

Act No. 265/1949 Coll., on the Family Law

To create conditions for creation of marriage as voluntary and permanent life partnership of a man and a woman, established in a legal manner, which, as the basis of the family, will serve the interests of all its members and the benefit of society in accordance with its progressive development, to implement principles of the Constitution on the same status of men and women and rights of children regardless of their origin, and to ensure protection of marriage and family so that the family becomes healthy basis for the development of the nation, it is established as follows:

Chapter One. Marriage.

Part One. Constitution of the marriage.

Section 1 (1) The marriage is concluded by affirmative declaration of a man and a woman before the local national committee that they enter into marriage together.
(2) If such declaration of the engaged couple is not made before the local national committee, the marriage does not arise.

[keywords: form of marriage]

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Section 7 Religious marriage ceremonies are permitted; however, they may be performed only after the marriage has been concluded under this Act.

[keywords: religious marriage]

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Part Two. Rights and obligations of spouses.

Section 15 In marriage, a man and a woman have equal rights and equal obligations. They are obliged to live together, be faithful to each other, and help each other.

[keywords: equality of men and women]

Section 16 (1) The spouses decide on the essential matters of the family, established by their marriage, by mutual agreement. If they fail to reach the agreement, the decision pertains to the court.
(2) Neither spouse needs the other spouse's consent to exercise their profession or change their place of employment.

[keywords: essential matters of family]

...

Section 19 Both spouses are obliged to take care of meeting the needs of the family established by marriage according to their abilities and in the proportion to their income and property possibilities. The provision of funds can be partially or fully offset by personal performance of care for children and joint household.

[keywords: needs of family]

Section 20 If anything happens to one of the spouses, it is assumed that the other spouse is authorized to act on their behalf in common matters, in particular to receive usual payments on their behalf.

[keywords: presumption of other spouse's legal authorization]

Section 21 (1) Even acts of only one of the spouses while arranging for usual family matters bind both spouses jointly and severally.

[keywords: usual family matters]

...

Section 22 (1) Property that either spouse acquires during the marriage - excluding property acquired by inheritance or gift, and any item for personal needs or for performance of profession of particular spouse - is included in respective spouse's acquired property.

(2) The acquired property of both spouses represents their joint property (legal property community).

[keywords: acquired property, legal property community]

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Section 25 (1) At the request of either of spouses, the court can cancel the legal property community for serious reasons.

(2) Legal property community ceases to exist as soon as the other spouse is deprived of legal capacity.

[keywords: legal property community]

Section 26 (1) As soon as the legal property community ceases to exist, the appropriate provisions on co-ownership apply to the property that formed its part.

(2) Shares of both spouses are equal.

[keywords: legal property community]

Section 27 When dividing property pertaining to a legal property community, each spouse is obliged to replace what was spent from such property to respective spouse's property excluded from the community. At the request of any of the spouses, such spouse will be reimbursed for investments into joint property from such spouse's own funds.

[keywords: legal property community]

Section 28 (1) The share in the property forming part of the legal property community may be removed from the divorced spouse who is guilty of the divorce, at the request of the innocent spouse, if the guilty spouse did not contribute to the acquisition of such property at all, or such share can be reduced if the guilty spouse only contributed to it to negligible extent. If both spouses are guilty of the divorce, the court will adjust their shares at the request of either of them so that the proportion of shares corresponds to the scope of their contribution to the acquisition of the joint property. (2) While establishing the proportion of contribution, the court shall also take into consideration whether one of the spouses personally took care of children and joint household. (3) If the marriage is declared void and if it was not concluded by one or both spouses in good faith, the provisions of the previous paragraphs apply accordingly.

[keywords: legal property community, shares, divorce]

Section 29 (1) The spouses may agree that the scope of their joint property will differ from the scope of legal property community. They can also regulate the management of the joint property by agreement in a manner different from provisions of the law. They can also reserve the legal property community up to the date of dissolution of the marriage. (2) The validity of such matrimonial property agreements requires form of a court record. (3) The spouses may only refer to such agreement in relation to a third person, if such third person is aware of such agreement.

[keywords: legal property community, agreement]

Part Three. Divorce.

Section 30 (1) If there has been a deep and permanent disagreement amongst the spouses for important reasons, any of the spouses may file an application to the court to cancel the marriage by divorce. (2) The spouse bearing the exclusive responsibility for the violation of trust, may only apply for a divorce if the other spouse consents to the divorce. (3) If the spouses have minor children, the marriage cannot be divorced if it would be against the interests of these children.

[keywords: grounds for divorce]

Amendment of Section 30 (effective as of 1 January 195(6) - Legal measure of the Board of the National Assembly No. 61/1955 Coll. on amending regulations on divorce

Section 30 reads as follows:

“(1) If there has been a deep and permanent disagreement amongst the spouses for important reasons, any of the spouses may file an application to the court to cancel the marriage by divorce.

(2) If the spouses have minor children, the marriage cannot be cancelled by divorce if it would be against the interests of these children.

(3) A marriage cannot be cancelled by divorce if the application for divorce is filed by the spouse bearing exclusive responsibility for disagreement, unless the other spouse consents to the divorce.

(4) However, even without such consent, the court, taking into account the interest of society, can cancel the marriage by divorce in exceptional cases, if the spouses do not live together for a long time.”

Section 31 (1) The decision on divorce of the marriage shall also include statement regarding whether the spouses - or which of them - are guilty of the divorce.

(2) The statement of guilt must be waived if both spouses request so.

[keywords: guilt of divorce]

Section 32 A decision dissolving the marriage of parents of a minor child cannot be issued until the rights and obligations of the parents towards the child and its property have been regulated for the time after the divorce.

[keywords: obligations towards a child and its property]

Section 33 The spouse who has adopted the second spouse's surname may, within fifteen days as of the divorce, notify the authority responsible for keeping the registers that they are re-adopting their earlier surname.

[keywords: spouse's name after divorce]

Section 34 (1) If the divorced spouse who is not guilty of divorce is not able to provide for their personal needs alone, they can ask the other spouse, even if the other spouse is also free of guilt, to provide them with payment according to other spouse's earnings and property possibilities to satisfy such needs.

(2) If both spouses are guilty of divorce, the court can also award such allowance to the guilty spouse.

(3) The right to request payment of personal needs ceases upon the death of the

spouse obligated to pay, except in the case that they have already acknowledged it or that the court granted it. The spouse having right for such allowance loses it as soon as they remarry.

[keywords: maintenance, personal needs, divorce]

CHAPTER TWO. Parents and children.

Part One. General provisions.

Section 35 Parents shall take care of the physical and mental development of children, especially they take care of their sustenance and education so that they are properly prepared to contribute their work, according to their abilities and interests, to the benefit of society.

[keywords: parents' duties towards children]

Section 36 (1) Children share the same surname with their parents or the surname of one of them.

[keywords: child's surname]

...

Section 39 (1) Both parents are equally obliged to take care of the sustenance and education of the child. The provision of means for the sustenance and education of the child can be partially or fully offset by the personal performance of child care.

(2) The sustenance obligation lasts as long as the child is not able to support themselves.

[keywords: parents' equality in education of children]

Section 40 (1) A child who has income from their own work and lives in the same household with their parents is obliged, if necessary, to contribute to the sustenance of the family.

(2) A child who is in the care of their parents and lives with them is obliged to help at home.

[keywords: child's income]

Section 41 Agreements and court decisions on sustenance and education of the child can be changed if circumstances change.

[keywords: education of child, court decision]

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Part Three. Parental authority.

Section 52 Minor children are under parental authority.

[keywords: minor children]

Section 53 Parental authority mainly includes the rights and obligations of parents to lead children's actions, represent children, and manage their property. Such authority should be carried out as required by the interests of children and the benefit of society.

[keywords: legal representation, management of child's property]

Section 54 If it is required in the interest of the proper exercise of parental authority, each of the parents can rely on help of authorities.

[keywords: authorities]

Section 55 (1) Parental authority pertains to both parents.

[keywords: parental authority, equality]

...

Section 60 If the parents fail to duly meet obligations arising from parental authority, the court will take measures appropriate to the circumstances; in particular, the court may impose restrictions on the parents or one of them, such as the bound guardian, and if necessary, entrust the management of the child's property to the guardian.

[keywords: bound guardian]

Section 61 (1) If the parents cannot exercise parental authority due to merely temporary obstacle, the court can leave the parental authority untouched.

(2) If a permanent obstacle prevents the exercise of parental authority, if the parents abuse their parental authority, or grossly neglect obligations arising from it, the court will deprive them of parental authority.

[keywords: obstacle in exercising parental authority]

Section 62 If the child's interest requires so, the court forbids the parents deprived of parental authority to have contact with the child.

[keywords: contact with child]

Part Four. Adoption.

Section 63 Adoption establishes a relationship between adopter and adoptee similar to that one between parents and children.

[keywords: adoption]

Amendment of Section 63 (applicable as of 29 May 1958) - Act No. 15/1958 Coll., on change of adoption regulation

Another paragraph is hereby attached to Section 63 in the wording as follows:
“(2) Based on the court ruling that the adopter shall be registered in the registry instead of the adoptee's parents, a kinship relationship is established between the adoptee and the adopter and their relatives”.

Section 64 (1) Only minors can be adopted, and only if the adoption is to their advantage.

(2) There must be a reasonable age difference between the adopter and the adoptee.

(3) An adopter cannot be a person deprived of legal capacity.

[keywords: age difference between adopter and adoptee]

Section 65 (1) Only married couples can adopt someone as a joint child.

(2) If the adopter is a spouse, they can adopt only with the consent of the other spouse; this consent is not needed if the other spouse is completely deprived of legal capacity or if the achievement of the other spouse's consent is connected with an obstacle that is difficult to overcome.

[keywords: joint adoption]

Section 66 (1) Adoption is established by a court ruling based on adopter's application.

(2) Adoption requires the consent of the adopted person's legal representative; if such person is able to assess the consequences of the adoption, their consent is also required.

Amendment of Section 63 (applicable as of 29 May 1958) - Act No. 15/1958 Coll., on change of adoption regulation

Section 66 reads as follows:

“(1) Adoption is established by a court ruling based on adopter's application.

(2) Based on adopter's application, the court, taking into account the interests of the

adopted child, can declare that the adopter will be registered into the registry as the father or mother of the adopted child instead of the parents.

(3) The consent of the legal representative of the adopted child is required for the adoption, as well as for the ruling according to paragraph 2; if this child is able to assess the consequences of adoption as well as of the above mentioned ruling, child's consent is also required. If the adopted child's legal representatives are their parents, their consent is not required:

a) if the child is in institutional care for at least one year and the parents do not show any interest in the child for the whole time, or

b) if the parents do not show any interest in the child for at least two years, or

c) if the parents have granted their consent with the adoption in advance without reference to specific adopters; prior consent can only be granted orally into the minutes in front of a judge or in front of a body assigned with the task of the care of young people.

In these cases, the consent of the guardian who was appointed to the adopted child in the adoption proceedings is required."

[keywords: establishment of adoption]

Section 67 (1) The adoptee will adopt the surname of their adopter; the joint adoptee of the spouses will adopt the surname established for their other children.

(2) If the adopter agrees, the adoptee can add their previous surname to the surname acquired through adoption.

[keywords: adoptee's surname]

Section 68 (1) Adoption terminates the parental authority of the adoptee's parents, and if the adoptee is a ward, the guardianship is terminated.

(2) Sustenance obligations of the adoptee and towards them within their existing family continue only as long as other persons liable for sustenance are unable to fulfil the sustenance obligation.

[keywords: parental authority of the adoptee's parents]

Section 69 (1) Based on an application of the adopter or adoptee, the court can cancel the relationship created by adoption due to serious reasons; the legal consequences of the cancellation occur as to the day of submission of such application.

(2) When the adoptee reaches the legal age, the adoption can be cancelled based on the agreement between the adoptee and the adopter; the agreement requires the form of a court record.

Amendment of Section 63 (applicable as of 29 May 1958) - Act No. 15/1958

Coll., on change of adoption regulation

Addition of a new provision - Section 69a:

"If there is a court ruling that the adopter will be registered in the registry instead of the adoptee's parents, the sustenance obligation towards the adoptee in their existing family also ceases to exist (Section 68 (2)). Provisions of Section 67 (2) and Section 69 do not apply in this case. An adoption carried out in this way does not prevent the adopted person from being adopted again."

[keywords: cancellation of adoption relationship]

Part Five. Sustenance obligation.

Section 70 (1) Based on the kinship relation, relatives in the direct generation have mutual obligation to provide payment for personal needs (sustenance obligation).

(2) If there are no descendants, the sustenance obligation passes to the ancestors. If there are several descendants or ancestors, relatives in a closer relationship have the sustenance obligation before more distant relatives.

[keywords: sustenance obligation]

Section 71 If there are several obligated persons with the same degree of kinship, they are all co-debtors jointly and severally, but amongst each other each person shall bear a share corresponding to proportion of their income and property possibilities to the income and property possibilities of the other co-debtors.

[keywords: joint and several sustenance obligation]

Section 72 Eligible persons are only entitled to reimbursement of personal needs costs when they are in need. However, this does not apply to the claim of minor children against their parents.

[keywords: personal needs]

Section 73 The scope of the sustenance obligation is established based on justified needs of the entitled person on one side, and based on income and property possibilities of the obligated person, on the other side.

[keywords: circumstances of sustenance obligation]

Section 74 (1) If the obliged person works for someone else or on behalf someone else, whether permanently or occasionally, within establishment of their sustenance obligation and enforcement of corresponding liability, it is assumed that they have adequate remuneration for the same type of works.

(2) If the work is done for or on behalf of a close person, this person cannot use objection of having paid the remuneration in advance, nor can such person set off a mutual claim against the obliged person.

[keywords: circumstances of sustenance obligation]

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