to these provisions unless they were converted into adoptions in accordance with the Marriage and Family Relations Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 69/04 – official consolidated text, 101/07 – Constitutional Court decision, 90/11 – Constitutional Court decision, 84/12 – Constitutional Court decision and 82/15 – Constitutional Court decision).

(2) During the existence of an adoption completed before 1 January 1977, marriage between the adoptive parent and the adopted child may be concluded only if authorized by a court. Adoption shall terminate upon marriage between the adoptive parent and the adopted child.

Article 297

(Assessment of maintenance for children placed in foster care or institution)

(1) Within one year of the date of application of this Code the State Attorney's Office shall request the court to decide on the maintenance obligations of parents in accordance with Article 184 of this Code for those children who had been placed in foster care or an institution before the day of application of this Code and for whom maintenance has not yet been assessed.

(2) Within one year of the date of application of this Code the social work centres shall send the State Attorney's Office the data on matters within their jurisdiction referred to in the preceding paragraph. The social work centres shall send the State Attorney's Office the following data for each case: personal names of the child and parents, personal identification number (EMŠO) of the child and parents, permanent or temporary residence address of parents, data on the institution or the foster family in which the child is placed (name of the institution or personal name and residence address of the foster parent) and other data in their possession that are necessary for the carrying out of powers referred to in the preceding Article.

Article 298

(Date of application of decision on child's right to advocate)

The child's right to an advocate referred to in Article 182 of this Code shall apply by the date of application of the special act provided for in paragraph two of Article 182 of this Code.

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Article 299

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(Period for establishing the register and central databases)

The register referred to in Article 90 of this Code and the central databases referred to in Articles 284 and 286 of this Code shall be established before the date of application of this Code.

Article 300

(Entry in database)

(1) The social work centres shall enter those persons for whom they have established before the day of application of this Code that they fulfil the conditions for adoptive parents in accordance with the Marriage and Family Relations Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 69/04 – official consolidated text, 101/07 – Constitutional Court Decision, 90/11 – Constitutional Court Decision, 84/12 – Constitutional Court Decision and 82/15 – Constitutional Court Decision) in the database referred to in paragraph one of Article 285 of this Code. The date of lodging the application with a social work centre shall be considered the date of entry in the database.

(2) The social work centres shall enter the children for whom they have established before the day of application of this Code that they are in need of adoption in accordance with the Marriage and Family Relations Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 69/04 – official consolidated text, 101/07 – Constitutional Court Decision, 90/11 – Constitutional Court Decision, 84/12 – Constitutional Court Decision and 82/15 – Constitutional Court Decision) in the database referred to in paragraph two of Article 285 of this Code.

Article 301

(Implementing regulations)

The minister responsible for family affairs shall issue the regulations referred to in paragraph three of Article 34, Article 41, paragraph four of Article 204, the fourth indent of paragraph one and fifth indent of paragraph two of Article 207, Article 211, paragraph two of Article 246, paragraph four of Article 250 and paragraph four of Article 281 of this Code by the date of application of this Code.

Article 302

(End of validity of provisions of other acts)

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(1) On the day this Code enters into force, Articles 41 and 42 of the Infertility Treatment and Procedures of Biomedically-Assisted Procreation Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 70/00) shall cease to be in force, however, they shall apply until the date of application of this Code.

(2) On the day this Code enters into force, Article 88 of the Social Assistance Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*] Nos 3/07 – official consolidated text, 23/07 – Corr., 41/07 – Corr., 61/10 – ZSVarPre, 62/10 – ZUPJS, 57/12, 39/16 and 52/16 – ZPPreb-1) shall cease to be in force.

Article 303

(End of validity)

On the day this Code enters into force the Marriage and Family Relations Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 69/04 – official consolidated text, 101/07 – Constitutional Court Decision, 90/11 – Constitutional Court Decision, 84/12 – Constitutional Court Decision and 82/15 – Constitutional Court Decision) shall cease to be in force, however, it shall apply until the date of application of this Code.

Article 304

(End of validity of implementing regulations)

(1) On the day this Code enters into force the following implementing regulations shall cease to be in force:

– Rules on entering into marriage (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 67/13 and 32/15;

– Rules on methods and contents of counselling (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 41/89);

– Rules on initial inventory and evaluation of the property of persons under guardianship and on guardianship reports (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 18/89);

(2) The provisions referred to in the preceding paragraph shall apply pending the application of new implementing regulations.

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Article 305

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(Entry into force and date of application)

This Code shall enter into force on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia, and shall begin to apply two years after it enters into force, with the exceptions of:

– Articles 17, 18, 19, 280 and 281, which shall apply from the day of entry into force of this Code,

– Articles 30 and 41, which shall apply from 1 January 2018, and

– Article 144, which shall apply, *mutatis mutandis*, from the day of entry into force of this Code to any court or administrative proceedings carried out pursuant to the Marriage and Family Relations Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 69/04 – official consolidated text, 101/07 – Constitutional Court Decision, 90/11 – Constitutional Court Decision, 84/12 – Constitutional Court Decision and 82/15 – Constitutional Court Decision).

No. 542-08/16-14/45

Ljubljana, 21 March 2017

EPA 1682-VII


National Assembly
of the Republic of Slovenia

Primož Hainz, m.p.

Vice-President

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LAW ON MARRIAGE AND FAMILY RELATIONS
(corrected text)

Part one

INTRODUCTORY PROVISIONS

Article 1

This law shall regulate marriage, relations between parents and children and among other relatives, adoption, fostering and the protection of the rights and benefits of young children and other persons who are not capable of taking care of themselves.

Article 2

A family is a living community of parents and children which, because of the benefit of children, experiences special social protection.

Article 3

- (1) Marriage is a legally regulated living community of a man and a woman.
- (2) The social importance of marriage is in planning a family.

Article 4

- (1) Parents shall have the right and obligation to ensure through direct care, by their work and social activities, the successful physical and mental development of their children.
- (2) In order to provide healthy growth, well-adjusted personal development and the capacity for independent life and work, parents shall have the right and obligation to care for the subsistence, personal development, rights and benefits of their young children. These rights and responsibilities shall compose parental rights.
- (3) Parental rights belong to the father and mother together.

Article 5

Rights and responsibilities of children to their parents and relatives and the rights and responsibilities of parents and relatives to children are the same irrespective of whether the children are born within matrimony or outwith it.

Article 5 a

- (1) In all activities and procedures affecting a child, parents, other persons, state authorities and bearers of public authority must act in the child's interest.
- (2) Parents act in the child's interest if they satisfy his material, emotional and psychosocial needs by a treatment that is accepted and approved by society, and which manifests their concern and responsibility for the child, taking account of his personality and desires.

Article 6

The state shall provide protection of young children whenever their healthy development is threatened or whenever this is required for another benefit of the child.

Article 7

Adoption, as a special form of protection of young children, shall create the same relations between adopter and adoptee as between parents and children.

Article 8

Fostering is a special form of social protection of children for whom care and upbringing are required by persons who are not their parents.

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Article 9

(1) Guardianship is a special form of social protection of young persons whose parents do not take care of them, or legally mature persons who are not capable of looking after their rights and benefits themselves.

(2) Under the provisions of this law, protection shall also be provided to other persons who have not themselves the possibility of looking after their own rights and benefits.

Article 10

Conditions for care and assistance to families under this Act shall be provided by the state.

Article 10 a

(1) When deciding on matters of this Act which, according to this Act, fall under the jurisdiction of the court, district courts have jurisdiction over the subject matter in the first instance.

(2) On matters referred to in the preceding paragraph, the court shall decide in a civil procedure, unless stipulated by law that it shall give its ruling in a non-litigious procedure.

(3) Matters of this Act shall be subject to priority decision by the court.

Article 10 b

(1) Social work centres shall be competent to rule on administrative matters under this Act.

(2) The ministry responsible for family affairs shall decide on appeals against the decisions of social work centres.

(3) Administrative matters of this Act shall be subject to priority decision.

Article 11

In performing the tasks stipulated by this Act, social work centres shall cooperate with natural persons and with legal entities such as institutions and concessionaries in the fields of social care, education and health care, with local communities, companies, societies, institutions, judicial and other state authorities, police, other professional services, and humanitarian or other non-governmental organisations.

Article 12

(1) A durable living community of a man and a woman who have not concluded marriage, shall have the same legal consequences for them under this Act as if they had concluded marriage, provided there is no reason by which marriage between them would be invalid; in other fields, such a community shall have a legal consequence if the law so determines.

(2) If a decision on rights or responsibilities is dependent on the question of the existence of a living community under the previous paragraph, a decision on this question shall be made in a proceeding for establishing these rights or responsibilities. A decision on this question shall have legal effect only in the matter in which this question was resolved.

Part two

MARRIAGE

1. General provisions

Article 13

Marriage shall be founded on the free decision to conclude a marital bond, on a feeling of attachment on both sides, mutual respect, understanding, trust and mutual assistance.

Article 14

The spouses are equal in a marriage.

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Article 15

The state shall, through systems of upbringing and education, health and social security, enable people to be prepared for well-adjusted family life, and shall help them in their inter-relations and in exercising their parental rights.

2. Conditions for concluding and the validity of marriage

Article 16

In order to conclude a marriage, it is necessary for two persons of different sex to state before a competent body, in a manner determined by law, their agreement to conclude the marriage.

Article 17

- (1) A marriage shall not be valid without the free consent of the future spouses; there is no free consent if the consent has been forced or given in error.
- (2) Consent is forced if the spouse consented to conclude marriage out of fear caused by real threat.
- (3) Consent is given in error in relation to the person of a spouse, if the spouse thought she or he was concluding marriage with the real person but concluded marriage with someone else, or concluded marriage with a specific person but not the person they pretended to be.
- (4) Consent is given in error about the essential properties of a spouse if, from the conclusion of marriage, the other partner were to refuse to recognise it, and to make joint life unbearable.

Article 18

Marriage may not be concluded by persons below the age of eighteen.

Article 19

Marriage may not be concluded by persons who are seriously mentally disturbed or legally incompetent.

Article 20

Nobody may conclude a new marriage until their previously concluded marriage is terminated or annulled.

Article 21

Marriage may not be concluded between persons who are directly related, not brother and sister, half-brother and half-sister, uncle and niece, aunt and nephew, and also not the children of brothers or sisters, half-brothers or sisters. This does not apply to relations which are created by adoption, except between adopter and adoptee.

Article 22

Marriage may not be concluded between a guardian and his or her ward so long as the guardianship shall last.

Article 23


Social work centre may if there are well founded reasons for this allow the concluding of marriage between the children of siblings, between the children of half-siblings, between a guardian and ward, and (by) person who is not yet 18 years of age.

Article 24

Prior to a social work centre allowing a young person to conclude marriage under article 23 of this Act, it must interview them, the person with whom they intend to conclude marriage, and the (young person's) parents or guardians.

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3. Form of concluding marriage

Article 25

Persons who intend to conclude marriage shall report to the registrar who keeps the register of marriages in the settlement in which they wish to marry.

Article 26

- (1) In the declaration, the persons who intend to conclude marriage shall declare that they are concluding marriage freely and that they fulfil the conditions for a valid marriage.
- (2) They shall append to the declaration an extract from the register of births and a notification of citizenship if such data cannot be ascertained from official records.
- (3) If the marriage has been permitted under article 23 of this Act, they shall append to the declaration the decision of the social work centre.
- (4) Any person who has been previously married must submit evidence that the previous marriage has terminated or has been annulled.

Article 27

- (1) The registrar shall draw the attention of the persons who intend to conclude marriage to the conditions for a valid marriage and ascertain whether these conditions are met.
- (2) If it is ascertained that the conditions for a valid marriage under this Act are not met, the municipal administrative body which keeps the register of marriages shall refuse by written decision to conclude the marriage.

Article 28

- (1) A marriage shall be concluded before an authorised person of the municipal assembly in the presence of the registrar.
- (2) A marriage shall take place in a public ceremony, in specially defined premises.
- (3) Marriages may also take place in other places if this is requested by the future marital couple, stating a significant reason for this.

Article 28 a

- (1) The means for conducting the procedure of concluding a marriage referred to in the preceding article shall be provided in the budget of the Republic of Slovenia.
- (2) The minister responsible for family affairs shall, in agreement with the minister responsible for administration, determine the conditions that must be met by the authorised person referred to in the first paragraph of the preceding article, the minimum standards for official premises and their equipment, the manner and procedure of public and solemn conclusion of marriage, the amount and method of payment of the authorised person and the registrar, and other issues concerning the conclusion of marriage.

Article 29


- (1) In order to conclude a marriage, the presence of the prospective marital couple, two witnesses, authorised personnel of the municipal assembly and the registrar, is required.
- (2) Any person with business competence may be witness to a marriage.

Article 30

In specific cases, the municipal administrative body responsible for keeping the register of marriages for the settlement in which the marriage is concluded, may permit marriage by proxy. In concluding the marriage, only one of the future partners may be represented by a proxy. The proxy must have authority issued in the form of a public document; and it must be precisely stated in it the person with whom the person giving authority intends to conclude marriage. The marriage by proxy must be concluded within three months from the issuing of the authority.

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Article 31

(1) An authorized person of the municipal assembly shall ascertain on the basis of documents and the statements of witnesses and the prospective couple that they are the persons who registered the intention to conclude marriage.

(2) The authorized person of the municipal assembly shall then read the provisions of article 14 and the provisions of articles 44 to 50 of this Act, on the rights and obligations of a marital couple, and shall then ask each of the prospective couple individually whether they wish to conclude marriage with the other.

(3) If both prospective partners reply in the affirmative, the authorized person of the municipal assembly shall declare that marriage between them is concluded.

4. Invalidity of a marriage

Article 32

A marriage which is concluded in conflict with the provisions of articles 16, 17, 18, 19, 20 and 21 of this Act shall be invalid.

Article 33

A marriage shall be validly concluded if only minor violations of form have occurred in concluding the marriage.

Article 34

A marriage that has taken place without the presence of the two betrothed or one of the betrothed and a proxy (article 30), shall be invalid.

Article 35

A marriage which has been concluded without the intention of the marital pair to live together shall not be valid.

Article 36

(1) The right to appeal for the annulment of a marriage concluded in conflict with the provisions of articles 16, 19, 20, 21, 34 and 35 of this Act shall appertain to the marital couple and anyone who has a direct legal interest in the annulment of the marriage.

(2) In cases in which a marriage has been concluded in conflict with the provisions of articles 16, 19, 20 and 21 of this Act, the public prosecutor may also file an appeal for the annulment of the marriage.

(3) On the ending of severe mental disability or incompetence, an appeal for the annulment of a marriage concluded during the duration of the severe mental disability or incompetence of either of the couple, may only be lodged by one or other of the partners.

(4) An appeal for the annulment of a marriage for the reasons mentioned in the first paragraph of this article, may also be lodged after the termination of the marriage.

(5) The right to appeal for annulment of a marriage in cases under the first, second and third paragraphs of this article shall not be restricted by time.

Article 37

A new marriage concluded during the time when a previous marriage of either of the partners remains valid shall not be annulled if the previous marriage has been terminated or if the previous marriage is annulled.

Article 38

A marriage concluded between relatives, between whom marriage is allowed also with the permission of a social work centre, shall remain valid if the court before which the proceedings for annulment of the marriage are being heard finds that circumstances exist because of which permission could be given for concluding a marriage.

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Article 39

- (1) The annulment of a marriage which was forced or concluded in error may be demanded only by the partner who was forced or who consented to the marriage in error.
- (2) The annulment of a marriage may not be demanded if a year has passed since the day on which the force or the error was recognised, and the couple have lived together for this time.

Article 40

On the appeal of parents or guardians, a court, having considered all the circumstances, may annul the marriage of a person under the age of eighteen which has been concluded without the permission of a social work centre.

Article 41

The right to appeal for the annulment of a marriage does not carry forward to heirs, but heirs may continue already commenced appeal proceedings.

Article 42

- (1) If a marriage is annulled, it ceases to have effect from the day of the annulment.
- (2) In the finding of the court by which the marriage has been annulled, the court shall determine whether either of the partners knew of the reasons because of which the marriage was not valid.

Article 43

In relation to property relations and gifts between partners, the same provisions shall apply in the annulment of a marriage as in divorce.

5. Rights and obligations of spouses

Article 44

The partners to a marriage are bound to mutual respect, trust and assistance.

Article 45

The married couple shall freely decide on the birth of children. They shall have the same rights and obligations (as each other) to children.

Article 46

Each of the partners shall freely choose a profession and work.

Article 47

The couple shall decide the place of residence by agreement.

Article 48

The couple shall decide joint matters by agreement.

Article 49

The partners shall contribute to the subsistence of the family in proportion to their possibilities.

Article 50

A spouse who does not have the means of subsistence and through no fault of their own is unemployed or is unfit for work, has the right to be supported by the other partner insofar as this is within their power.

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Article 50 a

For maintenance relations between spouses during their marriage and for maintenance relations between spouses after the termination of their cohabitation, the provisions on maintenance of spouses after a divorce shall apply mutatis mutandis.

6. Property relations between spouses

Article 51

- (1) Property which a spouse has at the time of concluding the marriage remain his or her own property and she or he shall dispose of it freely.
- (2) Property which the spouses obtain by work during the period of the marriage shall be their joint property.

Article 52

- (1) The joint property of the spouses shall be managed and disposed of jointly and by agreement.
- (2) The spouses may agree that only one of them shall administer this property or parts of it or that she or he manages and also disposes of it, respecting the interest of the other spouse.
- (3) Either of the spouses may withdraw from such an agreement at any time, but they may not do this at an unfavourable time.

Article 53

Unless otherwise agreed, the spouse to whom management has been entrusted may in the framework of regular management also dispose of common property or its parts.

Article 54

A spouse may not dispose of his unspecified share of the joint property by legal business during their lives, and in particular, she or he may not expropriate or burden it.

Article 55

Rights to real estate which is the joint property of the spouses shall be inscribed in the land register in the name of both of the spouses as their joint property by unspecified share.

Article 56

- (1) A spouse shall be responsible with their private assets and their own share of joint assets for obligations which the spouse had prior to concluding the marriage and obligations which she or he took on after concluding the marriage.
- (2) Both spouses shall be responsible jointly and individually with their assets for obligations which appertain to both spouses according to general regulations, for obligations created in connection with joint assets and for obligations which one spouse takes on for the current needs of the family.
- (3) A spouse shall have the right to claim from the other spouse the refund of the sum over and above their share which they have paid in forced settlement of a joint debt.

Article 57

- (1) A creditor may demand on the basis of a legally binding decision that a court determine the share of common assets of a debtor and then demand forced settlement on that share.
- (2) If in proceedings of forced settlement the sale of the share which a spouse has in joint assets is allowed, the other spouse has the right before all other buyers to purchase this share at a price which shall be determined by regulations on forced settlement.

Article 58

- (1) Joint assets shall be divided if the marriage ceases or is annulled.

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(2) For the duration of the marriage, joint assets may be divided by agreement or at the demand of one or other of the spouses.

Article 59

(1) In the division of joint assets, it shall be considered that the share of the spouses of the joint assets is equal, but the spouses may prove that they contributed to the joint assets in another proportion.

(2) In a dispute on the amount of the share of each of the spouses of the joint assets, a court shall consider not only the income of each of the spouses but also other circumstances, such as the assistance which the spouse gives the other spouse, the care and upbringing of the children, performing household work, care in maintaining property and any other form of work and cooperation in managing, maintaining and increasing the joint assets.

Article 60

Spouses may themselves decide on the level of share of joint assets, or request that a court determine such shares. After establishing the shares of joint assets, these shall be divided at the proposal of the spouses according to rules which apply to the division of joint property.

Article 61

(1) Prior to establishing the share of each of the spouses in joint assets, the debts and claims of the spouses against these assets shall be established.

(2) During the division of the joint assets, primarily those objects which are intended for carrying on his or her trade or profession and enable him or her to obtain personal income, and objects meant exclusively for their own personal use shall be awarded to a spouse at their own request against their share.

Article 62

(1) The spouses may conclude between them any legal business that may also be concluded with other persons, and establish rights and obligations on that basis.

7. Terminating marriage

Article 63

Marriage terminates with the death of one of the spouses, with the promulgation of the death of one of the spouses and with divorce.

Article 64

(1) The court shall grant a divorce on the basis of an agreement by the spouses, provided that they have come to an understanding on the care, upbringing and subsistence of joint children, and their contact with both parents, in accordance with the provisions of this Act, and if they have submitted, in the form of an enforceable notarial record, an agreement on the division of their joint property, on which of them shall remain or become the tenant of their apartment, and on the maintenance of the spouse who has no means of subsistence and is unemployed without fault.

(2) Before the court grants a divorce, it should establish whether the care, upbringing and subsistence of joint children, and their contact with the parents, have been provided for by an agreement between the spouses and to the benefit of the children, and seek the opinion of a social work centre thereon. The court shall also consider the child's opinion if it is expressed by the child himself, or by a person the child trusts and who has been chosen by the child himself, and provided the child is capable of understanding its meaning and consequences.

Article 65

If the marriage is unbearable for whatever reason, either of the spouses may sue for divorce.

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Article 66
(ceased to be valid)

Article 67
(ceased to be valid)

Article 68
After receipt of a proposal for an agreed divorce or the filing of suit for divorce, prior to calling the parties before it, the court shall send the proposal or suit to the social work centre for it to carry out a consultative discussion.

Article 69
(ceased to be valid)

Article 70
(1) The spouses shall take part in a consultative discussion without proxies.
(2) The social work centre shall report to the court on the consultative discussion.
(3) More detailed regulations on the procedure and content in carrying out the consultative discussion shall be issued by the minister responsible for family affairs.

Article 71
(1) If the spouses have proposed an agreed divorce, but have not come to the consultative discussion, it shall be considered that the proposal for an agreed divorce has been withdrawn. Equally, it shall be considered that a divorce suit has been withdrawn if the one filing suit did not come to the consultative discussion.
(2) Irrespective of the provisions of the previous paragraph, a court may exceptionally continue divorce proceedings for well founded reasons.

Article 72
(ceased to be valid)

Article 73
(ceased to be valid)

Article 74
(ceased to be valid)

Article 75
(ceased to be valid)

Article 76
(ceased to be valid)

Article 77
(ceased to be valid)

Article 78
(1) When the court grants a divorce on the basis of article 65 of this Act, it shall also decide on the care, upbringing and subsistence of joint children, and their contact with the parents, in accordance with this Act.
(2) Before the court reaches a decision under the preceding paragraph, it should establish the best way of protecting the child's interest. It should seek the opinion of a social work centre on the matter. The court shall also consider the child's opinion if it is expressed by the

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