

# CODE OF THE INTERNATIONAL CIVIL LAW

*Prom. SG. [42/17](#) May 2005, amend. SG. [59/20](#) Jul 2007, *amend. SG. 47/23*  
*Jun 2009**

## **Part one.** **GENERAL PROVISIONS**

### **Chapter one.** **RANGE OF THE CODE**

#### **Scope**

Art. 1. (1) Provisions of this code shall regulate:

1. the international competence of the Bulgarian courts, of other bodies and the proceedings in international civil suits;
2. the applicable law to the private-law relations having international element;
3. recognition and admitting for execution of international decisions and other acts in the Republic of Bulgaria.

(2) In the meaning of this code a private-law relation of international element shall be a relation, which is connected to two or more states.

#### **Principle of the closest connection**

Art. 2. (1) The private-law relations of international element shall be regulated by the legislation of the state, which they are in a closest connection to. The contained in the code provisions regarding determining the applicable law shall express this principle.

(2) In event the applicable law cannot be determined on the grounds of the provisions of Part Three, the legislation of the state to which the relation is in closest connection to on the base of other criteria shall be applied.

#### **Correlation of international treaties, international acts and other laws**

Art. 3. (1) Provisions of this code shall not impact the regulation of the private-law relations of international element as established by an international treaty, by another international act entered in force for the Republic of Bulgaria, or by another law.

(2) Upon application of an international treaty or of another international act, the international nature of its provisions, the established by it the qualifications and the necessity to achieve unification of their interpretation shall be taken under consideration.

## **Part two.** **INTERNATIONAL COMPETENCE OF THE BULGARIAN COURTS**

# **AND OF OTHER BODIES. PROCEEDINGS UPON INTERNATIONAL CIVIL SUITS**

## **Chapter two. COMPETENCE OF THE BULGARIAN COURTS AND OF OTHER BODIES**

### **General Competence**

Art. 4. (1) The international competence of the Bulgarian courts and of other bodies shall be existing, if:

1. the defender has a customary residence, seat as per his Art.s of association or a location of the actual management in the Republic of Bulgaria;
2. the claimant or the appellee is a Bulgarian citizen or is a legal person, registered in the Republic of Bulgaria.

(2) Claims against a legal person, in case that the dispute has arisen from direct relations with a branch of it, may be submitted before the Bulgarian courts, if the branch is registered in the Republic of Bulgaria. Competence upon suits for personal rights

### **Competence upon suits for personal rights**

Art. 5. The Bulgarian and other bodies, besides on the grounds of Art. 4, shall be competent:

1. upon the suits for change or for defence of the name, if the person is a Bulgarian citizen or has a custom residence in the Republic of Bulgaria;
2. upon the cases for limitation or dismissal of the legal ability of Bulgarian citizens, as well as upon the suits for cancellation of limitation or dismissal of the legal ability of Bulgarian citizens;
3. of establishment or termination of guardianship or trusteeship, if the person who shall be put under guardianship or trusteeship, is a Bulgarian citizen or has a custom residence in the republic of Bulgaria;
4. of announcement of non-data absence or of a death of a person who has been a Bulgarian citizen or had a customary residence in the Republic of Bulgaria.

### **Entering Matrimony**

Art. 6. (1) The matrimony in the Republic of Bulgaria shall be concluded before an civil-status official , if one of the persons, who are entering the matrimony, is a Bulgarian citizen or has a custom residence in the Republic of Bulgaria.

(2) A matrimony may be entered by foreign citizens in the Republic of Bulgaria before a diplomatic or consulate representative of their native state, if the legislation of this state admits so.

(3) The Bulgarian citizens abroad may enter matrimony before a competent body of the foreign country, if admissible by its legislation.

(4) Matrimony may be entered between Bulgarian citizens abroad before diplomatic or consulate representative, if the legislation of the accepting country admits so.

(5) Matrimony between Bulgarian citizen and a foreign citizen may be entered abroad before Bulgarian diplomatic or consulate representative, if the legislation of the accepting country admits so.

#### **Competence upon matrimony claims**

Art. 7. The matrimony claims shall be subordinated to the jurisdiction of the Bulgarian courts, if one of the spouses is a Bulgarian citizen or has a customary residence in the Republic of Bulgaria.

#### **Competence upon suits for personal and proprietary relations between the spouses**

Art. 8. Under the conditions of Art. 7, the Bulgarian courts shall be competent at suits for personal and proprietary relations between the spouses.

#### **Competence at suits for descent**

Art. 9. (1) The Bulgarian courts and other bodies shall be competent at proceedings for founding or claiming descent, besides on the grounds of the Art. 4, also if the child or the parent who is a party, is a Bulgarian citizen or has custom residence in the Republic of the Bulgaria.

(2) Under the conditions of Para 1, this competence shall be valid for the suits for personal and proprietary relations between parents and children also.

#### **Competence upon suits for adoption**

Art. 10. (1) The Bulgarian courts and other bodies shall be competent upon the suits for admission of adoption, its annulment or termination, except the cases of Para 4, and if the adoptee, the adopter or one of the parents of the adoptee is a Bulgarian citizen or has custom residence in the Republic of Bulgaria.

(2) The Bulgarian courts shall be competent upon the suits for proprietary relations between adopter and adoptee, if the adopter or the adoptee is a Bulgarian citizen or has custom residence in the Republic of Bulgaria, as well as in the cases of Art. 4.

#### **Competence upon suits for alimony**

Art. 11. The Bulgarian courts shall be competent upon claims for alimony, except the cases of Art. 4, Para 1 and if the claiming alimony person has a custom residence in the Republic of Bulgaria.

#### **Competence upon suits for property rights**

Art. 12. (1) (amend. – SG 59/07, in force from 01.03.2008) The suits under Art. 109 of the Civil Procedure Code regarding immovable property located in the Republic of Bulgaria, the suits for execution or establishing securities over such property, as well as the suits for transfer or certification of property rights over them shall be of exclusive subordination to the jurisdiction of the Bulgarian courts and other bodies.

(2) Upon claims for property rights over movable property, the Bulgarian courts shall be competent, except the cases of Art. 4, and if the property is located in the Republic of Bulgaria.

#### **Competence upon suits for rights over sites of intellectual property**

Art. 13. (1) The Bulgarian courts shall be competent upon claims for copyrights and for rights related to the copyrights, where defence is aimed on the territory of the Republic of Bulgaria.

(2) Upon claims for rights over sites of industrial property, the Bulgarian courts shall be exclusively competent, if the patent has been issued or the registration of it has been performed in the Republic of Bulgaria.

#### **Competence upon suits for succession**

Art. 14. (amend. – SG 59/07, in force from 01.03.2008) The Bulgarian Courts and other bodies shall be competent upon claims under Art. 110 of the Civil Procedure Code and the other proceedings, related to succession, if the testator at the moment of his/her death had a customary residence in the Republic of Bulgaria or was a Bulgarian citizen, as well as if a part of his property is located in the Republic of Bulgaria.

#### **Competence upon suits for rights from contractual relations**

Art. 15. The Bulgarian courts shall be competent upon claims from contractual relations, except the cases of Art. 4, and if the place of performance of the obligation is the Republic of Bulgaria or the defendant has a main place of activity in the Republic of Bulgaria.

#### **Competence upon suits for rights of consumers**

Art. 16. (1) The Bulgarian courts shall be competent upon claims of consumer, except the cases under Art. 4, and if he/she has a custom residence in the Republic of the Bulgaria and the conditions under Art. 95, Para 2 present.

(2) Agreement on the choice of court shall be admissible only if concluded after the dispute arose.

#### **Competence upon labour disputes**

Art. 17. (1) The suits on labour disputes shall be subordinated to the jurisdiction of the Bulgarian Courts, if the employee or the officer customary performs his labour in the Republic of Bulgaria, as well as in the cases of Art. 4.

(2) An agreement on choice of court shall be admissible only if it is concluded after the dispute arose.

#### **Competence upon suits for tort**

Art. 18. (1) The Bulgarian courts shall be competent upon claims for damages from tort, except the cases of Art.4, and if the damaging act has been

committed in the Republic of Bulgaria or the damages or part of them have occurred in the Republic of Bulgaria.

(2) The competence under Para 1 shall present and for the direct claim of the injured person against the insurer of the person, the responsibility of which person is pretended.

### **Exclusive competence upon suits for the legal status of the legal persons, registered in the Republic of Bulgaria**

Art. 19. (1) (amend. – SG 59/07, in force from 01.03.2008) The Bulgarian courts shall be exclusively competent upon claims under Art. 104, item 5 of the Civil Procedure Code, if the legal person is registered in the Republic of Bulgaria.

(2) Para 1 shall be applied upon claims for invalidity or termination of a partnership or another legal person, for repealing of acts of its bodies, for defence of the membership, as well as of contestation of the transformation of the trade company and of the monetary alignment upon the transformation, if the company or the another legal person is registered in the Republic of Bulgaria.

### **Competence upon claims against several defendants**

Art. 20. Upon claims against several defendants, the Bulgarian courts shall be competent, if the grounds of competence presents regarding one of the defendants.

### **Competence due to a relation between the suits**

Art. 21. (1) If the Bulgarian courts are competent upon one of the submitted by the claimant claims, they shall be competent to hear the rest, if the relation between the suits imposes their joint consideration.

(2) (amend. – SG 59/07, in force from 01.03.2008) If the Bulgarian courts are internationally competent upon the initial claim, they shall be competent upon the counter-claim under the conditions of the Art. 211 of the Civil Procedure Code.

### **Exclusive competence**

Art. 22. The international competence of the Bulgarian courts and of other bodies shall be exclusive only if such is provided explicitly.

### **Assignment of the suit to a foreign court**

Art. 23. (1) (amend. – SG 59/07, in force from 01.03.2008) If subject of the suit is a proprietary right and the dispute is not of the exclusive competence of the Bulgarian courts, it may be assigned to a foreign court by a written agreement between the parties. In event that the Bulgarian court is approached at the presence of such agreement, the challenging by the defendant shall be lodged within the term set for a reply to the claim and before he stated his position on the merits of the dispute. Sentence one shall not be applied to claims for alimony.

(2) Under the conditions of Para 1, sentence one, a suit may be assigned to the Bulgarian courts, which suit is within the jurisdiction of a foreign court. This shall not be applied to claims for alimony.

(3) As far as from the agreement shall not be concluded otherwise, it shall be presumed that it assigns exclusive competence upon the suit to the Bulgarian or to the foreign courts for the dispute it has been executed.

#### **Tacit establishment of competence of the Bulgarian court**

Art. 24. (amend. – SG 59/07, in force from 01.03.2008) If the competence of the Bulgarian courts may be contracted by an agreement under Art. 23. Para 1, it may be established also without such agreement, if the defendant within the term set for a reply to the claim accepts it explicitly or tacitly by action on the merit.

#### **Competence upon bailing of claim**

Art. 25. The Bulgarian courts shall be competent to bail also a claim for the hearing of which claim are not competent, if the subject of the security measure is in the Republic of Bulgaria and the decision of the foreign court may be recognised and executed in the Republic of Bulgaria.

#### **Competence upon enforcement**

Art. 26. The Bulgarian enforcement bodies shall be exclusively competent for executing actions of enforcement if the obligation – a subject of this actions shall be performed by a person who has customary residence in the Republic of Bulgaria and the subject of these actions is located in the Republic of Bulgaria.

#### **Competence upon change of circumstances**

Art. 27. (1) If the ground for the international competence was existing at the moment of starting the case, it shall be kept in event of its consequent falling out during the period of proceedings

(2) If at the start of the suit the international competence did not present, it shall be established if the ground for it occurs within the period of proceedings.

#### **Check ex-officio**

Art. 28. The international competence shall be checked ex-officio. The definition of its presence or absence shall be a subject of appellate or cassation appeal.

### **Chapter three. PROCEEDINGS**

#### **Applicable law**

Art. 29. The Bulgarian courts and the other bodies shall hear the suits under the Bulgarian legislation.

#### **Evidence**

Art. 30. (1) The distribution of the evidencing burden shall be determined by the material law which regulates the consequences of the fact-subject of evidencing.

(2) (amend. – SG 59/07, in force from 01.03.2008) If the law, applicable to the merits of the case, allows witness testimony concerning the circumstances under the Art. 164 of the Civil Procedure Code, these evidences shall be admissible if the fact has occurred on the territory of the state which law is applicable.

(3) The bailing of evidences which are located in the Republic of Bulgaria shall be performed by the Bulgarian courts, even if they are not competent upon the suit for consideration of which these evidences are needed. The opposite party shall be notified about the date of the bailing, except if it may be postponed.

### **Assessment of foreign proceedings actions**

Art. 31. The Bulgarian courts and the other bodies shall assess the validity of the foreign proceedings actions or official documents as per the law of the state, where they have been performed or issued.

### **Summoning and handling of papers**

Art. 32. (1) The summoning, as well as the handling of messages and papers, abroad shall be performed through the Bulgarian diplomatic and consulate representatives or by the competent foreign bodies. The Bulgarian bodies shall approach them through the Ministry of Justice under the order defined by the Minister of Justice.

(2) Cooperation from the Bulgarian diplomatic and consulate representatives shall be required for actions of Bulgarian citizens only.

### **Litigation address**

Art. 33. (1) Party which has known address abroad shall be summoned at this address and in the summon shall be marked that the party shall point a litigation address in the Republic of Bulgaria.

(2) The obligation under Para 1 shall be beard also by the ex-lege representative, the guardian and the attorney of a person in the Republic of Bulgaria, if they go abroad.

(3) In event of failure to perform the obligation under Para 1 and 2, the consecutive summons and other papers addressed in the country shall be attached to the suit and shall be considered handled. The party shall be informed of these consequences upon the initial summoning.

### **Summoning through a representative**

Art. 34. If the party has a known address abroad, it may be summoned through its representative in the Republic of Bulgaria, if he has concluded on its behalf the transaction concerning which the proceedings are being started.

### **Summoning through a publication**

Art. 35. (1) If the country has a known address abroad and an unsuccessful attempt to summon it at this address has been performed, the party shall be summoned through a publication in the private section of the State Gazette, made at least one month before the date of the session.

(2) If although the publication the party does not appear at the session, the court shall appoint a representative.

### **Legal Assistance**

Art. 36. (1) The Bulgarian bodies shall provide support at the request of the foreign bodies, except the execution of the request contradicts the Bulgarian public order.

(2) The requested assistance shall be performed as per the Bulgarian law. At the request of the foreign body, it may be performed as per the foreign law, if it is compatible with the Bulgarian Law.

(3) In case that the Bulgarian bodies request legal assistance abroad, they may require performance of the action as per the Bulgarian law.

### **Challenge for pending proceedings**

Art. 37. The Bulgarian court shall stop ex-officio the started before it suit, if between the same parties, on the same ground and for the same claim there is an earlier started proceedings before a foreign court, and it is expected that it shall be finalised in a sensible term with a final decision, which can be recognized and executed in the Republic of Bulgaria.

### **Competence upon determining legal relationship**

Art. 38. (1) The Bulgarian court shall take position also on the determining the solution of the dispute legal relationships, even the suits for them are not within its jurisdiction.

(2) In event that on the determining legal relationship a pending litigation exists abroad, the Bulgarian court may stop the started before it suit, if a ground to expect that the foreign decision shall be recognised in the Republic of Bulgaria exists.

## **Part three.**

### **APPLICABLE LAW**

#### **Chapter four.**

### **GENERAL PROVISIONS**

#### **Qualification**

Art. 39. (1) If determining of the applicable law depends on the qualification of the factual elements or of the relationship, it shall be performed as per the Bulgarian law.

(2) In event a legal institute or legal concept are unknown to the Bulgarian law and cannot be determined by way of interpretation under the Bulgarian law, for

their qualification the foreign law which regulates them shall be taken under consideration.

(3) At qualification the international element in the settled relationships and the peculiarities of the international law shall be considered.

### **Referring**

Art. 40. (1) In the meaning of this code as a law of a certain state shall be accepted the legal regulations of this state, including its collision regulations, except otherwise is provided in this code or in another law.

(2) Returning to the Bulgarian law and forwarding to the law of a third country shall not be admissible concerning:

1. the legal status of the legal persons and of the non-personalized entities;
2. the form of the legal transactions;
3. the choice of the applicable law;
4. alimony;
5. contractual relations;
6. non-contractual relations.

(3) In the cases of Para 1, where the reference is accepted, the Bulgarian material law shall be applied, respectively the material law of the third country.

### **Applicable law of a state more than one legal system**

Art. 41. (1) In the cases the state of a law, which is determined as applicable by this code, consist of several territorial units with different legal systems, the law of this state shall determine which of those systems shall be applicable.

(2) If a certain state consist of several territorial units, each of which has its own legal regulation of the contractual and non-contractual relationships, each of the territorial units shall be presumed a separate state at the determination of the applicable law under Chapters Ten and Eleven.

(3) In the cases the state of a law, which is determined as applicable by this code, consist of more than one legal systems, applicable to a different categories of persons, the law of this state shall determine which of those systems shall be applicable.

(4) In the cases that the law of the state under Para 1 and Para 3 does not contain criteria to determine the applicable legal system, this legal system which the relation has closest connection to, shall be applied.

### **Change of the criteria for linking**

Art. 42. A subsequent change in the circumstances, on the grounds of which the applicable law has been determined, has no retrospective effect.

### **Finding the content of the foreign law**

Art. 43. (1) The court or another justice body shall find ex-officio the content of the foreign law. It may use the mechanisms as provided in the international treaties, to require information form the ministry of Justice, or from another body, as well as to require experts statements or statements of specialized institutes.

(2) The parties may present documents, founding the content of provisions of the foreign law, on which they ground their claims or objections, or in another way to give support to the court or to the other justice body.

(3) At the choice of applicable law, the court or other justice body may oblige the parties to assist at the founding of its content.

### **Interpretation and application of the foreign law**

Art. 44. (1) The foreign law shall be interpreted and applied as it is being interpreted and applied in the created it state.

(2) Avoidance to apply foreign law, as well as its incorrect interpretation and application, shall be a ground for appeal.

### **Public order**

Art. 45. (1) A provision of foreign law, defined as applicable by this code, shall not be applied only if the consequences of its application are obviously incompatible with the Bulgarian public order.

(2) Incompatibility shall be assessed under consideration of the degree of relation of the relationship with the Bulgarian legal order and the significance of the consequences of the application of the foreign law.

(3) In the event the envisaged in the Para 1 incompatibility is found, another appropriate provision from the same foreign law shall be applied. In case no such provision exists, a provision from the Bulgarian law shall be applied, if this needed for the settlement of the relationship.

### **Special Mandatory Regulations**

Art. 46. (1) The provisions of the code shall not impact application of the mandatory regulations of the Bulgarian law, which, in view of their subject and purpose, shall be applied, not depending on the reference to the foreign law.

(2) The court may take in consideration the mandatory regulations of the other state, to which the relationship is in a close connection, if these regulations as per the law of the other state shall be applied, not depending on which law has been defined as applicable accordingly to the collision regulation of the code. In order to decide if to apply such special mandatory regulations, the court shall take in consideration their nature and their subject, as well as the consequences of their application or of the avoidance of their application.

### **Reciprocity**

Art. 47. (1) Application of the foreign law shall not depend on the existence of reciprocity.

(2) In event that a legislation act requires existence of reciprocity, its existence shall be presumed until the opposite is proved.

## **Chapter five. LEGAL STATUS OF THE SUBJECTS**

## **Section I.**

### **Legal status of the natural persons**

#### **General provisions**

Art. 48. (1) In the meaning of this code, the native law of the person shall be the law of the state, which citizen he/she is.

(2) The native law of a person who has two or more citizenships, and one of them is the Bulgarian, shall be the Bulgarian law.

(3) Native law of a person, who is a citizen of two or more foreign states, shall be the law of this state, where is the place of his/her customary residence. If the person has no customary residence in any of these states of which he/she is a citizen, the law of the state with which he/she is in the closest connection shall be applied.

(4) In the meaning of this code, native law of a person who has no citizenship, shall be the law of the state where he/she has customary residence.

(5) In the meaning of this code, native law of a person of a refugee status and of a person, to which a refuge has been provided, shall be the law of the state, where his/her customary residence is.

(6) In event that in the cases of Para 3,4, and 5 the person has no customary residence, the law of the state, to which the person is in closest connection, shall be applied.

(7) In the meaning of this code, as a customary residence of a natural person shall be considered the place, where the person has settled predominately to live, and this is not related with a necessity of registration or permit to stay or to settle. For the definition of this place, the circumstances of personal or professional nature which arise from durable relations of the person with this place or from his/her intent to establish such relations shall be considered.

#### **Legal capacity**

Art. 49. (1) Legal capacity of the person shall be settled by his/her native law.

(2) The foreign citizens and the persons who have no citizenship have the same rights in the Republic of Bulgaria as the Bulgarian citizen, except provided otherwise by a law.

#### **Legal ability**

Art. 50. (1) Legal ability of the person shall be settled by his/her native law. In event the applicable to a certain relationship law settles special conditions regarding the legal ability, this law shall be applied.

(2) If the contract has been concluded between persons, located in one and the same state, the person who is legally able, may not refer to inability as per the law of another country, except if at the moment of concluding the contract, the opposite party knew or did not know about the inability due to negligence.

(3) The provision of Para 2 shall not be applied to transactions in the family and inheritance relationships, as well as to transactions of real rights over immovable

property, located in a state, different from the state of place of execution of the transaction.

### **Acquired legal capacity and ability**

Art. 51. The legal capacity and the legal ability acquired on the base of the native law shall not impact the change of citizenship.

### **Trade legal ability**

Art. 52. The legal ability of the person to perform trade activity without establishing of a legal person shall be determined by the law of the state, where the person registers him/herself as a trader. If registration is not needed, the law of the state where he/she has a main place of activity shall be applied.

### **Name**

Art. 53. (1) The name of the person and the change of it shall be settled by the native law of the person.

(2) The impact of the change of the citizenship shall be defined by the law of the state, a citizenship of which the person has acquired. If the person has no citizenship, the impact of the change of his/her customary residence on the name shall be impacted by the law of the state, where this person settles his/her customary residence.

(3) The defence of the name shall be settled by the law, which is applicable as per the provisions of the Chapter Eleven.

(4) The name and its change may be settled by the Bulgarian law, if this has been required by a person who has customary residence in the Republic of Bulgaria.

### **Limitation and deprivation of legal ability**

Art. 54. (1) The conditions and consequences of the limitation or deprivation of the legal ability of the person shall be settled by his/her native law. If the person has customary residence on the territory of the Republic of Bulgaria, the court may apply the Bulgarian law.

(2) The applied as per Para 1 law shall settle the conditions of repealing of the limitation or deprivation of the legal ability.

### **Announcement of non-data absence and of death**

Art. 55. (1) The conditions and the consequences of the announcement of non-data absence and of death shall be settled by the law of the state a citizen of which the person was as per the latest information about him/her. In event the person had no citizenship, the conditions and the consequences of the announcement of the non-data absence and of death shall be settled by the law of the state, where this person had his/her latest customary residence.

(2) The temporary measures for preserving the property of the person who is located on the territory of the Republic of Bulgaria shall be regulated by the Bulgarian law.

(3) A person who had a customary residence in the Republic of Bulgaria may be announced non-data absent or dead under the Bulgarian Law, if this has been required by a person who has a grounded interest for this.

## **Section II.**

### **Legal Status of the legal persons, of the non-personified entities and of the state**

#### **Legal persons**

Art. 56. (10) The legal persons shall be settled by the law of the state, where they are registered.

(2) If for the establishment of the legal person registration is not needed or it is registered in several states, the law of the state where as per its Art.s of association its seat is located shall be applied.

(3) If in the cases of Para 2 the location of the seat as per the Art.s of association does not coincide with the location of the actual management of the legal person, the law of the state, where its actual management is located shall be applied.

(4) The branch of a legal person shall be settled under the law of the state, where it is registered.

#### **Non-personified entities**

Art. 57. Associations or organizations, which are not legal persons, shall be regulated by the law of the state, where they are registered or established.

#### **Scope of the applicable law**

Art. 58. The applicable law concerning the persons envisaged in Para 56 and 57 shall regulate:

1. the establishment, their legal nature and legal-organisational form;
2. the name and firm name;
3. legal capacity and the system of management;
4. structure, competence and functioning of the bodies;
5. representatives;
6. acquirement and forfeiting of membership, as well as the related to this rights and obligations;
7. the responsibility of the obliged;
8. the consequences in cases of breach of the law or the Art.s of association;
9. the transformation and the termination.

#### **Removal of the seat and transformation**

Art. 59. The removal of the seat into another state and the transformation of legal persons who have seat in different states, shall become effective only if they have been executed in accordance with the law of these states.

## **Participation of the state in civil legal relationships of international element**

Art. 60. The provisions of this code shall be applied to the civil legal relationships of international element, a party where a state is, except otherwise provided in a law.

## **Chapter six. LEGAL TRANSACTIONS, REPRESENTATION AND LIMITATION PERIOD**

### **Form of the legal transactions**

Art. 61. The form of the legal transactions shall be regulated by this law, which is applicable to the transaction. It is sufficient, however, to observe the conditions and the form as defined by the law of the place of execution of the transaction.

### **Relationships between the represented and the third person in the consensual representation**

Art. 62. (1) In the relationships between the represented and the third person, the existence and the range of the representative power of the representative, as well as the consequences from his actions under the actual or pretended performance of the representative power shall be settled by the law of the state where the representative had his/her main place of activity at the moment of the performing the actions.

(2) Even though the provision of Para 1, the law of the state where the representative acted shall be applicable, if:

1. the main place of activity of the represented or his/her customary residence is in this state and the representative was acting on behalf of the represented, or

2. the main place of activity of the third person or his/her customary residence is in this state, or

3. the representative was acting at stock-exchange or participating in a tender, or

4. the representative has no main place of activity.

(3) The representative or the third person may choose in a written form the law which shall settle the matters under Para 1. The choice of the applicable law shall be accepted explicitly by the other party and shall not impact the interests of the representative.

### **Limitation period**

Art. 63. Concerning the limitation period, the law which regulates the respective relationship shall be applied.

**Chapter seven.**  
**PROPERTY RIGHTS AND RIGHTS OVER SITES OF INTELLECTUAL  
PROPERTY**

**Section I.**  
**Property Rights**

**General provisions**

Art. 64. (1) Possession, right of ownership and the other property rights over immovable objects shall be settled by the law of the state where they are located.

(2) The assessment of an object if it's an immovable or movable, as well as the type of the property rights shall be defined by the law envisaged in the Para 1.

**Acquirement and forfeit of property rights**

Art. 65. (1) The acquirement and forfeit of property rights and of possession shall be settled by the law of the state per location of the object at the time of performing the action or of occurrence of the circumstance which determines the acquirement or the forfeit.

(2) Acquirement of the right of ownership and other property rights on the base of prescription shall be settled by the law of the state, where the object was located before the elapsing of the period for the prescription The period of possession in another state shall be recognized.

**Acquired rights**

Art. 66. In case of change of the location of the object, the rights acquired on the grounds of the law of the state where the object had been located may not be exercised in offence of the law of the state per its new location.

**Transported objects**

Art. 67. (1) Acquisition and termination of property rights over transported objects shall be settled by the law of the state per their destination.

(2) The property rights over objects of personal usage, carried by a traveller, shall be settled by the law of the state of his/her customary residence.

**Means of transport**

Art. 68. The acquisition, the transfer and termination of property rights over means of transport shall be settled by:

1. the law of the state, under the flag of which the ship is sailing;
2. the law of the state, where the air vessel is inscribed;
3. the law of the state, where the place of activity of the person, who performs exploitation of the means of railroad and road transport is located.

**Inscribing**

Art. 69. The inscribing of legal transactions of acquisition, transfer and termination of property rights shall be settled by the law of the state, where the object had been located at the moment of execution of the transaction.

### **Cultural values**

Art. 70. In event that a certain object, included in the cultural inheriting of a state, is illegally carried out from its territory, the request of this state for returning of the object shall be settled by its law, except if the state has chosen the law of the state on the territory of which the object is located at the moment of the submission of the request for returning to be applied.

## **Section II.**

### **Rights over sites of intellectual property**

#### **General provisions**

Art. 71. (1) Arising, content, transfer and termination of copyright and the rights similar to the copyright, shall be settled by the law of the state, where their protection is demanded.

(2) Arising, content, transfer and termination of rights over sites of industrial property shall be settled by the law of the state where the patent has been issued, respectively where the application for issuing of a patent or for performing of registration has been submitted.

#### **Rights over sites of intellectual property created within a labour legal relationship**

Art. 72. The law which settles the labour contract shall be applied to define the relationships between the employer and the author, the title holder of the rights over a site of intellectual property created within the frames of a labour legal relationship.

#### **Applicable law to contracts**

Art. 73. The contracts for assignment of rights or for transferring of the right of usage over sites of intellectual property shall be settled by the law, which is applicable as per the Chapter Ten.

## **Section III.**

### **Scope of the applicable law to the property rights and the rights over sites of intellectual property**

#### **Scope of the applicable law**

Art. 74. The applicable law, as defined under the provisions of Sections I and II of this chapter, shall settle:

1. the existence, the type, the content , and the scope of the rights;

2. the holders of title of rights;
3. transferability of the rights;
4. the ways of establishment, change, transfer and lapse of the rights;
5. the necessity of inscription and opposition of the rights to the third persons.

## **Chapter eight.**

### **FAMILY RELATIONSHIPS**

#### **Form of the matrimony**

Art. 75. (1) The form of the matrimony shall be settled by the law of the state, before the body of which state the matrimony is concluded.

(2) The form of matrimony concluded before an authorized diplomatic or consulate representative, shall be settled by the law of the sending state.

(3) Matrimony concluded abroad, shall be recognized in the Republic of Bulgaria, if the form established by the applicable under Para 1 and 2 has been observed.

#### **Conditions for concluding matrimony**

Art. 76. (1) The conditions for concluding matrimony shall be defined for each of the persons by the law of the state of which the person is a citizen of at the moment of the conclusion of the matrimony. For a Bulgarian citizen, who concludes matrimony abroad, the permit under [Art. 12](#) of the Family Code may be given by a diplomatic or a consulate representative.

(2) If one of the persons is a Bulgarian citizen or has a customary residence on the Republic of Bulgaria, the matrimony shall be concluded before a Bulgarian civil-status official even if the applicable foreign native law establishes an impediment for conclusion of matrimony, which impediment is incompatible with the freedom of entering matrimony, this impediment shall not be considered.

#### **Finding lack of impediments**

Art. 77. A foreign citizen or a person who has no citizenship shall certify before the Bulgarian official of civil status that:

1. his/her native law recognizes the matrimony concluded before a foreign competent body;

2. under his/her native law no impediments for the conclusion of the matrimony exist.

#### **Annulment of the matrimony**

Art. 78. The annulment of the matrimony shall be regulated by the law which has been applicable to the conditions for the conclusion of the matrimony.

#### **Personal and property relations between spouses**

Art. 79. (1) The personal relationships between spouses shall be settled by their mutual native law.

(2) The personal relations between spouses who have different citizenship shall be settled by the law of the state, where their mutual customary residence is located, and if such does not exist – by the law of the state, which both of the spouses are in closest connection to.

(3) The property relations between spouses shall be settled by the applicable to their personal relations law .

(4) The spouses may choose applicable to the property relations law, if this is allowed by the law as defined under Para 1 and 2.

#### **Agreement on choice of applicable law**

Art. 80. (1) The choice of applicable law under Art. 79, Para 4 shall be in a written form and shall be with a date and with the signature of the spouses.

(2) The conclusion and the validity of the agreement of choice shall be settled by the chosen law.

(3) The choice may be made before and after the conclusion of the matrimony. The spouses may amend or cancel the choice of the choice of applicable law. If the choice was made before the conclusion of the matrimony, it shall become effective from the moment of conclusion of the matrimony, except the parties agreed otherwise.

#### **Opposition of the choice of applicable law**

Art. 81. If the property relations between spouses are settled by a chosen by them foreign law, they may be opposed to third persons only if these persons knew about application of this law or did not know due to their own negligence. Regarding property rights over immovable objects the opposition shall be effective only if the requirements for inscription, as established by the law of the state where the objects are located, have been observed.

#### **Divorce**

Art. 82. (1) The divorce between spouses of the same foreign citizenship shall be settled by the law of the state, which citizens are they of at the moment of submission of the application for divorce.

(2) The divorce between spouses of different citizenship shall be settled by the law of the state, where their mutual customary residence is located at the moment of submission of the application for divorce. In event the spouses have no mutual customary residence, the Bulgarian law shall be applied.

(3) In event that the foreign law does not admit the divorce and at the moment of submission of the application for divorce one of the spouses is a Bulgarian citizen or has a customary residence in the Republic of Bulgaria, the Bulgarian law shall be applied.

#### **Descent**

Art. 83. (1) The descent shall be settled by the law of the state, which citizenship of the child has acquired at the moment of birth.

(2) All though the provision of Para 1, it may be applied, if this is more favourable for the child:

1. the law of the state, which the child is a citizen of or has a customary residence at the moment of finding the descent, or

2. the law which is applicable to the personal relationships between the parents at the moment of birth.

(3) Reference to the law of a third state shall be accepted, if this law admits finding the descent of the child.

(4) Legitimizing of a child shall be effective if it complies with the native law of the person who has performed it, or with the native law of the child at the moment of legitimating, or with the law of the state, where the customary residence of the child at the moment of legitimating is located.

(5) The form of legitimating shall be settled by the law of the state where it has been performed or by the applicable law as per Art. 4.

### **Adoption**

Art. 84. (1) The conditions for adoption shall be settled by the law of the state of which the adopting parent (parents) and the person – subject of adoption are at the moment of submission of the application for adoption.

(2) if they are of different citizenship, the respective native law shall be applied to each of the persons.

(3) (amend. – SG 47/09, in force from 01.10.2009) In event that the person – subject of adoption is a person with customary residence in the Republic of Bulgaria, the consent of the Minister of Justice shall be required, unless the adopting parent has his customary residence in the Republic of Bulgaria. The terms and order for giving the consent for adoption shall be determined by ordinance of the Minister of Justice.

(4) (amend. – SG 47/09, in force from 01.10.2009) If the person – subject of adoption is a Bulgarian citizen, and the adopting parent who has customary residence in another state, he/she shall also meet the requirements for adoption as per the law of this state.

(5) The effect of the adoption shall be settled by the mutual native law of the adopting parent and of the adopted. If they are of a different citizenship, the law of the state where their mutual customary residence is located.

(6) Annulment of the adoption shall be settled by the law which was applicable to the conditions for the adoption as per Para 1, 2, and 4.

(7) The grounds for termination of adoption, besides the annulment under Para 6, shall be settled by the law applicable to the effect of the adoption law as per Para 5.

(8) In the event of termination of the adoption the interests of the under-the-adulthood age adopted.

### **Relations between parents and children**

Art. 85. (1) The relations between parents and children shall be settled by the law of the state, where their mutual customary residence is.

(2) If the parents and the child have no mutual customary residence, the relations between them shall be settled by the law of the state, where the customary residence of the child is, or by his/her native law, if this is more favourable for the child.

### **Guardianship and trusteeship**

Art. 86. (1) Establishment and termination of the guardianship and the trusteeship shall be settled by the law of the state, where the person, who shall be put under guardianship or trusteeship, has his/her customary residence.

(2) The relations between the person, put under guardianship or trusteeship, and the guardian or the trustee shall be settled by the law, which was applied under Para 1.

(3) The obligation to accept guardianship or trusteeship shall be settled by the native law of the person named as a guardian or trustee.

(4) Temporary or urgent measures for protection may be taken under the Bulgarian law if the person or his/her movable or immovable property is located on the territory of the Republic of Bulgaria.

### **Alimony**

Art. 87. (1) The obligation for alimony shall be settled by the law of the state, where the customary residence of the claiming the alimony person is, except if his/her native law is more favourable for him/her. In this case the native law of the person claiming the alimony shall be applied.

(2) If the claiming and the obliged for the alimony are citizens of one and the same state and the obligated for the alimony has his/her customary residence in this state, their mutual native law shall be applied.

(3) If the applicable foreign law under Para 1 and 2 does not admit awarding of alimony, the Bulgarian law shall be applied.

(4) If the obligation for the alimony between former spouses arises from annulment of a matrimony or from a divorce, the law which was applied as per Art. 72, respectively Art. 82 shall be applied.

### **Scope of the applicable law regarding the alimony**

Art. 88. (1) The applicable law to the alimony shall define:

1. if, in what amount and persons from which the alimony may be claimed;
2. who may claim alimony and within what terms it may be claimed;
3. if and under which conditions the alimony may be amended;
4. grounds for the lapse of the right of alimony;
5. the obligation of the obligated for alimony to reimburse the body, which has paid the alimony instead of him/her.

(2) For the defining of the amount of the alimony, the material abilities of the owing the alimony person and the actual needs of the claiming the alimony person shall be considered, even if the foreign law provides otherwise.

## **Chapter nine.**

### **HEREDITARY RELATIONS**

#### **Intestate succession**

Art. 89. (1) The succession of movable objects shall be settled by the law of the state, where the testator had his/her customary residence at the moment of his/her death.

(2) The succession on immovable objects shall be settled by the law of the state, where the objects are located.

(3) The testator may choose the succession of his property as a whole to be settled by the law of the state which hi/she was a citizen of at the moment of his/her death.

(4) The conditions for the validity of the choice of applicable law and its cancellation shall be settled by the chosen law. The choice of applicable law and its cancellation shall be done in the form of a testament disposition.

(5) By way of choosing the applicable law the reserved part for the successors defined by he applicable law under Para 1 and 2 shall not be impacted.

#### **Advance settlement of the hereditary rights.**

Art. 90. (1) The ability of the person to dispose his property by way of testament (drafting and withdrawal) shall be settled by the applicable under Art. 89 law.

(2) The testimony shall be considered of an effective form, if it meets the law of the state:

1. where it was done, or
2. of which the testator was a citizen at the moment of the drafting of the testament or at the moment of his/her death, or
3. where the testator had his/her customary residence at the moment of the drafting of the testament or of his death, or
4. where the immovable object – subject of the testament is located.

(3) Para 2 shall be applied also to the form of the disposal of withdrawal of the testament.

#### **Scope of the applicable law**

Art. 91. The applicable to the heritage law shall settle:

1. the moment and the place of the opening of the heritage;
2. the circle and order of the successors;
3. the heritage shares;
4. the ability to inherit;
5. assumption of the obligations of the testator and their diversification between the successors;
6. acceptance and ejection of a heritage;
7. terms for the acceptance of the heritage;
8. the share under disposal;
9. the conditions for the validity of the testament.

### **Unoccupied heritage**

Art. 92. If as per the applicable to the heritage law no successors exist, the heritage property located on the territory of the Republic of Bulgaria shall be obtained by the Bulgarian state or the municipality.

## **Chapter ten. CONTRACTUAL RELATIONS**

### **Choice of applicable law**

Art. 93. (1) The contracts shall be settled the chosen by the parties law. The choice shall be explicit or to arise clearly from the contractual provisions or from the circumstances at which the contractual relation passes.

(2) If not agreed otherwise, it shall be accepted that the parties have assumed as applicable law the custom, which is known to them or should be known and which is widely known in the international trade and permanently observed by the parties of contracts of the same type in the respective field of trade.

(3) The parties may make choice of applicable law for the whole contract or for a part of it.

(4) The parties may at any time agree to apply a different than the applicable till that moment law. The effectiveness of the form of contract as per Art. 98 and the rights of the third parties shall not be impacted by the change of the applicable law occurred after the contract was concluded.

(5) If all of the elements of the contract are connected to one and the same state at the moment of choice, the choice of a foreign law shall not impact application of the mandatory regulations of this state, which may not be avoided by exercising the liberty to enter contracts.

(6) Regarding the existence and the validity of the agreement on choice of the applicable law, the provisions of Art. 97 and Art. 98 shall be applied.

### **Applicable law in lack of choice**

Art. 94. (1) If the parties did not choose the applicable law, the law of the state, to which the contract is in closest connection. If a part of the contract may be detached from the rest of the clauses and if this part is in more close connection to another state, as an exception the law of this another state may be applied to the detached part of the contract.

(2) It shall be presumed that the contract is in closest connection to the state, where the party, which shall perform the typical performance, had its customary residence or main management at the moment of conclusion of the contract.

(3) If the contract has been concluded in fulfilment of the craft or of the professional activity of the party under Para 2, it shall be presumed that the contract is in closest connection to the state, on the territory of which the main place of activity of the party is located. If the place of performance is different than the place of activity of the party, it shall be presumed that the contract is in closest connection to the state, on

the territory of which the place of activity where the performance shall be executed was at the moment of concluding the contract.

(4) The provisions of Para 2 and 3 shall not be applied if the typical for the contract performance cannot be defined.

(5) If the subject of the contract is a property right over immovable object, it shall be presumed that the contract is in closest connection to the state, where the immovable object is located.

(6) The provisions of Para 2 and 3 shall not be applied to the contract for freight business. It shall be presumed that the contract for freight business is in closest connection to the state, on the territory of which the main place of activity of the carrier was at the moment of concluding the contract, under the condition that in the same state is:

1. the place of loading, or
2. the place of unloading, or
3. the main place of activity of the person who assigned the cargo.

(7) The provision of Para 6 shall be applied also to charter contracts for one-off freight or other contracts which mainly serve the transportation of cargo.

(8) The provisions of Para 2, 3, 5, 6 and 7 shall not be applied, if from the circumstances as a whole, follows that the contract is in a closer connection to another state. In this case the law of this another state shall be applied.

### **Applicable law to contracts with consumers**

Art. 95. (1) In the meaning of this code a contract concluded with a consumer shall be this contract, to which a party is a person who obtains goods, uses services or loans for his/her own needs or for the needs of his/her close connections and not for sale, production or exercising of craft.

(2) The concluded with a consumer contract shall be settled by the chosen by the parties law. The choice of a contract shall not deprive the defence of the consumer, as provided by the mandatory regulations of the state, where his/her customary residence is located, if:

1. the conclusion of the contract in this country was preceded by a concrete invitation to the consumer or by an advertisement and the consumer undertook all needed for the conclusion of the contracts acts in the same state, or

2. the counter-part of the contract or its representative have received an errand by the consumer in this state, or

3. the contract is related to a sale of goods and the seller has organised a trip for the consumer for the purpose to persuade the consumer to buy goods in another state, where the consumer has made the errand.

(3) If the parties have not chosen applicable law, the contracts concluded upon the circumstances as per Para 2, shall be settled by the law of the state, where the consumer has his/her customary residence.

(4) The provisions of Para 2 and 3 shall not be applied to contracts for freight and contracts for services, if the services are provided to the consumer as a whole in a state, different from this, where the consumer has his/her customary residence. These contracts shall be settled as per Art. 93 and 94.

(5) The contracts in the price of which contracts a complexity service related with transportation and lodging is included, shall be settled by the law defined as applicable under Para 2 and 3.

### **Applicable law to the individual labour contracts**

Art. 96. (1) The labour contract shall be settled by the chosen by the parties law. The choice of law shall not deprive the employee or the officer from the defence, which the mandatory regulations of the law, which should be applied if a choice of law did not exist, provide him/her.

(2) If no choice of law is made, the labour contract shall be settled by the law of the state, where the employee or the officer customary performs his/her labour, even hi/she has been temporary sent in another state.

(3) If the employee or the officer does not perform his/her labour customary in one and the same state, the law of the state, where the customary residence or the main place of activity of the employer is.

(4) If in the cases of Para 2 and 3 from the circumstances as whole follows that the labour contract is in a closer connection to another state, the law of this another state shall be applied.

### **Conclusion and validity of the contracts**

Art. 97. (1) Conclusion and validity of the contracts or of its separate provision of it shall be settled by the law of the state, which shall be applicable as per this chapter, if the contact or the provision were valid.

(2) In order to find that the party did not express its consent on the contract, each of the parties may refer to the law of the state, where the party has its customary residence, if from the circumstances regarding the contract, follows that to determine the consequences of its actions under the law as per Para 1 is not justifiable.

### **Form of the contracts**

Art. 98. (1) For the validity of the contract, observation of the requirements of form as established by the applicable to the contract law –as stipulated in this chapter, or as stipulated by the law of the state where the contract is concluded, is needed.

(2) If to the moment of conclusion of the contract the parties were in different states, the contract shall be valid if the requirements of form as established by the applicable pursuant to this chapter law, or by the law of one of these states.

(3) If the contract is concluded by a representative, at the application of Para 1 and 2 shall be taken in consideration the law of the state, on the territory of which the representative is located.

(4) Regarding the validity of the contracts concluded with consumer under the circumstances as per Art. 95, Para 2 is needed to observe requirements of form, as established by the law of the state, where the customary residence of the customer is located.

(5) For the validity of unilateral act of volition in connection with an existing or a future contract, the requirements of form shall be observed, as established

by the law, which shall be applied under the provisions of this chapter or should be applied to the contract, or by the law of the state per place of performance of the act of volution.

(6) If subject of the contract is a property right over immovable object, the mandatory requirements form shall be observed, as established in the state, where the immovable object is located, as far as according to the law of this state they shall be applied not depending on the place of conclusion of the contract and not depending on the applicable to it law.

### **Subrogation**

Art. 99. (1) If a third person has an obligation to satisfy or has satisfied a creditor, the law settling the obligation of the third person to the creditor, shall define if and in what degree this person may exercise as a whole or partially the rights which the satisfied creditor has against the debtor accordingly to the law which settles their relations.

(2) Para 1 shall be applied also in the cases of several persons shall perform one and the same obligation and one of the persons has satisfied the creditor.

### **Assignment of a receivable**

Art. 100. (1) The relations between the creditor, who has assigned his receivable, and the new creditor shall be settled by the law, which accordingly to the provisions of this chapter, shall be applicable to the contract on the assignment of the receivable.

(2) The law, which shall be applied to the assigned receivable, shall settle its transferability, the relation between the new creditor and the debtor, the conditions under which the assignment may be opposed to the debtor and the redeeming action of the performance by the debtor.

### **Evidences**

Art. 101. (1) The law, which settles the contract accordingly to the provisions of this chapter, shall be applicable also in connection with its evidencing, as far as it contains established by the law presumptions or other provisions regarding the burden of adducting evidences.

(2) The contract or the unilateral act of volution shall be proved with all means of evidencing admissible as per the law of the state of the approached court or as per the law under Art. 98, accordingly to which the form is observed.

### **Scope of the applicable law**

Art. 102. (1) The applicable to the contract law, as defined by the provisions of this chapter, shall settle:

1. interpretation of the contract;
2. performance of the obligations;
3. the consequences or partial failure to perform the obligations;
4. determining the range of damages;
5. grounds of redeeming the obligations;

6. the consequences of the invalidity of the contract;
7. the limitation period;
8. termination of rights as a consequence of elapsing of a period.

(2) Regarding the way of performance and the measures which the creditor may undertake in case of failure of performance, the court shall consider as a whole or partially the law of the state per place of performance of the contract.

### **Interpretation and application of the provisions of this chapter**

Art. 103. The provisions of this chapter shall be interpreted and applied with regard of:

1. the circumstance that they are coordinated with the Convention on the Law Applicable to Contractual obligations of June ,19th 1980, concluded in Rome between the countries – members of the European Community, and

2. the necessity in achieving uniformity of the way the rules of this convention shall be interpreted and applied in the states for which it is in force.

### **Inapplicability of provisions of this chapter**

Art. 104. Provisions of this chapter shall not be applied to the obligations arising from a bill of exchange, from a promissory note and from a cheque.

## **Chapter eleven. NON-CONTRACTUAL RELATIONS**

### **Section I. Tort**

#### **General provisions**

Art. 105. (1) The obligations, arising out of tort, shall be settled by the law of the state, on the territory of which the direct damages have occurred or a danger of occurrence of the direct damages appear.

(2) If the person who caused the damage or the injured person have at the moment of occurrence of the damage their customary place of residence or place of activity in the one and the same state, the law of this state shall be applied.

(3) Not depending of the provisions of Para 1 and 2, if from the circumstances as a whole follows that the tort is in a significantly closer connection to another state, the law of this another state shall be applied. This way a closer connection may be found on the base of a preceding relation of the parties, for instance, such as contract which is in a close connection to the tort.

#### **Liability for damages from goods**

Art. 106. (1) If the damage has been caused or a danger to cause a damage from a defect of a chattel, the obligation for reimbursement shall be settled by the law of the state, where the customary residence of the injured person is, except if the person the liability of which is pretended proves that the chattel has been released on

the market in this state without his/her consent. In this case the law of the state where the customary residence or the place of activity of the person, whose liability is pretended, is located.

(2) Para 1 shall not impact the application of the provision of Art. 105, Para 2 and 3.

### **Unfair competition and limitation of competition**

Art. 107. (1) The obligations arising out of unfair competence and of limitation of the competence, shall be settled by the law of the state, on the territory of which the interests of the competitors in their relations between them and the collective interests of the consumers have been or may be injured directly and fundamentally.

(2) If the effect of the unfair completion impacts exclusively the interests of a concrete competitor, the provisions of Art. 105, Para 2 and 3 shall be applied.

### **Offence of related to the person rights**

Art. 108. (1) The obligations arising out of offence of related to the person rights by the mass-media, and especially by printed editions, radio, television or other means of information, shall be settled accordingly to the choice of the injured person by:

1. the law of the state, where his/her customary place of residence is, or
2. the law of the state, on the territory of which the damage has occurred, or
3. the law of the state, where the customary place of residence or the place of activity of the person, whose liability is being pretended, is located.

(2) In the cases under Para 1, items 1 and 2 is needed that the person, whose liability is being pretended, could reasonably foreseen that the damage will occur on the territory of the respective state.

(3) The right of objection in case of breach of related to the person rights by the mass-media shall be settled by the law of the state, where the publication has been executed or the programme broadcasted.

(4) The provision of Para 1 shall not be applied also for obligations arising out of offence of rights, related to the protection of personal data.

### **Damaging of the environment**

Art. 109. The obligations arising out of damaging the environment, shall be settled by the law of the state, on the territory of which the damage ahs occurred or a danger to occur exists, except the damaged person has chosen the law of the state where the damaging act ahs been executed.

### **Offence of rights over sites of intellectual property**

Art. 110. The obligations arising from offence of copyrights, of rights similar to the copyrights and of the rights over industrial property shall be settled by the law of the state where the protection of the right is aimed.

## **Section II.**

### **Unjust enrichment. Managing other person's affairs without authorisation**

#### **Unjust enrichment**

Art. 111. (1) The obligations arising out of unjust enrichment shall be settled by the law of the state, where it has occurred.

(2) If unjust enrichment has occurred in connection with another relationship between the parties, for instance such as contract which contract is in a close connection to the unjust enrichment, the law which settles this another relationship shall be applied.

(3) If at the moment of occurrence of the unjust enrichment the parties had their customary residence or place of activity in one and the same state, the law of this state shall be applied.

(4) If from the circumstances as whole follows that the unjust enrichment is in a significantly closer connection to another state, the law of this another state shall be applied.

#### **Managing of another person's affairs without authorisation**

Art. 112. (1) The obligations arising out of managing of another person's affairs without authorisation shall be settled by the law of the state, where the customary residence or the place of activity of the interested person is located at the moment of the undertaking of the management.

(2) If the management has been undertaken in connection with another relationship between the parties, such as ,for instance, a contract which is in a close relation with the managing of another person's affairs without authorisation, the law which settles this another relation shall be applied.

(3) If the obligation arising out of the managing of another person's affairs without authorisation is related to protection of a natural person or of a concrete property, the law of the state where the person or the property had been located at the moment of the managing of another person's affairs without authorisation.

(4) If from the circumstances follows as a whole that the managing of another person's affairs without authorisation is in a significantly closer connection to another state, the law of this another state shall be applied.

## **Section III.**

### **General provisions on the non-contractual relations**

#### **Choice of applicable law**

Art. 113. (1) After the occurrence of an obligation arising out of non-contractual relation settled by sections I and II, the parties may subordinate this obligation to a chosen by them law. The choice of applicable law shall be explicit or to ensue clearly from the circumstances of the case and shall not impact the rights of third persons.

(2) If at the moment of occurrence of the obligation all of the elements of the non-contractual relation are related to a state different than the state which law has

been chosen, the choice shall not impact the application of the mandatory regulations of this state which cannot be avoided by way of exercising of liberty of entering contracts.

(3) The provisions of Para 2 and 2 shall not be applied to the obligations settled under Art.111.

(4) Regarding the existence and validity of the agreement on the choice of applicable law shall be applied respectively the provisions of Art. 97 and 98.

### **Scope of the applicable law to the non-contractual relations**

Art. 114. (1) The applicable to obligations arising out of non-contractual relations law shall settle:

1. conditions and the scope of the liability as well as the obliged persons;
2. the grounds to exclude the liability, as well as the limitation and separating of the liability;
3. the measures which the court may impose in order to provide prevention, termination or reimbursement of the damage or the injury;
4. the type of damages and injuries for which reimbursement may be pretended;
5. defining of the size of the damages and injuries, as far as this is settled by the legislation;
6. transferability of the right of reimbursement;
7. the persons who have right of reimbursement for personally suffered by them damages or injuries;
8. liability for damages caused by another person;
9. the ways of lapsing the obligations, limitation period and termination of rights as a consequence of period-elapse.
10. evidencing the obligations, as far as the applicable law contains established by the law presumption or other provisions regarding the burden of evidencing.

(2) The applicable law shall not settle the liability of the state and of legal persons of the public law, as well as of their bodies or representatives for executed by them actions within exercising their powers.

### **Consideration of provisions of security and rules of behaviour**

Art. 115. Not depending on the applicable law, in defining the liability the provisions of security and the rules of behaviour which were in force at the place and at the moment of performing of the damaging act shall be considered.

### **Claim against the insurer**

Art. 116. The right of the person who suffered damages to submit claim directly to the insurer of the person whose liability is pretended, shall be settled by the law applicable to the obligation arising out of the respective non-contractual relation, except the person who suffered injuries and damages has chosen to ground his/her claim on the law applicable to the insurance contract .

**Part four.**  
**RECOGNITION AND ADMISSION OF THE EXECUTION OF  
FOREIGN DECISIONS AND OTHER ACTS**

**Chapter twelve.**  
**CONDITIONS AND ORDER FOR RECOGNITION AND ADMISSION  
OF EXECUTION OF FOREIGN DECISIONS AND OTHER ACTS**

**Conditions for recognition and admission of execution**

Art. 117. The decisions and acts of foreign courts and of other bodies shall be recognized if:

1. the foreign court or body is competent as per the provisions of the Bulgarian law, but on if only the citizenship of the claimant or his/her registration in the state of the court was the ground for competence upon proprietary disputes;

2. to the defendant a copy of the claim has been handled, the parties have been regularly summoned and the main principles of the Bulgarian law regarding their defence had not been offended;

3. if between the same parties, on the same ground and for the same claim there is no entered in force decision of a Bulgarian court;

4. if between the same parties, on the same ground and for the same claim there is no pending litigation before a Bulgarian court, started before the foreign suit on which the decision is imposed and the recognition and execution of which is pretended;

5. recognition or admission of execution shall not contradict the Bulgarian public order.

**Jurisdiction at recognition**

Art. 118. (1) The recognition of the foreign decision shall be performed by the body before which it is submitted.

(2) In case of dispute regarding the conditions for recognition of the foreign decision, a declaratory judgment may be demanded at the Sofia City Court.

**Jurisdiction in admission of execution**

Art. 119. (1) For the admission of the execution of the foreign decision a claim shall be filed at the Sofia City Court.

(2) to the application shall be attached a copy of the decision, certified by the court that has imposed it, and a certificate from the same court, that the decision has entered into force. These documents should be certified by the Ministry of Foreign Affairs of the Republic of Bulgaria.

(3) Para 2 shall be applied also in the cases of Art. 118.

**Checking of the conditions for recognition and admission of the  
execution**

Art. 120. (1) The court shall check ex-officio the conditions under Art. 117.

(2) The defendant in the litigation on the recognition and admission of the execution of the foreign decision may not refer to breaches under Art. 117. item 2 which breaches he/she could submit before the foreign court.

### **Scope of the checking and defence of the debtor**

Art. 121. (1) The court shall not enter considerations on the merits of the dispute settled by the foreign court.

(2) The debtor may make objections of lapse of the obligation on the grounds of circumstances appeared after the foreign decision has entered in force.

(3) The debtor may not make objections of lapse the obligation on the grounds of the circumstances under Para 2, after the decision for admission of the execution has entered in force.

### **Recognition and admission of court settlement agreements**

Art. 122. The provisions of Art. 117 - 121 shall be applied to court settlement agreements, if the state where they have been concluded treats them as equal to a court decision.

### **Enforceability of foreign official documents**

Art. 123. The conditions of Art. 117 – 121 shall be applied also for the obtaining of enforceability of a foreign official document which certifies a receivable, enforceable in the state where the document has been issued.

### **Recognition of the consequences of the foreign enforcement and protective acts.**

Art. 124. The civil consequences of foreign enforcement or protective acts shall be recognised in the Republic of Bulgaria regarding their submission if they have been issued by a body internationally competent as per the Bulgarian law and do not contradict the Bulgarian public order.

## **Concluding provisions**

§ 1. In the Law on the Protection of the Consumers and on the Trade Rules (prom. SG 30/ 1999 ; amend., 17 and 19/2003) Art. 37a shall be revoked.

§ 2. In the Law of the Contracts and Obligations (prom. SG 275/ 1950, amend. SG 69/ 1951., SG 92/ 1952., SG 85/ 1963., SG 27/ 1973, SG 16/ 1977, SG 28/ 1982, SG 30/ 1990, SG 12/ 1993, SG 56/ 1993, SG 83/ 1996, SG 104/ 1996, SG 83/ 1999, SG 103/ 1999, SG 34/ 2000, suppl. SG 19/ 2003) Art. 437 – 449 shall be revoked

§ 3. In the Trade Law (Prom. SG 48/ 1991, amend. SG 25/ 1992, SG 61/ 1993, SG 103/ 1993, suppl. SG 63/ 1994, amend. SG 63/ 1995, SG 42/ 1996, SG 59/

1996, SG 83/ 1996, SG 86/ 1996, SG 104/ 1996, SG 58/ 1997, SG 100/ 1997, SG 124/ 1997, suppl. SG 39/ 1998, SG 52/ 1998, amend. SG 70/ 1998, SG 33/ 1999, suppl. SG 42/ 1999, amend. SG 64/ 1999, SG 81/ 1999, SG 90/ 1999, SG 103/ 1999, SG 114/ 1999, SG 84/ 2000, SG 28/ 2002, SG 61/ 2002, suppl. SG 96/ 2002, amend. SG 19/ 2003, SG 31/ 2003, SG 58/ 2003, SG 31/ 2005) Art. 281 and 282 shall be revoked.

§ 4. In the Civil Procedure Code (prom. amend. SG 12 / 1952 ; amend and suppl. 92/ 1952 г., 89/ 1953, 90 / 1955, 90/ 1956, 90/ 1958, 50 and 90/ 1961; corr., 99/ 1961 г.; amend., and suppl. 1 / 1963, 23/ 1968, 27/ 1973, 89/ 1976, 36/ 1979, 28/ 1983, 41/ 1985, 27/ 1986, 55/ 1987, 60/ 1988, 31 and 38/ 1989, 31/ 1990, 62/ 1991, 55/ 1992, 61 and 93/ 1993, 87/ 1995, 12, 26, 37, 44 and 104/ 1996, 43, 55 and 124/ 1997, 21, 59, 70 and 73/ 1998, 64 and 103/ 1999, 36, 85 and 92/ 2000, 25/ 2001, 105 and 113 / 2002, 58 and 84 / 2003, 28 and 36 / 2004 г.) Art. 7. Art. 9 Para 3 and 4, Art. 132 and chapter thirty two shall be revoked.

§ 5. In the Family Code ( prom., SG 41/1985, amend., and suppl., SG 11/1992, corr., 15/1992, amend., 63 and 84/2003) the following amendments shall be made:

1. Art. 129- 135 and 137 – 143 shall be revoked.

2. In the Art. 136:

a) Para 1 shall be revoked;

b) Para 2 shall be amended as follows:

"(2) A Bulgarian citizen who has accomplished one year of age may be adopted by a foreigner having presented a permit for adoption of a child according to his native law. As an exception, in view of the health status of the child, or where other important circumstances are present, the child may be adopted before accomplishment of one year if this is to his/her exclusive interest.:

c) Para 3, 4, 5, 7, 8 and 9 shall be revoked

§ 6. In the Law on the Non-profit Legal Persons (promulg., SG 81/ 2000;amend., 41 и 98/ 2001, 25 and 120/ 2002) the following amendment shall be made:

1. The title of the Chapter Four shall be amended to "Branches of Non-profit lgal persons"

2. Art. 51 shall be revoked.

3. In the Art.52:

a) the title shall be amended to "Establishment of a branch"

b) Para 1 shall be revoked.

§ 7. In the Trade Sailing Code (prom., SG 55 and 56/ 1970;corr., 58/ 1970;amend., and suppl., 55/ 1975, 10/ 1987, 30 / 1990, 85/ 1998, 12/ 2000, 41/ 2001, 113/ 2002, 55/ 2004) Art. 21, 24 and 26 shall be revoked.

This code was adopted by the XXXIX National Assembly on the 4th of May 2005 and was affixed with the official seal of the National Assembly.

## **Transitional and concluding provisions TO THE CIVIL PROCEDURE CODE**

(PROM. – SG 59/07, IN FORCE FROM 01.03.2008)

§ 61. This code shall enter into force from 1 March 2008, except for:

1. Part Seven "Special rules related to proceedings on civil cases subject to application of Community legislation"

2. paragraph 2, par. 4;

3. paragraph 3 related to revoking of Chapter Thirty Two "a" "Special rules for recognition and admission of fulfillment of decisions of foreign courts and of other foreign bodies" with Art. 307a – 307e and Part Seven "Proceedings for returning a child or exercising the right of personal relations" with Art. 502 – 507;

4. paragraph 4, par. 2;

5. paragraph 24;

6. paragraph 60,

which shall enter into force three days after the promulgation of the Code in the State Gazette.

## **Transitional and concluding provisions TO THE FAMILY CODE**

(PROM. – SG 47/09, IN FORCE FROM 01.10.2009)

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