

## **Law on Family 1992/80**

### **Article 1**

This law regulates the marriage and family, the relationships in the marriage and family, certain forms, special protection of the family, adoption, guardianship, sustenance, as well as the court procedure in marriage and family suits.

### **Article 2**

**Paragraph 1** The family is a living community of parents and children and other relatives provided they live in a common household.

**Paragraph 2** The family shall come to existence with the birth of children and adoption.

### **Article 3**

**Paragraph 1** The relationships in a family shall be based on equality, mutual respect, mutual assistance and sustenance and protection of the interests of the minor children.

### **Article 4**

**Paragraph 1** The Republic shall provide special protection for the family, maternity, children, minor children, children without parents and unaccompanied children.

### **Article 5**

**Paragraph 1** The Republic shall establish and provide scientific, economic and social conditions for family planning and free and responsible parenthood.

**Paragraph 2** In the exercise of the right of free and responsible parenthood, the parents are obliged to provide optimal conditions for healthy growth and development of their child in the family and the society.

### **Article 6**

Marriage is a living community of a man and a woman regulated by law, by which the interests of the spouses, the family and the society are being realised.

The relationships between the spouses are based on the free decision of the husband and the wife to stipulate a marriage, on their equality, mutual respect and mutual assistance.

### **Article 7**

**Paragraph 1** The Parenthood shall come to happen with the birth and adoption.

**Paragraph 2** The repudiation and establishment of parenthood shall be allowed under the conditions and in a manner established with this law.

### **Article 8**

**Paragraph 1** The parents shall have equal rights and duties towards their children (parental right).

**Paragraph 2** The relationships between parents and children shall be based on the rights and duties of the parents to see to the upbringing, care, and education of their children and to develop their working capabilities and habits.

**Paragraph 3** The parental right shall be exercised jointly by the parents in accordance with the needs and interests of the children and the interests of the social community.

**Paragraph 4** The parent may be deprived of or limited in the exercise of the parental right under conditions prescribed by this law.

### **Article 9**

**Paragraph 1** The rights and duties of the parents and other relatives towards children, as well as the rights and duties of the children towards parents and other relatives shall be equal, regardless of whether the children have been born in or out of wedlock.

**Article 10**

**Paragraph 1** The parental right shall cease with the majority of the child or in other manner prescribed by this law.

**Paragraph 2** The majority shall be attained with completed 18 years of age, when the major person acquires his/her working competence.

**Article 11**

**Paragraph 1** The sustenance is the right and duty of the parents, children and other relatives regulated by this law, as well as of the persons who live in or out of wedlock.

**Paragraph 2** Should the sustenance not be possible to be obtained from the persons of paragraph 1 of this Article, to the unprovided members of the family, the Republic shall provide sustenance means, under conditions regulated by law.

**Article 12**

**Paragraph 1** The Republic shall provide protection through guardianship for children without parents, minor unaccompanied children, and to major persons, under conditions and in a manner regulated by this law.

**Article 13**

The living community of a husband and a wife, which has not been established according to the provisions of this law (out of wedlock) and has endured at least one year, is equal to the marriage community in terms of the right to mutual sustenance and the property acquired during the time of endurance of that community.

**Article 14**

**Paragraph 1** The issues related to the special protection and assistance to the family, adoption, as well as the guardianship issues, regulated by this law, are dealt with by a Center for Social Work, with the methods of expert, advisory and counseling interdisciplinary team work.

**Paragraph 2** For the issues of paragraph 1 of this Article, the Centre for Social Work, shall apply the provisions of the General Administrative Procedure Act.

**Paragraph 3** The Ministry of Labour and Social Policy shall decide on the complaints lodged against the decisions of the Centre for Social Work.

**Paragraph 4** The complaint against the decision of the Centre for Social Work, shall not withhold the execution of the latter.

**Article 15**

A marriage may be stipulated by two persons of different gender with a freely expressed will before a competent authority, in a manner stipulated by this law.

**Article 16**

**Paragraph 1** A person who has not reached 18 years of age cannot stipulate a marriage.

**Paragraph 2** The competent court, in a non-suit procedure, shall allow to a person who has reached 16 years of age to stipulate a marriage, if it has established that the person has reached the required the bodily and mental maturity for the exercise of the rights and duties which come to happen in a marriage, and upon previously obtained opinion of a Medical Institution and afforded professional advice in the Centre for Social Work.

**Article 17**

A person can not stipulate a new marriage, unless the previously stipulated marriage has terminated.

**Article 18**

Persons who due to a manifesting form of mental illness with a presence of psychotic symptoms and residual sings of illness can not comprehend the marriage and the obligations that derive from it, and are at the same time incapable of reasoning, can not stipulate a marriage.

Persons who lag behind in the mental (psychological) development and belong to the group of persons with serious and gravest form of mental retarding IQ below 36° can not stipulate a marriage.

The persons who are enlisted as persons with mild mental disabilities or with slight mental disabilities, as well as persons who have grave hereditary illnesses, may stipulate a marriage after a previously obtained opinion of the genetic construction by the Institution for Mental Health of Children and Youth Skopje or other adequate institution carrying out genetic research.

**Article 19**

The marriage shall not be valid, when the consent for stipulating the marriage is given by force or by mistake.

**Article 20**

Blood relatives in the same line may not stipulate a marriage (grandfather, grandmother, mother, father and grandchildren), as well as biological brothers and sisters, brother and sister by father, i.e. by mother, uncle and his brother's nephew, uncle and his sister's child, aunt and her brother's child, aunt and her sister's child, nor first cousins.

Persons whose relation from the previous paragraph is based on adoption cannot also stipulate a marriage.

**Article 21**

Father in law and daughter in law, son in law and mother in law, step father and step daughter, step mother and step son, regardless of whether the marriage, owing to which they have become such relatives has terminated, cannot stipulate a marriage.

Due to justified reasons, the competent court may allow the relatives from paragraph 1 of this article to stipulate a marriage between themselves in a out of court procedure.

**Article 22**

The out of wedlock relationship represents an obstacle for stipulating a marriage as well as the wedlock relationship.

**2. Procedure for stipulating a marriage**

**Article 23**

The persons who intend to stipulate a marriage shall submit an application to the administrative body competent for keeping the marriage books.

The application for stipulating a marriage may be given in a written form or verbally by minutes.

Along with the application, the future spouses shall submit a birth certificate, certificate indicating that they have visited the pre-marriage and marriage counseling service at the Centre for Social Work, when stipulating a marriage for the first time and other necessary documents (a statement authorising the stipulation of the marriage, a proof that the previous marriage has terminated, authorization, etc.)

**Article 24**

The marriage registrar shall ensure, based on the statement of the persons who would like to stipulate a marriage, and if required in a different manner, whether there is are any legal constraints for the stipulation of the marriage.

The marriage registrar has the duty to decline the stipulation of the marriage by a decision, if he determined that according to the law, the stipulation of the marriage is not permitted.

The persons who have submitted an application for stipulating of a marriage may lodge a complaint against the decision of paragraph 2 of this Article within a period of eight days following the day of receipt of the decision to the administrative authority competent for keeping the marriage books.

The person supervising the administrative authority competent for keeping the marriage books shall decide upon the complaint against the decision of paragraph 2 of this Article.

#### **Article 25**

The marriage registrar and the persons who wish to stipulate a marriage shall determine the date and time of stipulating the marriage.

#### **Article 26**

The stipulation of the marriage shall be done in a formal manner and in a specially determined official room.

Upon request of the persons who wish to stipulate a marriage, the marriage can be stipulated in another place, given that there are justified reasons for this.

#### **Article 27**

The marriage shall be stipulated in the presence of the persons who wish to stipulate a marriage, the committee member of the municipal assembly determined by the municipality, two witnesses and the marriage registrar.

#### **Article 28**

In exceptionally justified cases, the competent authority for keeping the marriage books may permit for the marriage to be stipulated only with the presence of one of the future spouses and the proxy of the other spouse.

The proxy note contains personal data about the person authorizing the proxy note, the proxy and person with whom the person authorizing the proxy note wants to stipulate a marriage.

The proxy note is given in the form of public document.

#### **Article 29**

The stipulation of a marriage begins by a report of the marriage registrar that the applicants are present and that on the basis of the documents, the statements of the future spouses and the witnesses, it has been determined that there are no obstacles for stipulating of the marriage.

If the marriage is stipulated through a proxy, the proxy note issued in the sense of Article 28 of this Law is being read.

Once the committee member of the municipal assembly has determined that there is no objection to the report of the marriage registrar, he shall make the future spouses familiar with the meaning of marriage and the rights and obligations that derive from it. Then he asks each future spouse separately whether he/she agrees to stipulate a marriage with his/her future spouse.

The marriage registrar shall write the statement by the future spouses declaring that they agree to stipulate the marriage in the marriage registry book, where the future spouses, the committee member of the municipality, the witnesses and the marriage registrar shall sign.

The marriage is stipulated once the future spouses have signed in the marriage registry book

After the two future spouses have signed in the marriage registry book, the committee member of the municipality shall pronounce that the marriage has been stipulated between the husband and wife, recorded with their personal names.

Immediately following the registration into the marriage registry book, the spouses shall be issued a marriage certificate.

**Article 30**

The marriage stipulated by religious customs does not have legal consequences.

**II. RIGHTS AND OBLIGATION OF THE SPOUSES**

**Article 31**

When stipulating the marriage, the spouses may agree to take as surname the surname of the one or the other spouse, or each spouse may keep his/her surname, or each spouse may add the surname of the other spouse to this surname or one of the spouses can take the surname of the other spouse and add his own surname to that surname.

**Article 32**

Each spouse is independent in the choice of his/her profession and occupation.

The spouses decide by mutual consent about their mutual place of living and about the managing of the mutual household.

**Article 33**

The spouses, each according to his/her abilities make sure to satisfy the need of the family.

**III. TERMINATION OF A MARRIAGE**

**Article 34**

The marriage terminates with the death of one of the spouses, by declaring the missing spouse dead, by annulment and by divorce.

If one of the spouses is declared dead, the marriage is terminated with the day, which by an effective court decision is determined as the day of his/her death.

The marriage is terminated by annulment and by divorce, when the annulment verdict shall go into effect.

**1. Annulment of a marriage**

**Article 35**

The marriage shall be annulled, if it has been determined that during its stipulation, a certain martial obstacle was present foreseen in Articles 16 to 22 of this law.

**Article 36**

Annulment of a marriage can be requested by one of the spouses, the public prosecutor, as well as a physical or legal entity that has legal interest in it, if it not been otherwise determined by this law.

Annulment of a marriage stipulated under coercion can be requested only the spouse, who had been coerced to stipulate the marriage. A complaint can be lodged within a time limit of one year, when the danger of execution of the coercion has stopped.

Annulment of a marriage stipulated by misbelief can be requested only by the spouse, who in misbelief had agreed to stipulate the marriage. A complaint can be lodged within a time limit of one year following the day of discovering the misbelief.

**Article 37**

The right to lodge a complaint for annulment of the marriage does not pass on to the inheritors of the plaintiff, but they can continue with the instigated proceedings.

**Article 38**

Court charges for annulment of marriage, for reasons provided for in Articles 16-22 of this law, except in cases of coercion, misbelief, as well as minority, may be brought after the termination of the marriage.

**Article 39**

**Paragraph 1** The marriage may be divorced by way of mutual consent of the spouses.

**Paragraph 2** Should the spouses have common minor children or major children to whom their parental right has been extended it shall be necessary for them to submit<sup>1</sup>

**Article 40**

The marriage may be divorced by request of one of the spouses, if the marriage relations have been disturbed to the extent that the mutual life became unbearable.

**Article 41**

The spouse can request a divorce of the marriage if the marriage community had in fact terminated longer than a year ago.

**Article 42**

In case of divorce or annulment of the marriage, each of the previous spouses shall keep the surname that he/she holds or may ask to change of that surname.

**Article 43**

A final verdict for divorce or annulment of the marriage, shall be delivered by the court to the administrative authority competent for keeping the register of marriages, within 30 days at latest, for registration of the changes, as well as to the Centre for Social Work, provided that there are minor children or children to whom the parental right has been extended in the marriage.

**Article 44**

**Paragraph 1** The parental right shall consist of the rights and duties of the parents to take care of the personality, the rights and interests of their minor children, and their children to whom their parental right has been extended.

**Article 45**

**Paragraph 1** The parental right shall appertain equally to the mother and the father.

**Paragraph 2** If one of the parents is deceased or unknown, or he/she has been deprived of his parental rights, or for other reasons he has been prevented from exercising his parental right, the parental right shall be exercised by the other parent.

**Article 46**

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<sup>1</sup> (Missing text – translator's note).

## Unofficial translation of relevant Articles of the Law on Family

Parents shall have the right and duty to sustain their minor children, to take care of their lives and health, to prepare them for independent life and work, to take care of their upbringing, education and professional training.

### **Article 47**

**Paragraph 1** The minor children shall be entitled to live with their parents.

**Paragraph 2** The minor children may live apart from their parents, only when this is of immediate interest of the children, or when this is of a common interest for the children and parents.

**Paragraph 3** The parent with whom the child does not live shall have the right and duty to maintain personal relationship with his child.

**Paragraph 4** The minor children shall have the right to maintain immediate contacts with the parents and other close relatives of the parent who is deceased, who has been deprived of his parental right or who for other reasons has been prevented to exercise his parental right.

### **Article 48**

The parents shall have the right and duty to represent their minor children.

### **Article 49**

The documents and declarations for the minor children may be equally delivered to one or the other parent, and if the parents do not live together then to the parent with whom the child lives.

### **Article 50**

The spouse of the mother shall be considered the father of the child born in the course of the marriage, or within 300 days after the termination of the marriage.

### **Article 51**

**Paragraph 1** As the father of the child born out of wedlock shall be considered the person who shall acknowledge the child as his own.

**Paragraph 2** The paternity may be acknowledged in front of the Registrar, Centre for Social Work and Court. The authority to whom this acknowledgement has been given shall have the duty to deliver the minutes for acknowledgment of paternity to the registrar competent for the registration of the child in the register of births, without delay.

**Paragraph 3** Acknowledgment of paternity may be also made by way of last shall and testament.

### **Article 52**

**Paragraph 1** The declaration for acknowledgment of paternity for the child born out of wedlock may be also given through a proxy.

**Paragraph 2** The proxy note must be attested and contain explicit authorization for the proxy to make a declaration for acknowledgment of paternity for a certain child born of a certain mother.

### **Article 53**

The declaration for acknowledgment of paternity for a child born out of wedlock may be also made prior to the birth of the child. The declaration made before the birth of the child shall have a legal consequence provided that the child has been born alive.

### **Article 54**

Paternity cannot be acknowledged after the death of the child, unless the child has descendants.

### **Article 55**

Paternity for the child born out of wedlock may be acknowledged by any major person competent for work, as well as by any minor person with limited competence for work, provided he is able to comprehend the contents and meaning of the declaration for acknowledgment of paternity.

#### **Article 56**

**Paragraph 1** The acknowledgment of paternity shall have legal consequences and the same shall be registered in the register of births, solely if the mother of the child gives her consent to it, of which she shall be notified by the registrar.

**Paragraph 2** The declaration of consent for acknowledgment of paternity, shall be made by the mother, within 30 days after the receipt of the notification.

**Paragraph 3** Should the mother not be alive or be missing, the declaration shall be given by the guardian of the child, upon the approval of the Center for Social Work.

#### **Article 57**

**Paragraph 1** Should the child be over 16 years of age, his/her consent for the acknowledgement of paternity shall be also required. The declaration of consent shall be made within 30 days from the day of receipt of the notification.

**Paragraph 2** Should the child be under 16 years of age, and fostered, because the mother is deceased, or her place of domicile or residence is unknown, or the child has been deprived of his competence for work, the declaration of consent for acknowledgment of paternity shall be made by the guardian of the child upon the approval of the Centre for Social Work.

#### **Article 58**

**Paragraph 1** Should the mother of the child and the child who is over 16 years of age or the guardian of the child when his consent is required, not consent to the acknowledgment of paternity, or not declare themselves about it within 30 days after the receipt of the notification, the person who has acknowledged the child as his own, may bring charges for establishment of his paternity of the child.

**Paragraph 2** Charges may be brought within 3 months after the receipt of the notification of non-consent of the persons of paragraph 1 of this Article, or after the expiry of the time limit of paragraph 1 of this Article.

#### **Article 59**

**Paragraph 1** The declaration for acknowledgment of paternity, as well as the declaration of consent for the acknowledgment of paternity of the mother and the child, shall be irrevocable.

**Paragraph 2** The person who has made the declaration for acknowledgment of paternity, that is declaration of consent for acknowledgment of paternity, may request annulment of the declaration, if the same has been caused to happen with coercion, or has been made by way of deception or misbelief.

**Paragraph 3** Charges for annulment of the declaration, may be submitted within one year after the coercion has ceased to exist, that is from the day when the misbelief, that is deception has been discovered.

#### **Article 60**

**Paragraph 1** The child born in wedlock, may bring charges for establishment of paternity until 21 years of age.

**Paragraph 2** Should the child be of minor age, or incompetent for work, the charges on his/her behalf may be brought by the mother, during the exercise of her parental right.

**Paragraph 3** The guardian, with the approval of the Centre for Social Work, may bring charges for establishment of paternity, for the duration of the guardianship, however until completion of 21 years of age of the child, at latest.

**Paragraph 4** The Centre for Social Work, may, in line of duty, institute proceedings for establishment of paternity, provided that the mother in the exercise of her parental right has neglected the interests of the child, and has not instituted proceedings for establishment of paternity.



**Article 61**

**Paragraph 1** As the father of the child, born out of wedlock, shall be considered a person who has had sexual intercourse with the mother of the child, within the time period of at least 180-300 days before the birth of the child, unless there is a proof to the contrary.

**Paragraph 2** While establishing the paternity, the court shall take into consideration in particular the common life and mutual relationships of the mother of the child and the defendant prior to and after the birth of the child, as well as the medical and other evidence which do not exclude the defendant as father of the child.

**Article 62**

Establishment of paternity of a child who has been conceived with artificial insemination shall not be allowed.

**Article 63**

The provisions of this law for establishment of paternity shall be also appropriately applicable in the establishment of maternity.

**Article 64**

**Paragraph 1** The spouse may repudiate the paternity of the child born of his spouse in the course of the marriage or before the expiry of 300 days from the termination of the marriage, provided he considers not to be the father of the child.

**Paragraph 2** Charges for repudiation of paternity shall be brought within three months from the day of learning about the birth of the child.

**Paragraph 3** If the spouse of the mother is deprived or working competence, or has lost his working competence, before the expiry of the time-limit for repudiation of paternity, the paternity may be repudiated by his guardian, upon the approval of the Centre for Social Work, and that within three months from the day he has learnt about the birth of the child.

**Article 65**

**Paragraph 1** If after the expiry of the time limit for bringing charges of paragraph 1 Article 64 of this law, facts and evidence are discovered out of which it results that the spouse is not the father of the child born of his spouse, upon his request, the Supreme Court of the Republic of Macedonia with a decision may determine a new time limit for bringing charges for repudiation of paternity.

**Paragraph 2** The request of paragraph 1 of this Article may not be submitted after the child has become of major age.

**Article 66**

**Paragraph 1** The mother may repudiate the paternity of a person who is considered to be the father of her child according to this law.

**Paragraph 2** Charges for repudiation of paternity of paragraph 1 of this Article, shall be submitted within three months from the birth of the child.

**Article 67**

**Paragraph 1** The child may repudiate the paternity of the person who according to this law is considered to be his father.

**Paragraph 2** Charges for repudiation of paternity may be brought by the child until s/he has reached 21 years of age, at latest.

**Article 68**

**Paragraph 1** The woman who is registered in the register of births as the mother of the child may repudiate her maternity provided she considers not to be the mother of the child.

**Paragraph 2** The charges for repudiation of maternity may be brought within three months from the discovery of the fact that she is not the mother of the child, and until the child becomes of major age at latest.

**Article 69**

**Paragraph 1** The woman who considers herself to be the mother of the child may repudiate the maternity of the woman who is registered in the register of births as mother of the child, provided that together with the same charges she would ask for establishment of her maternity.

**Paragraph 2** The charges of paragraph 1 of this Article may be brought within three months from the discovery of the fact that she is the mother of the child, and until the child becomes of major age at latest.

**Paragraph 3** In the cases of paragraph 1 of this Article the request for repudiation of maternity shall be rejected unless the woman who considers herself to be the mother of the child proves her maternity.

**Article 70**

**Paragraph 1** The child may repudiate the maternity of the woman who has been registered in the register of births as his mother.

**Paragraph 2** Charges for repudiation of maternity may be brought by the child until s/he has reached 21 years of age.

**Article 71**

The repudiation of paternity shall not be allowed when the mother, with a written consent of her spouse, is has conceived with artificial insemination.

**Article 72**

The paternity may not be repudiated after the death of the child.

**Article 73**

The legal heirs of the father, mother and child, shall not have the right to bring charges for repudiation of paternity, that is maternity, but they may continue with the charges already brought by them.

**Article 74**

Until the child has reached major age, as well as in cases when the child is deprived of his working competence, charges for repudiation of paternity and maternity, on his behalf, may be brought by the guardian, under approval of the Centre for Social Work.

**Article 75**

The establishment or repudiation of maternity and paternity shall not be allowed in cases when the parental relationship has come to existence by way of adoption.

**Article 76**

**Paragraph 1** The parental right shall be exercised by the parents jointly and with mutual consent.

**Paragraph 2** In cases of discord among the parents in the exercise of the parental right, the Centre for Social Work shall decide.

**Article 77**

**Paragraph 1** If so required by the interests of the child, the parents may entrust the child for care and education to a third person, or to place him in an appropriate institution.

**Paragraph 2** If the parents or parent who exercises alone the parental right, for justified reasons have been absent for a longer period of time from their place of domicile, and do not take with them their children, they may entrust the children for care and education to another person, provided that the Centre for Social Work approves previously such a placement. The approval shall be considered to be

granted if within the period of 30 days from the submission of the request, the Centre for Social Work has not reached a decision.

**Paragraph 3** A child may not be entrusted for care and education to a person who cannot be a guardian.

#### **Article 78**

**Paragraph 1** In cases when the parents of the child do not live together, they shall mutually agree with which one of them the child shall stay for further care and education, and if they cannot agree on the same or if their agreement does not meet the interests of the child, the decision on the same shall be reached by the Centre for Social Work.

**Paragraph 2** The Centre for Social Work upon request of one of the parents, or in line of duty, shall reach a new decision for entrusting the child for further care and education, if so required by the altered circumstances.

#### **Article 79**

**Paragraph 1** Should the parents of the child not be living together, then they mutually agree on the way of maintaining their personal relationships with the child. Should there be a discord, decision on this shall be reached by the Centre for Social Work.

**Paragraph 2** The Centre for Social Work, upon request of the parent, may regulate again, the way of maintaining of personal relationships of the parents with their children, if so required by altered circumstances.

**Paragraph 3** The maintaining of the personal relationships of the children with their parents may be limited or temporarily forbidden, only for reasons of protection of the health and other interests of the child.

**Paragraph 4** Should the right of the minor child to maintain immediate contacts with his parents or other close relatives of the deceased parent, the parent who has been deprived of his parental right, or who has been prevented for other reasons to exercise his parental right, not be realized, the Centre for Social Work shall reach a decision on the manner of maintaining immediate contacts.

#### **Article 80**

**Paragraph 1** With a verdict with which the marriage has been divorced, the court shall decide on the care, education and sustenance of the common children.

**Paragraph 2** If the parents has not reached an agreement on this, or if their agreement does not meet the interests of the child, the court after obtaining a professional opinion from the Centre for Social Work and investigating all circumstances shall decide whether the children shall stay for further care and education with one of the parents or some shall stay with the father, and some with the mother, or all with stay with the mother, and some with the father<sup>2</sup> or all shall be entrusted to some third person or institution.

**Paragraph 3** The parent to whom the children has not been entrusted shall have the right to maintain personal relationships with them, if not otherwise determined by the court, in light of the interests of the children.

**Paragraph 4** The court, upon request of one of the divorced spouse or of the Centre for Social Work, shall alter the verdict for care and education of the children, and for the relationships of the divorced spouses with their common children, if so required by altered circumstances.

#### **Article 81**

**Paragraph 1** The court shall decide on entrusting the children for further care and education when:

- It shall reach a verdict with which it has been established that the marriage does not exist and
- In suits for establishment or repudiation of paternity or maternity, provided that the reaching of the verdict in light of the outcome of the suit and the circumstances of the case, is possible and necessary.

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<sup>2</sup> (Probably a mistake in the original text – remark of the translator).

**Paragraph 2** When the court reaches a decision for entrusting the children for further care and education, if so required, it shall impose upon the party with whom the children are placed, to surrender in a delimited time period the children to the parent that is another person or institution.

**Article 82**

After the annulment or the divorce of the marriage, as regards the exercise of the parental right and the regulation of the personal relationships with the children of the parent with whom the children are not placed, the Centre shall have the same competencies as when the parents are married.

**Article 83**

The Centre for Social Work shall supervise the exercise of the parental right.

**Article 84**

**Paragraph 1** The Center for Social Work shall have the duty to undertake the necessary measures in order to protect the personality, the rights and interests of the child.

**Paragraph 2** Every citizen, authority and legal person has the duty to notify the Center for Social Work immediately upon the discovery of the fact that the parent does not exercise his parental right or that for other reasons the protection of the personality, rights and interests of the child is necessary.

**Article 85**

If so required by the best interests of the child, the Center for Social Work shall warn the parents about the deficiencies in the development and education of the child, and assist them to develop and educate the child regularly, and may also direct them to visit themselves or together with the child and appropriate counseling Centre, or other Medical, Social or Correctional Institution which may give them the necessary advice.

**Article 86**

If so required by the best interests of the child, the Centre for Social Work, may reach a decision for permanent surveillance upon the exercise of the parental right, related to all or some of them.

**Article 87**

**Paragraph 1** The Centre for Social Work, with a decision may take the child away from one and to entrust it for care and education to the other parent, to some other person or appropriate institution, when the parents that is the parent with whom the child lives, neglect the child, as regards his care and education, or when there is a serious threats upon his regular development and upbringing.

**Paragraph 2** The Centre for Social Work, may take away the child from the one parent and entrust him to the other parent, to a third person or appropriate institution and in the case when the parent to whom the child has been entrusted for further care and education, impedes the personal relationship of the child with the other parent.

**Paragraph 3** With the act of taking away of the child, the other rights and duties of the parents towards the child, shall not cease.

**Paragraph 4** After cessation of the reasons owing to which the child has been taken away from the parents, the Centre for Social Work with a decision shall return the child to the parents.

**Article 88**

The Centre for Social Work may by itself or upon suggestion of the parents, that is the guardian, of the person to whom the child has been entrusted for further care and education, or upon suggestion of the Public Prosecutor, place a child in an appropriate institution provided that his behaviour has been disturbed.

**Article 89**

**Paragraph 1** The Centre for Social Work, when there is a reasonable doubt for abuse, may ask from the parents to be informed on the way of management of the property of the child.

**Paragraph 2** The Centre for Social Work may ask from the court, in order to protect the property interests of the child, to allow undertaking measures for securing the property of the parents.

**Paragraph 3** The Centre for Social Work may ask from the court, in order to protect the property interests of the child, to decide that the parents with respect to the management of the property of the child, to have the capacity of guardians.

#### **Article 90**

**Paragraph 1** The parent who abuses the exercise of the parental right, or roughly neglects the exercise of the parental duties, upon obtained opinion from the Centre for Social Work, shall be deprived of the exercise of the parental right with court decision in a non-suit procedure.

**Paragraph 2** The parent may be deprived of the exercise of the parental right, with respect to all children, or with respect to some of them.

#### **Article 91**

**Paragraph 1** Proceedings for deprivation of the parental right, may be instituted by the other parent, the Centre for Social Work or the Public Prosecutor.

**Paragraph 2** The Centre for Social Work, shall have the duty to institute proceedings for deprivation of the parental right when in any manner whatsoever, shall learn that there are reasons for this determined by this law.

**Paragraph 3** The Centre for Social Work, when it shall learn that there is a danger for abuse of the parental right or danger for rough neglect of the parental duties, shall have the duty to undertake immediate measures for protection of the personality, rights and interests of the child.

#### **Article 92**

**Paragraph 1** The parental right may, with a court decision, be returned to the parent when the reason owing to which he has been deprived of that right shall cease to exist.

**Paragraph 2** Proposal for return of the parental right may be submitted by the parent and the Centre for Social Work.

#### **Article 93**

**Paragraph 1** The parental right shall cease to exist with the majority of the child, with the child entering in a marriage before majority, and with adoption.

**Paragraph 2** The minor person, by entering into marriage shall acquire working competence.

#### **Article 94**

**Paragraph 1** The court upon proposal of the parents or the Centre for Social Work, may in a non-suit procedure decide the parents to continue to exercise their parental right if the child after the majority because of disabilities in his mental development is incompetent to take care by himself of his personality, rights and interests.

**Paragraph 2** When the reasons owing to which the parental right has been extended shall cease to exist, the court upon proposal of the parents or the Centre for Social Work, shall decide on the cessation of the parental right.

**Paragraph 3** The decision of the court of paragraph 1 and 2 of this Article shall be registered in the register of births and in the register of records of real estate.

#### **Article 95**

**Paragraph 1** With the adoption, relationships such as the ones that come to exist with the birth, shall be created (full adoption), or only relationships that exist among parents and children (partial adoption).

**Paragraph 2** Which type of relationship shall be created with the adoption, depends on the shall of the adopter, the parents of the child which is being adopted that is of his guardian and of the child himself if the child is over 10 years of age.

**Article 96**

Only a minor person may be adopted.

**Article 97**

**Paragraph 1** The adoption may be established only if it is in the interest of the minor.

**Paragraph 2** The adoption shall be established in front of the Centre for Social Work.

**Article 98**

Nobody may be adopted by several persons, unless when the adopters appear to be spouses.

**Article 99**

**Paragraph 1** As a rule, only a citizen of the Republic of Macedonia may be adopter.

**Paragraph 2** Upon exception of paragraph 1 of this Article, a person who is a foreign citizen may also appear as adopter.

**Paragraph 3** The adoption by the person from paragraph 2 of this Article shall be established with an approval of the Ministry of Labour and Social Policy, and upon proposal of the Centre for Social Work.

**Article 100**

**Paragraph 1** A person, who is minimum 18 years older than the adoptee, may be an adopter.

**Paragraph 2** When the child is being adopted by the spouse of the parent of the child, the difference in years may be even smaller.

**Paragraph 3** If spouses adopt a child simultaneously, or one of the other, the difference in years shall be necessary to exist, only with one of the spouses.

**Article 101**

A relative in the first immediate line, neither brother nor sister, may not be adopted.

**Article 102**

An adopter may not be a person who:

- Has been deprived of his parental rights;
- Whose working competence is limited or deprived;
- For whom there is a reasonable doubt that he shall use the position of adopter to the harm of the adoptee and
- Is mentally ill or person with disabilities in the mental development, as well as a person ill of diseases which may threaten the health and life of the adoptee.

**Article 103**

**Paragraph 1** The consent of both parents of the adoptee, that is of his guardian as well as of the adoptee himself if he is over 10 years of age, is necessary for the adoption.

**Paragraph 2** The consent of the parent who has been deprived of his working competence or of the exercise of his parental right, or of the parent whose place of residence is unknown for a period longer than one year, shall not be required.

**Paragraph 3** The consent of the adoptee who has been living in the family of the adopter before he completed 10 years of age is not necessary neither.

**Paragraph 4** The consent of the parent of the child born out of wedlock who within three months from the birth of the child has not instituted proceedings for acknowledgement of that child, or for establishment of paternity with respect to that child, is not necessary.

**Article 104**

**Paragraph 1** The person who wants to adopt, shall lodge an application to the Centre for Social Work competent according to the place of domicile of the applicant.

**Paragraph 2** To the application of paragraph 1 of this Article the documents determined by the Regulations for Maintaining the Records of the Adoptees and for Determining the Documents for Adoption, which are brought about by the Minister of Labour and Social Policy, shall be enclosed.

**Paragraph 3** The Center for Social Work to which the application has been submitted, shall make an evaluation of the eligibility of the adopters and of the motives for the adoption.

**Paragraph 4** The adoption may be established in the Centre for Social Work competent according to the place of domicile of the adopter or the adoptee.

#### **Article 105**

**Paragraph 1** While establishing the adoption, the presence of the adopter, his spouse, the parents, that is the guardian of the adoptee, as well as of the adoptee if he is over 10 years of age, except of the adoptee of paragraph 3 Article 103 of this law, shall be required.

**Paragraph 2** In justified cases, the presence of the spouse of the adopter, who does not figure as adopter shall not be required, if his consent for the adoption, has been given by him/her in front of the Centre for Social Work, upon the minutes in which the adopter and the adoptee must be precisely specified.

**Paragraph 3** The establishment of the adoption shall be carried out without the presence of the public.

#### **Article 106**

**Paragraph 1** The parents, that is the parent who exercises alone the parental right, may give also previously, the consent for the child to be adopted in front of the Centre for Social Work, competent according to the place of domicile of the parents, without determining the adopter.

**Paragraph 2** When the persons of paragraph 1 of this Article have given such a consent upon the procedure for establishment of adoption, the adoption consent shall be given by the guardian of the minor child.

**Paragraph 3** The consent after the birth of the child, in a written form, in the premises of the competent Center for Social Work, shall be given by the parents of paragraph 1 of this **Article**, regardless of the type of the marital community or relationship.

**Paragraph 4** The consent shall be handwritten by the parent who consents for the child to be adopted, and the same shall be undersigned by the parent, and competent representative of the Centre for Social Work.

#### **Article 107**

**Paragraph 1** The consent for the adoption shall be given by the parents after the child has completed three months of age.

**Paragraph 2** The adoption of the child may be established at earliest after the completion of three months of age of the child.

**Paragraph 3** The adoption consent may be withdrawn until the moment of establishment of the adoption of the child.

#### **Article 108**

**Paragraph 1** Should the Centre for Social Work, establish from the contents of the documents, from the social insight, or in another manner, that the conditions prescribed by this law are fulfilled, and that the adoption is useful to the adoptee, it shall approach the establishment of the adoption, and in contrary cases shall refuse the request for adoption.

**Paragraph 2** If it is in the interest of the adoptee, and always when a child over three years of age should be adopted, the Centre for Social Work, prior to reaching a decision for adoption, shall place the minor child as further adoptee, for a determined period of time in the family of the adopters, which cannot be longer than one year.

**Paragraph 3** Against the decision of paragraph one of this Article, a complaint may be lodged within 15 days, to the Ministry of Labour and Social Policy.

#### **Article 109**

The official from the Centre for Social Work, on the basis of the identity documents and the declarations about the personal identity of the persons present, shall determine that those are the persons of Article 105 of this law, and then he shall acquaint them with their rights and duties, which result from the adoption and shall request declarations for adoption consent, from the persons who have the duty pursuant to this law to give such a declaration, that is he shall read their previously given declarations for adoption consent.

#### **Article 110**

**Paragraph 1** At the adoption, minutes shall be made and a decision shall be brought.

**Paragraph 2** In the minutes and decision for adoption, data for the performed adoption, for the agreement about the personal name of the adoptee, about the place of birth of the child, and about his inheritance rights with respect to the adopter, shall be inserted, if the adoption is partial.

**Paragraph 3** The minutes shall be signed by the official who represents the child, the parents, that is the guardian of the child and the adopters.

#### **Article 111**

**Paragraph 1** After the establishment of the adoption, in the register of births, the adopters shall be registered as parents of the child, and the place which shall be determined by mutual agreement between the adopters and the Centre for Social Work, shall be registered as the place of birth.

**Paragraph 2** The register has the duty to make a new entry in the register of births and to issue about it a birth certificate.

#### **Article 112**

**Paragraph 1** The Centre for Social Work, shall deliver the decision for adoption, to the competent registrar, within 15 days at latest, for the purpose of registration in the register of births.

**Paragraph 2** After the new entry has been made in the register of births, the registrar has the duty to inform the Registrar's Office in order to delete the old entry.

#### **Article 113**

**Paragraph 1** With the full adoption, between the adopter and his family and the adoptee and his descendants, rights and duties shall be created such as the ones between next of kin.

**Paragraph 2** With the full adoption, the mutual rights and duties among the adopted child and his previous family shall cease.

**Paragraph 3** Should the adopter be the spouse of one of the parents of the adoptee, the adoption shall not influence the relationship between the adoptee and that parent of his, as well as towards his relatives.

#### **Article 114**

At the full adoption, the inheritance rights of the adoptee and his descendants with respect to the adopter and his family and of the adopter and his family towards the adopted child and his descendants, shall be equal to the inheritance rights of next of kin.

#### **Article 115**

**Paragraph 1** With the partial adoption between the adopters and the adoptee, only relationships among parents and children shall be established.

**Paragraph 2** The inheritance rights among the adopter and the adoptee and his descendants in the case of partial adoption are mutual.

**Paragraph 3** In the case of partial adoption the inheritance rights of the adoptee towards the adopter, may be limited or completely excluded if at the moment of adoption, the adopter has his own children.

**Paragraph 4** If spouses appear as adopters in the case of partial adoption, the inheritance rights of the adoptee may be differently regulated towards each one of them.

**Paragraph 5** If the inheritance rights of the adoptee have been limited or excluded, the adopter may not inherit the adoptee and his descendants by law.



**Article 116**

The full adoption may not be severed.

**Article 117**

**Paragraph 1** The partial adoption may cease to exist upon an agreement between the adopter and the adoptee according to the provisions which apply to the adoption.

**Paragraph 2** If the adoptee is minor, the Center for Social Work has the duty to investigate whether the cessation of the adoption is beneficial to the adoptee.

**Article 118**

**Paragraph 1** The Centre for Social Work may decide for the partial adoption to cease, if it has established that the same is required by the interests of the adoptee.

**Paragraph 2** Every citizen, authority and legal person, may submit a proposal to the Centre for Social Work, for the need of cessation of the partial adoption, when that is in the interest of the minor adoptee.

**Article 119**

Upon request of the adopter or the adoptee, the Centre for Social Work, when it has established that there are justified reasons for it, may decide for the partial adoption to cease to exist.

**Article 120**

If in the course of the procedure for partial adoption, death of the adopter or the adoptee occurs, the request for severing the adoption, may be continued by their legal heirs.

**Article 121**

**Paragraph 1** Upon cessation of the partial adoption, the competent Centre for Social Work, may charge the adopter with the sustenance of the adoptee until his major age, at the expense of the adopter, taking into consideration their property status.

**Paragraph 2** The competent Centre for Social Work, may establish the duty of the major adoptee for sustenance of the adopter, who is incompetent for work, and does not have means of sustenance.

**Article 122**

With the cessation of the partial adoption, mutual rights and duties between the adoptee and his previous family shall be renewed. The adoptee shall regain his former family name, and upon his request, he may retain the family name that was given to him with the adoption, provided the adopter agrees to it.

**Article 123**

The valid decision for cessation of the partial adoption, shall be delivered to the competent registrar for the purpose of registration in the register of births.

**SECTION FIVE**

**GUARDIANSHIP**

**BASIC PROVISIONS**

**Article 124**

With the guardianship, the Republic gives special protection to the unaccompanied minor children and to persons of major age who have been deprived of or who have a limited acting capacity.

According to the provisions of this law, the protection is afforded also to other persons who are not in a position or do not have the possibility to take care of the protection of their own rights and interests, by themselves.

#### **Article 125**

The Centre for Social Work deals with the guardianship affairs directly, through guardians or other persons who deal with the affairs related to guardianship.

The jurisdiction of the Centre for Social Work is determined by the place of domicile, and if there is no place of domicile, according to the place of residence of the person who should be placed under guardianship.

The place of domicile and the place of residence are determined according to the moment when the conditions for placement under guardianship occurred.

#### **Article 126**

The Centre for Social Work undertakes necessary measures for achievement of the guardianship purposes.

The Centre for Social Work applies forms of social protection, methods of social and other expert work, and uses as well the services of the social, health, educational and other institutions in the preparation, issuance and implementation of its decisions, that is measures.

#### **Article 127**

The procedure for placement under guardianship is initiated ex officio or upon request of the persons concerned.

The procedure of paragraph 1 of this Article is urgent.

#### **Article 128**

Concerning the need to place a person under guardianship or to apply upon him some form of protection, afforded by the Centre for Social Work, the following are obliged to inform that body:

- 1) the registrar and the state authorities when dealing with affairs under their jurisdiction they will learn of such a case.
- 2) relatives, family members and neighbours and
- 3) enterprises, institutions, local communities and other organisations and associations.

#### **Article 129**

When the Centre for Social Work shall learn about the need of placing a certain person under guardianship, it shall immediately undertake appropriate measures, for the protection of the personality, rights and interests of that person and shall initiate a procedure for placement under guardianship.

While determining the form of protection for the person who is being placed under guardianship, the Centre for Social Work shall be primarily guided by the interests of the person who is being placed under guardianship and the interests of her/his family, as well as by the material circumstances, wherewith it cooperates with appropriate organisations and bodies in the exercise of the protection.

#### **Article 130**

The Centre for Social Work, according to the Law on General Administrative Procedure decides on placement under guardianship, appointing or release of the duty of a guardian, on the scope of the authorisations of the guardian and on the rights and legal interests of the person placed under guardianship and on the cessation of guardianship.

In other cases, the Centre for Social Work acts in the most purposeful manner, depending on the nature of guardianship measures determined by it.

The Centre for Social Work, may change the decisions it has made formerly, when this is required by the interests of the person placed under guardianship, provided that this does not affect the rights of third persons.

#### **Article 131**

The person under guardianship, who is in a position to do it, her/his relatives, as well as the enterprises and institutions, bodies and organisations foreseen in Article 128 of this law, as well as every citizen may lodge a complaint on the work of the guardian and on the work of the Centre for Social Work.

The complaint on the work of the guardian shall be submitted to the Centre for Social Work, whereas the complaint on the work of the Centre for Social Work shall be submitted to the Ministry of Labour and Social Policy.

#### **Article 132**

The Centre for Social Work examines the complaints, and if it has established that they are well-founded, it shall determine measures which should be undertaken.

If the Ministry of Labour and Social Policy has established that the complaint is well-founded it shall issue instructions to the Centre for Social Work. The Centre for Social Work shall decide upon instructions received as to which measures it shall undertake and shall inform about it the second instance body.

#### **Article 133**

The costs for the implementation of measures undertaken in the interest of the person placed under guardianship, shall be covered by:

1. incomes of the person placed under guardianship;
2. means received from persons who are obliged to give sustenance to the person placed under guardianship;
3. property of the person placed under guardianship;
4. means of the person placed under guardianship, realised as a right to social protection and
5. other sources;

#### **Article 134**

The Centre for Social Work is obliged to keep records about the persons placed under guardianship, the undertaken guardianship measures, and about the property of the person placed under guardianship.

The Minister of Labour and Social Policy shall issue instructions on keeping the records and documentation of paragraph 1 of this Article.

### **GUARDIAN**

#### **Article 135**

The Centre for Social Work appoints a guardian to the person placed under guardianship, provided it has not decided to exercise the duty of a guardian directly.

As a guardian shall be appointed a person who has personal traits and abilities to exercise the duty of a guardian, and who will previously give his consent to be a guardian.

As a guardian shall be primarily appointed a close relative of the person placed under guardianship.

While appointing a guardian, the Centre for Social Work shall also take into consideration the wishes of the person placed under guardianship, if he/she is capable of expressing the same, as well as the wishes of her/his close relatives.

**Article 136**

The same person may be appointed a guardian to several persons as well, if she/he consents to that, if that is not contrary to the interests of any of the persons who are placed under guardianship and if they consent to that.

**Article 137**

To a person under guardianship, placed in an educational, social, medical or other institution or organisation, as well as with other family or person, the Centre for Social Work shall appoint a guardian to deal with guardianship affairs, which the person, the family, or the institution does not deal with within its regular activity.

**Article 138**

The Centre for Social Work may delimit, with a decision, the authorisations of the guardian and decide to exercise certain guardianship affairs directly.

If the Centre for Social Work exercises the guardianship function in the sense of paragraph 1 of this Article, it can entrust certain affairs to be dealt with to experts, on its behalf and under its supervision.

**Article 139**

A guardian cannot be a person :

- 1) who has been deprived of the exercise of her/his parental right;
- 2) who has been deprived of or has a limited acting capacity;
- 3) whose interests are contrary to the interests of the person placed under guardianship, that is who does not give a guarantee that she/he will properly upbringing and raise her/him;
- 4) from whom, in view of his former and present conduct, personal traits and relations with the person placed under guardianship and her/his parents, it cannot be expected to properly exercise the function of a guardian.

**Article 140**

The Centre for Social Work, in the decision for appointing a guardian, establishes his duties and the scope of his authorisations.

The Centre for Social Work prior to the issuance of the decision of paragraph 1 of this Article, acquaints the guardian with the meaning of the guardianship, with his rights and duties and with other more relevant data necessary for the exercise of the duty of a guardian.

The Centre for Social Work issues to the guardian a personal guardianship document containing the scope of his authorisations.

**Article 141**

The Centre for Social Work notifies the registrar about the placement under guardianship and cessation of guardianship, within 15 days from the day of the entry into legal force of the decision.

If the person placed under guardianship has immovable property, the Centre for Social Work shall notify as well the competent body which keeps the registers on immovable properties.

**Article 142**

The guardian is obliged, within the framework of his authorisations, to conscientiously take care of the personality and the rights and interests of the person placed under guardianship and to conscientiously manage her/his property.

The guardian cannot, without a prior approval of the Centre for Social Work, undertake affairs which surpass the framework of the regular running or managing of the property of the person placed under guardianship.

The guardian may not make gifts or dispose in other ways, with the property of the person placed under guardianship without compensation and cannot bind the person placed under guardianship as a guarantor.

**Article 143**

If the person placed under guardianship has property, the Centre for Social Work shall issue a decision to make an inventory and evaluation of the same and to confide the property for management to the guardian.

The inventory and the evaluation of the property of the person placed under guardianship shall be made by a commission appointed by the Centre for Social Work.

During the inventory and the evaluation of the property of the person placed under guardianship, the guardian and the person placed under guardianship, if in a position to understand what is the issue, as well as the persons under whose rule the property of the person placed under guardianship is, shall be obligatorily present.

**Article 144**

Upon exception of Article 142 of this law, the Centre for Social Work may make an inventory and evaluation of the property and undertake other measures for securing the property of the person that is being placed under guardianship, prior to the issuance of a decision for placement under guardianship as well, provided there are valid reasons for the same.

Should there be an imminent danger for the property of the person placed under guardianship relating to her/his immovable property, the Centre for Social Work may request from the court prior to the inventory and the evaluation of the property, a registration entry in the public registers of immovable properties for initiation of a procedure for the placement of that person under guardianship.

**Article 145**

If the person placed under guardianship has property outside of the district of the competent Centre for Social Work, the Centre for Social Work may entrust the care for that property to the Centre for Social Work in the district of which the property is located.

The Centre for Social Work which has been entrusted with the care of the property may determine a special guardian for that property or take care of it directly.

The body of paragraph 2 of this Article is obliged, once per annum, to notify the competent Centre for Social Work about the condition of the property.

The decision for disposing with the property of paragraph 1 of this Article shall be retained by the competent Centre for Social Work.

**Article 146**

The guardian is obliged with the assistance of the Centre for Social Work, to undertake necessary measures for the provision of means indispensable for the implementation of the measures which in the interest of the person placed under guardianship have been deliberated by the Centre for Social Work.

**Article 147**

The guardian, only with an approval of the Centre for Social Work, may undertake on behalf of and on account of the person placed under guardianship, the following affairs:

- 1) To alienate or indebt the immovable property;
- 2) To alienate movable objects of greater and special personal value or to dispose with property rights of greater value;
- 3) To renounce the inheritance or legacy or to refuse a gift and
- 4) To undertake other measures determined by law.

The Centre for Social Work in the procedure for giving an approval for the guardian with respect to the disposal with and the management of the property, that is to the rights of the person placed under guardianship, determines the purpose of the acquired means and supervises their use.

**Article 148**

The guardian may not represent the person placed under guardianship in legal acts in which the spouse or a close relative of the guardian participates as other party, and instead in such cases the Centre for Social Work shall appoint to the person under guardianship another guardian or shall represent her/him itself.

**Article 149**

The guardian may without an approval of the Centre for Social Work alienate fruits, petty goods, objects which are subject to quick decay and other objects, provided that this is within the framework of the ordinary running and management of the property.

The financial means obtained through the sale of the objects of paragraph 1 of this Article, may be used only for fulfilment of the needs of the person placed under guardianship.

**Article 150**

The guardian may, for affairs for which an approval is not necessary, seek the advice of the Centre for Social Work, which is obliged to give such an advice.

The Centre for Social Work is obliged to afford assistance to the guardian in the exercise of the affairs which he is not capable to exercise by himself, and in particular in making petitions, in the representation in front of the court and other bodies.

**Article 151**

The guardian, the person, the other family and the institution in which the person under guardianship is placed are obliged to submit to the Centre for Social Work a report for their work each year, as well as when it will require them to do so.

Should the guardianship be carried out directly by the Centre for Social Work, its employee or another person who on behalf of the Centre for Social Work exercises the guardianship affairs, is obliged to submit the report on the work.

The report is submitted in writing or verbally upon minutes.

The report of the guardian should demonstrate his care for the person placed under guardianship, and in particular for her/his health, sustenance and preparation for independent life, whereas in case of minor

persons placed under guardianship, for their upbringing and education as well, and also for everything else of relevance for the personality of the person placed under guardianship.

The report of paragraph 1 and 2 of this Article, should also contain data on the management and disposal with the property of the person placed under guardianship and for all incomes and expenditures of the person placed under guardianship in the previous year as well as on the final condition of her/his property.

#### **Article 152**

The guardian exercises his duties, as a rule, without remuneration.

The Centre for Social Work may appoint to the guardian also a remuneration as a rewards, if he has invested additional efforts and has distinguished himself in the exercise of his duties.

The amount of the remuneration for the expenses for the guardian of paragraph 3 of this Article, is determined by the Centre for Social Work.

The reward and remuneration of the expenses are approved by the Centre for Social Work, out of the income of the person placed under guardianship, and should this threaten the sustenance of the person placed under guardianship, these expenses shall fall on account of the budget of the Republic.

#### **Article 153**

The guardian is obliged to compensate the damage inflicted by him upon the person placed under guardianship, with irregular, unconscientious or careless exercise of his duty.

The Centre for Social Work determines the amount of the damage and summons the guardian to compensate the damage within a delimited time period. If the guardian does not compensate the established damage within the delimited period of time, the Centre for Social Work shall compensate the damage of the person placed under guardianship directly.

The Centre for Social Work may in front of the competent court request from the guardian a compensation of the disbursed amount of paragraph 2 of this Article.

In order to ensure the rights of the person placed under guardianship, violated with the work of the guardian, the Centre for Social Work is obliged to undertake towards the guardian other measures foreseen by law.

#### **Article 154**

If the guardian dies or out of his own free will, ceases to exercise his guardianship duty or if circumstances occur which prevent the guardian from exercising his duty, the Centre for Social Work is obliged without delay to undertake measures for the protection of the interests of the person placed under guardianship and to appoint him a new guardian.

#### **Article 155**

The Centre for Social Work shall release of the exercise of the guardianship duty the guardian, if he requests that by himself, taking into consideration the interests of the person placed under guardianship, however within three months from the day of the submission of the request, at latest.

The Centre for Social Work shall replace the guardian if it has established that during the exercise of his duty he is careless, that he misuses his authorisations, that his work threatens the interests of the person placed under guardianship, or if it considers that it is more beneficial for the person placed under guardianship to be appointed a new guardian.

**Article 156**

When the guardian shall have his guardianship function ceased according to the provisions of Article 155 of this Law, the Centre for Social Work is obliged to immediately undertake all necessary measures for the protection of the interests of the person placed under guardianship and to appoint to him a new guardian.

The guardian whose guardianship duty has ceased, is obliged to submit report and account about his work to the Centre for Social Work and to confide the duty to the new guardian with minutes within the time period determined by the Centre for Social Work, however no later than 30 days.

**Article 157**

In case of cessation of the need for guardianship, the Centre for Social Work shall summon the guardian to submit a report on the work and condition of the property of the person placed under guardianship, in a determined time period and to also confide the property for management to the person who was placed under guardianship, that is to the parents or to the adopter.

The confiding of the property is made in the presence of the guardian, the person who was placed under guardianship, that is in the presence of the parent or adopter and of a representative of the Centre for Social Work.

**Article 158**

The Centre for Social Work is obliged to undertake measures for securing the rights and interests of the person placed under guardianship, which result from the work of the guardian, as well as measures for the protection of the rights and interests of other persons as well which result from the guardianship relations.

**GUARDIANSHIP OVER MINOR PERSONS**

**Article 159**

A minor unaccompanied person shall be placed under guardianship.

An unaccompanied child is a child whose parents are not alive, who are missing, unknown or with an unknown domicile for more than one year, and a child, whose parents, regardless of the reasons have not been exercising temporarily or permanently their parental rights and duties.

**Article 160**

The guardian of a minor person, is obliged to take care, as a parent, of the personality of the minor, and in particular, of his health, upbringing, education, and preparation for independent life and work.

**Article 161**

The guardian may only with an approval of the Centre for Social Work:

- Interrupt the education of the minor or change the type of education;
- Decide on the choice, performance or change of the craft of the minor, and
- Undertake other measures with respect to the personality of the minor determined by law.

**Article 162**

The minor who has reached 15 years of age, may, by himself without an approval of the guardian, engage in a wage-earning employment, and dispose off freely with the realised salary, wherewith he is obliged to contribute by himself to his sustenance, upbringing and professional qualification.



The minor of paragraph 1 of this Article, may by himself undertake legal affairs, for which, if they are of major relevance, an approval of his guardian is necessary.

A consent of the Centre for Social work is necessary for the affairs of Article 161 of this law which the guardian may not undertake by himself.

### **Article 163**

The guardianship over a minor person ceases with his majority, stipulation of marriage, adoption, or when any of the reasons established in article 159 paragraph 2 of this law, shall cease to exist.

The Centre for Social Work shall continue to afford assistance to the person, whose guardianship has ceased owing to majority, if he, in the course of duration of the guardianship, could not prepare himself for independent life and work, on account of valid reasons.

### **Article 164**

Even if after the majority, owing to disabilities in the psychical development, the person is not capable to take care by himself, of his rights and interests, the guardian or the Centre for Social Work shall initiate a procedure for placement under guardianship on other grounds of that person.

## **GUARDIANSHIP OVER PERSONS DEPRIVED OF OR WITH LIMITED ACTING CAPACITY**

### **Article 165**

The persons who have been deprived of their acting capacity, partially or completely, with a court verdict, are placed under guardianship by the Centre for Social Work.

Acting capacity is a capacity of the person to express a legally relevant will for participation in the legal traffic.

### **Article 166**

The legally effective decision on deprivation that is delimitation of the acting capacity, shall be immediately forwarded by the court to the Centre for Social Work, which, within 30 days from the day of the receipt of the decision, shall place the person under guardianship.

### **Article 167**

The guardian of the person deprived of or with limited acting capacity, is obliged to take care in particular of his personality, rights and interests, accommodation and health, taking into consideration the reasons owing to which the person had his acting capacity deprived or delimited, persisting at the same time to remove the same, and to prepare the person for independent life and work.

### **Article 168**

The guardian of a person who has been deprived of her/his acting capacity, has the rights and duties of a guardian of a minor person who has not reached 15 years of age.

The guardian of a person whose acting capacity has been limited has the duties and the rights of a guardian of a minor person who has reached 15 years of age.

### **Article 169**

The court is obliged to immediately notify the Centre for Social Work once the procedure for deprivation of the acting capacity of the person has been initiated.

The Centre for Social Work in the procedure for deprivation of the acting capacity of the person, may appoint to that person a temporary guardian if it finds it to be necessary.

The duty of a temporary guardian ceases immediately when a permanent guardian has been appointed or when the decision of the court by which the proposal for deprivation of the acting capacity is rejected, shall take legal effect.

**Article 170**

The temporary guardian has the same rights and duties as a guardian of a minor person who has reached 15 years of age.

The Centre for Social Work, may if it is necessary, expand the rights and duties of the temporary guardian in line with the ones of a guardian of a minor person who has not reached 15 years of age.

**Article 171**

If the guardian has established that in relation to the person who has been deprived of her/his acting capacity, circumstances have occurred which indicate the need of restitution of the acting capacity, that is for changing the previous decision, he is obliged, without delay, to inform about it the Centre for Social Work.

**Article 172**

The guardianship of a person who has been deprived of his acting capacity shall cease when he will have his acting capacity restored, with a decision of the court.

**GUARDIAN FOR SPECIAL CASES**

**Article 173**

The Centre for Social Work shall appoint a guardian for certain issues or for certain type of issues to a person whose place of domicile is unknown, and who does not have a representative, to an unknown owner of a property, when it is necessary for someone to look after that property, as well as in other cases, when that is necessary for the protection of the rights and interests of certain persons.

The guardian of the persons of paragraph 1 of this Article, under conditions established by law, may be also appointed by the organ in front of which the procedure is being carried out. This organ is obliged to inform about that without delay the Centre for Social Work.

The Centre for Social Work, has all the authorisations towards the guardian appointed in the sense of paragraph 2 of this Article, as towards the guardian who has been appointed by itself.

**Article 174**

The Centre for Social Work may appoint a special guardian to:

- A person over whom the parents are exercising their parental right for the purpose of initiating a dispute between her/him and his parents, for stipulation of certain legal acts between them, as well as in other cases when their interests are contrary and
- Person placed under guardianship for the purpose of initiating a dispute between him and the guardian, for stipulation of legal acts between them, as well as in other cases when their interests are contrary.

When among the minors over whom the same person exercises her/his parental right or among persons who have the same guardian, a dispute should be initiated or a legal act should be stipulated in which the interests of the minor persons that is of the persons placed under guardianship are contrary, the Centre

for Social Work shall appoint a separate guardian for initiating the dispute that is for the stipulation of the legal act, to each of them.

When the parents, guardians and the state bodies in the exercise of their duty shall learn of cases of paragraph 2 of this Article, they shall be obliged to inform about it the Centre for Social Work.

#### **Article 175**

The Centre for Social Work in cases foreseen in this Law, shall undertake the necessary measures for the protection of the personality, rights and interests of a foreign national, until the organ of the state of his nationality will have issued a necessary decision and will have undertaken particular measures.

#### **Article 176**

Upon request of a person who owing to sickness, old age or other valid reasons is incapable to take care of herself /himself, her/his rights and legal interests, the Centre for Social Work may appoint to him a guardian for certain affairs, or for certain type of affairs.

Upon request of the person of paragraph 1 of this Article, the Centre for Social Work shall issue a decision for cessation of guardianship.

#### **Article 177**

While appointing a guardian according to the provisions of Articles 175 and 176 of this Law, the Centre for Social Work shall determine the scope of the duties and rights of the guardian, depending on the circumstances of each individual case.

#### **Article 178**

**Paragraph 1** The sustenance of the members of the family and of the other relatives shall be their right and duty.

**Paragraph 2** In cases in which the mutual sustenance of the members of the family and of the other relatives cannot be completely or partially performed, the Republic shall provide the means necessary for sustenance to the unprovided members of the family under conditions determined by law.

**Paragraph 3** The renouncement of the right to sustenance shall not have legal effect.

#### **Article 179**

**Paragraph 1** The parents shall be obliged to sustain their minor children.

**Paragraph 2** If the schooling and professional education of the children continues after the majority, the parents shall have the duty, to further sustain them until the completion of their full-time schooling, yet until the completion of 26 years of age, at latest.

**Paragraph 3** If the major person is incompetent for work because of sickness, physical or mental disability, and does not have enough means of sustenance, and cannot obtain the same out of his property, the parents shall be obliged to sustain him until that disability perdures.

#### **Article 180**

The obligation for providing sustenance shall also exist among relatives in the first line, as well as among brothers and sisters with respect to the sustenance of the minor brothers and sisters, and with respect to the major brothers and sisters only under conditions of Article 179, paragraph 3 of this law.

#### **Article 181**

**Paragraph 1** The children have the duty to sustain their parents who are incompetent for work, and do not have enough means of sustenance or cannot obtain means of sustenance from their property.

**Paragraph 2** Upon exception, the court may reject the request for sustenance, when the sustenance is requested by a parent, who has been deprived of his parental right, though the child has the possibilities to afford it, or if the court, assessing all circumstances of the case, has found out that that would be an obvious injustice for the child.

### **Article 182**

**Paragraph 1** The stepfather and the stepmother shall have the duty to sustain their minor stepchildren, unless the latter have relatives who according to the law have the duty to sustain them, and if those relatives, have the possibilities to do so.

**Paragraph 2** The obligation of the stepfather that is the stepmother to sustain their minor stepchildren, shall also exist after the death of the parent of the child, whom the stepfather that is the stepmother was married provided that until the moment of death a family community existed among the stepfather, that is the stepmother and the stepchildren.

**Paragraph 3** If the marriage between the parent and the stepfather that is the stepmother of the child has been annulled or divorced, the obligation for sustenance of the stepfather, that is the stepmother towards the stepchild shall cease to exist.

### **Article 183**

The stepchildren shall be obliged to sustain their stepfather, that is the stepmother, if they in their turn have sustained them and taken care of them for a longer period of time. If the stepfather, that is the stepmother have children of their own, the obligation of the stepchildren shall be shared with those children.

### **Article 184**

**Paragraph 1** The persons who according to this law shall be obliged to sustain themselves mutually, shall<sup>3</sup> give the sustenance in the order in which the providers of the sustenance are falling in the line of inheritance.

**Paragraph 2** If the obligation for sustenance falls at the expense of several persons together, then it shall be shared among them according to their possibilities.

## **2. Sustenance of a spouse**

### **Article 185**

The spouse who does not have enough means of subsistence and is incapable for work or does not have work without his/her fault is entitled to subsistence by his/her spouse proportional to his/her abilities.

The court, taking into consideration all the circumstances of the case, may reject the request for sustenance if the spouse, who maliciously or without justified reasons has left his/her spouse, is requesting the sustenance.

### **Article 186**

Under the conditions of Article 185 of this law, the unsupported spouse has the right to request, with the verdict by which the marriage is terminated, to be awarded a certain amount for sustenance on the burden of the other spouse proportional to his/her abilities.

Upon exception of the provision of paragraph 1 of this Article, the spouse by a separate complaint, within a time limit of one year following the termination of the marriage, may request sustenance only if the condition for sustenance determined in Article 185 of this law were present at the moment of conclusion of the main hearing of the divorce proceedings and continued uninterruptedly until the conclusion of the main hearing of the divorce proceedings.

### **Article 187**

The court can reject the sustenance request if the sustenance is requested by a spouse, who without serious motive by the other spouse, behaved cruelly and unbecomingly in the marriage community or if his/her request would represent an evident injustice for the other spouse.

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<sup>3</sup> (Missing verb in the original text – remark of the translator).

**Article 188**

The court can reject the sustenance request if the spouses for a longer period of separated life, fully independently, provided means for their subsistence or if the circumstances of the case determine that the spouse who requests sustenance is not put in a more difficult position than the one in which he/she was in at the moment of the stipulation of the marriage.

**Article 189**

The right to sustenance of the unsupported former spouse shall endure five years following the divorce or termination of the marriage to the most.

**Article 190**

In case when the marriage lasted for a short time, the court might, judging all circumstances, decide for the obligation for sustenance to last for a determined period of time, or the request for sustenance to be completely denied, regardless of whether the requesting party for the sustenance, may provide his own means of sustenance in a foreseeable time frame, provided he does not raise a common minor child. Thereby the court shall judge whether the property conditions of the spouse have changed with respect to the stipulation of the marriage.

**Article 191**

The right to sustenance of the former spouse shall cease when the conditions of Article 185 of this law cease, when the time for which the sustenance was awarded had expired and when the former spouse who gets sustenance allowance stipulates a new marriage i.e. stipulates an out of wedlock community.

**Article 192**

In case of annulment of the marriage, the spouse, who at the time of the stipulation of the marriage was not aware of the reason of the invalidity/worthlessness may request to be awarded sustenance allowance on the burden of the other spouse, under the conditions under which the divorced spouse can exercise the right to sustenance.

**Article 193**

Upon deciding on the sustenance of a person from an out of wedlock community, the provisions of this law which refer to the sustenance of the spouses shall be applied accordingly.

**Article 194**

**Paragraph 1** While establishing the need for sustenance of the person, the court shall take into consideration his property status, working competence, employment possibility, health status as well as other circumstances on which the assessment of his needs depends.

**Paragraph 2** When the sustenance is being determined for a child the court shall take into consideration the age of the child as well, likewise the needs of his schooling.

**Paragraph 3** While establishing the possibilities of the person who is obliged to provide sustenance, the court shall take into consideration all his incomes, and the real possibilities for making an earning, as well as his own needs and legal obligations on grounds of the sustenance of other persons.

**Article 195**

In the lawsuit of the parents about the sustenance of the child, the court shall judge as a contribution for sustenance of the parent to whom the child has been entrusted for further care and education, the work and care of that parent which he has been investing in the upbringing and raising of the child.

**Article 196**

The amount of sustenance may be determined by the court in the form of a certain sum or percentage from the realized personal income, that is from the revenues and incomes realized from performing of other type of activity.

**Article 197**

**Paragraph 1** The Centre for Social Work may on behalf of the minor child institute a lawsuit for sustenance, that is for increase of the sustenance, when the parent with whom the child is placed for further care and education, has not been using this right, without any justified reasons.

**Paragraph 2** If the parent does not request execution of the adjudicated sustenance, the Centre for Social Work may on behalf of the minor child submit a proposal for execution.

**Article 198**

The Centre for Social Work shall insist that the parents agree mutually on the sustenance of the child, that is on the increase of the contribution in the sustenance of the child when so required by the increased needs of the child, or the same is made possible by the improved material circumstances of the provider of sustenance.

**Article 199**

The Centre for Social Work may, with the proxy note of elderly persons, institute and lead on their behalf a lawsuit for realization of the right of sustenance towards persons who according to the provisions of this law have the duty to sustain them.

**Article 200**

**Paragraph 1** The person who has the duty to provide sustenance, with the exception of the obligation of the parent towards his minor children, may in his own choice pay a certain amount of money on grounds of sustenance of the person, or to take the person with him in order to sustain him, or to provide him with sustenance in any other manner whatsoever.

**Paragraph 2** The person who has the right to sustenance may for justified reasons request the sustenance to be provided to him only as amount of money.

**Article 201**

The interested party may ask from the court to increase, to decrease or to abolish the sustenance adjudged with a former valid verdict, if the circumstances on grounds of which the verdict has been reached have altered.

**Article 202**

The provider of sustenance (authority, organization, community or physical person) may request from the persons who according to this law had the duty to provide sustenance, seek compensation by way of charges, for the expenditures made for the sustenance of the person, if the same were justified.

**PART SEVEN**

**PROPERTY RELATIONS**

**I. PROPERTY RELATIONS OF THE SPOUSES**

**1. Property of the spouses**

**Article 203**

The property of the spouses may be individual and shared/common.

**Article 204**

The property that one of the spouses had at the time of the stipulation of the marriage is his/her individual property.

As individual property is considered the property and the right to the property that the spouse will obtain by inheritance, legacy and gift, as well as the objects acquired in the marriage, which serve solely for

fulfilling the personal needs of one of the spouses, unless they have a disproportionately high value in comparison to the total property acquired in common.

Each spouse independently manages and disposes the individual property, unless the spouses agree otherwise.

**Article 205**

The property, which the spouses shall acquire in the course of the marriage, is their property acquired in common.

**Article 206**

The right of real-estate property of the spouses that is their property acquired in common, in the sense of Article 205 of this law shall be registered in the public books under the name of both spouses as their property acquired in common.

If only one of the spouses is registered as the owner of the common property in the public books, it shall be considered that the registration was done on the name of both spouses.

If both spouses are registered as owners of particular parts, it shall be considered that they have made a division of the property in this manner.

**2. Managing and disposing property**

**Article 207**

The spouses manage and dispose the property mutually and in agreement.

The spouse cannot independently dispose his/her part of the property acquired in common, not can he/she charge it with legal act among the living.

**Article 208**

The spouses may agree that the managing and disposing of property or part of it is performed by one of them.

The agreement may apply to all the things for managing and disposing or only to the regular managing or to specifically determined things.

If not otherwise agreed, the managing covers disposing within the frames of the regular works.

Each spouse may terminate the agreement for managing and disposing of common property any time, except when the termination clearly causes damage to the other spouse.

**Article 209**

In the carrying out of things, which are compensated with the regular managing of property, consent from the other spouse is required, expressed in a form required for a particular legal act.

**Article 210**

If the spouses cannot agree on the managing with the property acquired in common or regarding a particular thing related to the managing, while none of the spouses requires division, the court, upon the proposal of one of the spouses, in an out of court procedure, can determine necessary measures that refer to the managing.

**3. Division of common property**

**Article 211**

During and after the termination of the marriage, the spouses can agree to divide the property acquired in common or can request the court to do that.

With the division of the common property between the spouses, the regime of individual property begins.

**Article 212**

If an agreement is not reached, the court in an out of court procedure carries out the division of the common property, upon request of the spouses.

When determining the parts of the spouses of the property acquired in common, the court takes as fact that the common property is divided into equal parts.

Upon request of one of the spouses, the court can determine a larger part of the common property to him/her, provided that he/she proves that his/her contribution to the common property is evidently and significantly bigger than the contribution of the other spouse.

**Article 213**

During the division of the common property, upon request of the spouse, those objects of the mutual life which serve for carrying out his/her craft i.e. profession shall be inputted first in his/her part.

Apart from his/her own share, the spouse shall also be presented with the objects acquired by work during the marriage community, which serve solely for his/her personal use.

If the value of the items from paragraphs 1 and 2 of this Article is disproportionately larger in comparison to the value of the total property, these items shall also be divided, except if the spouse who should receive these items compensates the appropriate value, or if the other spouse, with his/her consent, give up the other items.

**Article 214**

The spouse, to whom the common children were entrusted for further care and education, shall be given, besides his share, also objects that serve the purposes of the children or are intended for their immediate use only.

During the division of the common property the spouse, to whom the common children were entrusted for further care and education, shall be given those objects for which it is obvious that it is in the interest for them to be in the possession and ownership of the that to whom the common children have been entrusted.

**Article 215**

If during the division of the common property it is determined that one of the spouses owns a significantly smaller part, the court, upon request of the of one of the spouses may determine that part of that spouse to be compensated in money.

**4. Responsibilities for debts towards third persons**

**Article 216**

The other spouse is not accountable for the responsibilities that one of the spouses had before stipulating the marriage, as well as the responsibilities that he/she will take after stipulating the marriage.

The spouses are untidily accountable for the responsibilities which one spouse has taken towards third persons for sustaining the current needs of the marriage community, as well as the responsibilities, which according to the general provisions charge both spouses.

The spouse, who has fulfilled his/her united responsibility from his/her own property has the right to require the other spouse to compensation for the part of the responsibility, for which he is liable.

**Article 217**

The gifts that the spouses have given to each other before stipulating the marriage and during the marriage shall not be returned.

**II. PROPERTY RELATIONS OF OUT OF WEDLOCK SPOUSES**



**Article 218**

The property, which the out of wedlock spouses shall acquire in the out of wedlock community, shall be considered as their common property.

During the division of property, the provisions for division of common property of the spouses shall be applied.

**III. PROPERTY RELATIONS OF PARENTS AND CHILDREN**

**Article 219**

The minor children may have their own property, which they might acquire, on grounds determined by law. That property, except the one which the minor has acquired by working, shall be managed and disposed with until his majority, by the parents of the minor, in a manner established by this law.

**Article 220**

If the parents do not live together, the property of the child shall be managed by the parent with whom the child lives, provided the Center for Social Work, does not decide otherwise upon proposal of the other parent.

**Article 221**

**Paragraph 1** The parents may use the revenues from the property of their child, primarily for his sustenance, upbringing and education as well as for the necessary needs of the family community, provided that they themselves do not have enough means of their own.

**Paragraph 2** The parents may with the approval of the Center for Social Work alienate or indebt the property of their child for the purpose of his sustenance, upbringing and education or if that is requested by some other interests, as well as when that is requested by the indispensable needs of the family community.

**PART EIGHT**

**COURT PROCEEDINGS**

**1. COMMON PROVISIONS**

**Article 222**

In the proceedings in which the court decides on the marital, family and other suits from this law, the provisions of the Law on Evaluation Proceedings and the Law on Executive Proceedings shall apply, if by this law it has not been otherwise determined.

**Article 223**

In the suits of Article 222 of this law, when the parties have common minor children or children to whom the parental right has been extended, the proceedings are immediate.

**Article 224**

**Paragraph 1** In the proceedings of Article 222 of this law, the public shall be excluded as well as during the session for main hearing, as well as during the session for reconciliation attempt.

**Paragraph 2** Upon exception, the President of the Court Council, may allow the presence of scientific and public workers, who deal with the issues of the marriage and the family, as well as of the persons proposed by the parties, at the session for the main hearing.

**Paragraph 3** The President of the Court Council may in agreement with the parties, allow the presence of the persons of paragraph 2 of this Article also at the session for reconciliation attempt.

#### **Article 225**

In the lawsuits of Article 222 of this law, it shall be not allowed to sentence a verdict owing to absence, or on the basis of confession, or renouncement, and court settlement shall be also excluded, except in suits for sustenance.

#### **Article 226**

**Paragraph 1** In the suits of Article 222 of this law, the proceedings in the first instance shall be led and the decisions shall be reached by a Council consisting of one judge and two judges jurors, and in the second instance a Council comprising of three judges.

**Paragraph 2** In the proceedings for compromise divorce of a marriage a decision may be reached by an individual judge under the conditions determined by this law.

#### **Article 227**

When the court decides on an extraordinary legal remedy, it shall decide in the form of a Council of five judges.

#### **Article 228<sup>4</sup>**

In the marital suits besides the court with a general local jurisdiction, the court on the territory of which the spouse had their last common domicile is also locally competent.

#### **Article 237<sup>5</sup>**

**Paragraph 1** Upon the receipt of the divorce charges or of the proposal for compromise divorce, and prior to the delivery of the charges to the defendant, a procedure for reconciliation of the spouses shall be implemented.

**Paragraph 2** The procedure for reconciliation of the spouses shall not be implemented if :

1. One of the spouses is mentally incompetent;
2. One or both spouses are living abroad;
3. One of the spouses has an unknown place of domicile for a period longer then six months and
4. After countercharges for divorce, regardless when they have been brought, whereas the attempt for reconciliation of the spouses has ended unsuccessfully.

**Paragraph 3** If the spouses have common minor children or children to whom the parental right has been extended, the reconciliation procedure shall be implemented by the Centre for Social Work.

**Paragraph 4** In the cases of paragraph 3 of this Article, the court within eight days shall deliver a written notification to the Centre for Social Work with the data as to when the divorce proceedings have been instituted, the basic reasons owing to which the divorce has been requested and the data about the children. The Centre for Social Work shall be obliged to finalize the procedure for reconciliation of the spouses within three months from the day of the receipt of the notification.

**Paragraph 5** Should the spouses not have common minor children or children to whom the parental right has been extended, the procedure for reconciliation of the spouses shall be implemented by the court, unless the same shall judge that it is worthwhile to leave the reconciliation to the Centre for Social Work.

**Paragraph 6** The procedure for reconciliation of the spouses in front of the Centre for Social Work shall be regulated by law.

#### **Article 248**

**Paragraph 1** The President of the Council shall not have to schedule a session for the main hearing if the reconciliation was unsuccessful, and proceedings for divorce have been instituted with a proposal for compromise divorce of the marriage, of spouses who do not have common children.

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<sup>4</sup> Articles 229-236 are not included in this extract.

<sup>5</sup> Articles 238-247 are not included in this extract.

#### **Article 249**

**Paragraph 1** If in the divorce suit it is being decided on the care, sustenance and upbringing of the children, the court shall invite the Centre for Social Work to participate at the session in order to protect the interests of the children and shall deliver to the same all decisions reached in the course of that proceedings.

**Paragraph 2** During the proceedings of paragraph 1 of this Article the Centre for Social Work shall make a proposal for the care, sustenance and upbringing of the children, and may within the limits of this proposal, present new facts and evidence which the parties have not given, invest legal means and undertake other procedural activities in the interest of the children.

#### **Article 250**

The property suits among the spouses, except for the suits for sustenance may not be decided upon together with the divorce suit.

#### **Article 251**

**Paragraph 1** During the proceedings for divorce suits the court may with a decision bring temporary measures for providing sustenance to the common children and for entrusting them for care and upbringing.

**Paragraph 2** The temporary measure of paragraph 1 of this Article, may be determined in line of duty, upon proposal of one of the parties, as well as upon the proposal of the Centre for Social Work.

**Paragraph 3** The temporary measures of paragraph 1 of this Article may be determined by the court to the benefit of the spouse as well, upon his proposal.

**Paragraph 4** The complaint against the decision of paragraph 1, 2 and 3 of this Article shall not withhold the execution of the decision.

#### **Article 252**

The temporary measures shall last until the lawful finalization of the proceedings, however the court may in line of duty or upon request of one of the parties change the same.

#### **Article 253<sup>6</sup>**

**Paragraph 1** When the marriage is being divorced with mutual agreement of the spouses, and the spouses have common minor children or major children to which the parental right has been extended, the compromise of paragraph 2, Article 39 of this law on the manner of exercise of the parental rights and entrusting the children for care and upbringing, shall be submitted in writing or verbally on minutes with the competent first instance court.

**Paragraph 2** If towards the proposal for compromise divorce, the mutual agreement of paragraph 1 of this Article has not been attached, the court shall act according to the provisions of the Law on Proceedings Process for Irregular Petitions.

#### **Article 256**

**Paragraph 1** At the evaluation of the mutual agreement of the spouses, the court shall be obliged to obtain the opinion of the Centre for Social Work and should it assess that the mutual agreement is contrary to the interests of the children, it shall reach its own decision.

**Paragraph 2** The Center for Social Work, shall be obliged to give its opinion in the sense of paragraph 1 of this Article, within 15 days from the day of the receipt of the court request.

**Paragraph 3** The opinion of paragraph 1 of this Article, shall be obtained from the Centre for Social Work, by the court, likewise in the suits when the divorce is requested with charges.

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<sup>6</sup> Articles 254 and 255 are not included in this extract.

**Article 257<sup>7</sup>**

**Paragraph 1** The court may determine the facts on which the parties are grounding the charges request in the divorce suit, whereby the parties have common minor children and those facts are related to the children, even when they are not disputable among the parties.

**Paragraph 2** The court must not enter into investigation of the veracity of the other facts of which it has learnt from the statements of the parties or in other manner whatsoever, and which might represent another reason for divorce as grounds for charges.

**Article 262**

**Paragraph 1** In the suits for establishment or repudiation of paternity or maternity, the minor child may bring charges either in front of the court with general local jurisdiction or in front of the court in the territory of which he has a place of domicile or residence. The child may also bring charges in front of the court of his domicile, that is residence even after his majority, but only under the condition that the defendant has no place of domicile, that is residence on the territory of the Republic of Macedonia.

**Paragraph 2** The provisions of paragraph 1 of this Article shall be applicable in cases when the child has brought charges together with another person.

**Article 263**

**Paragraph 1** Parties in the lawsuit for establishment of paternity, shall be the person whose paternity is being established, the child and the mother of the child, and the Centre for Social Work only when according to the provisions of this law, is authorized to institute proceedings for establishment of paternity.

**Paragraph 2** Parties in the lawsuit for repudiation of paternity shall be the person who is repudiating the paternity, the person whose paternity is being repudiated, the child and the mother of the child.

**Paragraph 3** When the paternity is being repudiated by the husband of the mother from the latter marriage, a party in the proceedings shall be also the husband of the mother from the former marriage.

**Article 264**

**Paragraph 1** If with the charges for establishment and repudiation of paternity, all persons who must appear as parties in the proceedings, are not included as plaintiffs and defendants, the court shall instruct the plaintiff to charge also the person who has not been included in the charges or to summon the person to join the charges as new plaintiff.

**Paragraph 2** If the plaintiff within the time period which shall be determined by the court has not extended the charges to all persons who must be parties in the proceedings or if those persons has not joined the charges, the court shall act upon the charges according to the Law on Proceedings Process for Irregular Petitions.

**Article 265**

**Paragraph 1** The parties who in the charges for repudiation and establishment of paternity or maternity are designated as plaintiffs or defendants shall be the only co-procedural parties.

**Paragraph 2** When the charges are brought by a competent person within the legal time period, the charges may be also joined by a person whose period for bringing charges has not yet expired.

**Article 266**

If the child and the parent, who represents the child by law, have opposed interests, the Centre for Social Work shall appoint a guardian for special cases to the child.

**Article 267**

**Paragraph 1** In the suits for establishment or repudiation of paternity the provisions of Article 234, paragraph 2, Article 251 and Article 252 of this law shall be implemented.

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<sup>7</sup> Articles 257-261 are not included in this extract.

**Paragraph 2** In the suits for establishment of maternity, all provisions like the ones in the suits for establishment or repudiation of paternity shall apply.

**Article 268**

If in the course of the suit for establishment of paternity, the defendant confesses the paternity, the proceedings shall be interrupted and the court shall act according to Article 51, paragraph 2 of this law.

**Article 269**

**Paragraph 1** The proceedings for repudiation of maternity shall be dealt with separately from the proceedings for establishment of maternity.

**Paragraph 2** Upon exception of paragraph 1 of this Article, provided that the proceedings are instituted by the woman who considers herself to be the mother of the child, unique proceedings shall be instituted.

**Article 270**

The provisions of Article 257 of this law shall also apply in the suits for establishment and repudiation of paternity and maternity, and for annulment of paternity established with a confession.

**Article 271**

In the suits for establishment and repudiation of paternity and maternity, a revision shall be allowed against the verdict which has gone into effect.

**Article 272**

In the proceedings for entrusting the children for further care and upbringing, the court shall not be bound by the requests of the parties.

**Article 273**

**Paragraph 1** A revision shall be allowed against the second instance decision for entrusting the children for further care and upbringing.

**Paragraph 2** When the decision for entrusting the children for further care and upbringing is being brought in a marital suit, the legal consequences of this decision shall arise on the day on which the legal consequences of the verdict with which it shall be established that the marriage has ceased to exist or has been annulled or divorced, shall also arise.

**Article 274**

With the verdict with which the marriage has been annulled or divorced, the court shall bring a decision for sustenance of the children established in Article 179 of this law.

**Article 275**

The verdict for sustenance of the child may be brought by the court also in suits for establishment or repudiation of paternity or maternity, when the bringing of this verdict, in light of the outcome of the suit and the circumstances of the case is possible and indispensable.

**Article 276**

In the suit for sustenance the provisions of the Law on Proceedings Process which relate to the proceedings in suits of minor value, shall not apply.

**Article 277**

In the suits for sustenance of minor child or major child to which the parental right has been extended the provision of Article 272 of this law shall apply.

**Article 278**

The complaint lodged against the verdict of the court in the suits of sustenance shall not withhold its execution.

**Article 279**

A revision shall be allowed in the suits for sustenance.

**Article 280**

**Paragraph 1** For deciding on the proposal for execution of the verdict of the court with which it has been ordered for the child to be handed over to the parent or to other person that is institution to which the child has been entrusted for care and upbringing, the court according to the place of domicile or residence of the parent who requests the execution, as well as the court on the territory of which the child is located, shall be locally competent.

**Paragraph 2** For the enactment of the execution, the court on the territory of which the child has found himself, shall be locally competent.

**Article 281<sup>8</sup>**

**Paragraph 1** During the implementation of the forceful execution the court shall take into consideration the urgency of the procedure and the need to protect the personality of the child.

**Paragraph 2** The court, after it has evaluated all circumstances of the case shall decide whether the execution shall be implemented by sentencing a fee against the person with whom the child is placed or by taking away the child from that person.

**Paragraph 3** If the purpose of the execution cannot be attained by sentencing and execution of the verdict for fee penalty, the execution shall be implemented by taking away of the child from the person with whom the child is placed and by surrendering the child to the parent, that is other person or institution to which the child has been entrusted for care, raising and upbringing.

**Paragraph 4** In the executive proceedings the court shall ask for the assistance of the Centre for Social Work.

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<sup>8</sup> Articles 282-286 are not included in this extract.