

# **LAW**

## **ON RESOLVING CONFLICT OF LAWS WITH REGULATIONS OF OTHER COUNTRIES**

*("Official Gazette of SFRY", No. 43/82 and 72/82 – Amend. "Official Gazette of SFRY ", No. 46/96 and "Official Gazette of RS", No. 46/2006 - oth. Law)*

### **Chapter One GENERAL PROVISIONS**

#### **Article 1**

This Law provides for rules on the determination of the law applicable to status, family and property relationships and other substantive relationships that are connected with a foreign element.

This Law further provides for rules on jurisdiction of the courts and other authorities of the Federal Republic of Yugoslavia for the determination of the relationships referred to in paragraph 1, rules of procedure and rules for the recognition and enforcement of foreign court and arbitration decisions.

#### **Article 2**

If this Law does not provide for a the rule on the law applicable to a specific relationship falling within the categories referred to in Article 1, paragraph 1 hereof, the provisions and principles of this Law, principles of the legal system of the Federal Republic of Yugoslavia and principles of international private law shall apply as appropriate.

#### **Article 3**

The provisions of this Law shall not apply to relationships referred to in Article 1 hereof, where such matters are governed by another federal law or international treaties.

#### **Article 4**

The law of a foreign country shall not apply if its effects would be contrary to the fundamentals of the social system established by the Constitution of the Federal Republic of Yugoslavia.

#### **Article 5**

The law of a foreign country which would be applicable under the provisions of this or another federal law shall not apply if its application would be aimed at evasion of the application of the law of the Federal Republic of Yugoslavia.

### **Article 6**

If the law of a foreign country is applicable under the provisions of this Law, regard shall be had to its rules on the determination of the law applicable.

If the rules of a foreign country on the determination of the law applicable refer back to the law of the Federal Republic of Yugoslavia, the law of the Federal Republic of Yugoslavia shall be applied, apart from the rules on the determination of the law applicable.

### **Article 7**

Unless otherwise provided under this or other federal law, it shall be deemed that a legal transaction and a legal action are valid as to the form if they are valid either under the law of the place in which the legal transaction was entered into or legal action taken respectively or under the law which is applicable to the contents of the legal transaction or legal action respectively.

### **Article 8**

The law applicable to the content of a legal transaction or legal action shall govern the rules of prescription.

### **Article 9**

The law of a foreign country shall be applied in accordance with its meaning and the concepts it employs.

### **Article 10**

If the law applicable is that of a country whose legal system is not single and the rules of this Law do not refer to a specific jurisdiction in that country, the determination of the law applicable shall be governed by the rules of that legal system.

If the determination of the applicable law of a country whose legal system is not single cannot be made as provided for in paragraph 1 of this Article, the law applicable shall be that of the territorial unit with which the closest connection exists

### **Article 11**

A Yugoslav national who also holds joint citizenship in another country shall, for the purposes of the application of this Law, be regarded to hold solely Yugoslav citizenship.

A person who is not a Yugoslav national, but holds citizenship in two or more foreign countries, shall, for the purposes of the application of this Law, be regarded a national of the country whose citizenship and permanent residence he/she holds.

If the person referred to in paragraph 2 of this Article does not hold a permanent residence in either of the countries whose citizenship he/she holds, that person shall, for the purposes of the application of this Law, be regarded to have the nationality of the country whose citizenship he/she holds and has the closest connection with.

### **Article 12**

If a person is without citizenship, or if his/her citizenship cannot be established, the law applicable shall be determined on the basis of his/her permanent residence.

If the person referred to in paragraph 1 of this Article has no permanent residence or if his/her permanent residence cannot be established, the law applicable shall be determined on the basis of that person's temporary residence.

If neither the temporary residence of the person referred to in paragraph 1 of this Article can be established, the law applicable shall be the law of the Federal Republic of Yugoslavia.

### **Article 13**

The court or other competent authority shall ascertain the content of the foreign law applicable *ex officio*.

The authority referred to in paragraph 1 of this Article may request information on the foreign law from the federal authority responsible for justice matters.

The parties to the proceedings may submit a public document relating to the content of the foreign law.

## **Chapter Two APPLICABLE LAW**

### **Article 14**

The law applicable to the legal capacity and capacity to transact business of natural persons shall be the law of the country of which they are nationals.

A natural person who is incapable to transact business under the law of the country of which he/she is a national, shall be deemed capable to transact business if he/she has the capacity to transact business under the law of the place where the obligation is incurred.

The law applicable to the deprivation or restriction of the capacity to transact business shall be the law stipulated by paragraph 1 of this Article.

The provisions of paragraph 2 of this Article shall not apply to family and inheritance relationships.

### **Article 15**

The law applicable to the appointment of a guardian and termination of guardianship, as well as to relations between the guardian and the person under custody (ward) shall be the law of the country of which the ward is a national.

Provisional protective measures directed towards a foreign national or towards a person without nationality who reside within the territory of the Federal Republic of Yugoslavia shall be determined under the law of the Federal Republic of Yugoslavia and shall last until such time as the country concerned makes a decision and takes such measures as may be necessary.

The provision of paragraph 2 of this Article shall also apply to the protection of property of an absent foreign national and a person without nationality who reside within the territory of the Federal Republic of Yugoslavia.

### **Article 16**

The law applicable to the declaration of presumed death of a missing person shall be the law of the country of which that person was a national at the time when he/she went missing.

### **Article 17**

The affiliation of a legal person shall be determined under the law of the country in which the incorporation took place.

If a legal person has its registered seat of business in a country other than the country of incorporation and it has the affiliation of the other country under its law, it shall be regarded as a legal person of that country.

### **Article 18**

The law applicable to ownership relationships and other *ius in rem* shall be the law of the place in which the property is located.

The law applicable to the matters referred to in paragraph 1 of this Article in relation to goods in transit shall be the law of the place of destination (designation).

The law applicable to the matters referred to in paragraph 1 of this Article in relation to means of transport shall be the law of the country whose affiliation that means have, unless otherwise provided for in the legislation of the Federal Republic of Yugoslavia.

## **Article 19**

The law applicable to contracts shall be the law chosen by the parties, unless otherwise provided for in this Law or in an international treaty.

## **Article 20**

If the parties have not chosen the law applicable and the special circumstances of the case do not require otherwise, the law governing the contract shall be determined as follows:

- 1) A contract for the sale of movables shall be governed by the law of the place where the seller has his/her permanent residence or registered office respectively at the time of the receipt of the offer;
- 2) A contract for the provision of services and construction contract shall be governed by the law of the place where the service provider (contractor) had his/her permanent residence or registered office respectively at the time of the receipt of the offer;
- 3) A contract for power of attorney shall be governed by the law of the place where the attorney had the permanent residence or registered office respectively at the time of the receipt of the offer;
- 4) A contract for brokerage services shall be governed by the law of the place where the broker had the permanent residence or registered office respectively at the time of the receipt of the offer;
- 5) A commission contract shall be governed by the law of the place where the commission agent had the permanent residence or registered office respectively at the time of the receipt of the offer;
- 6) A shipping (forwarding) contract shall be governed by the law of the place where the shipping (forwarding) agent had the permanent residence or registered office respectively at the time of the receipt of the offer;
- 7) A lease contract on movables shall be governed by the law of the place where the lessor had the permanent residence or registered office respectively at the time of the receipt of the offer;
- 8) A loan contract shall be governed by the law of the place where the lender had the permanent residence or registered office respectively at the time of the receipt of the offer;
- 9) A loan for use (Commodatum) shall be governed by the law of the place where the lender had the permanent residence or registered office respectively at the time of the receipt of the offer.
- 10) A depositum contract shall be governed by the law of the place where the depository had the permanent residence or registered office respectively at the time of the receipt of the offer;

11) A storage contract shall be governed by the law of the place where the storage provider had the permanent residence or registered office respectively at the time of the receipt of the offer;

12) A contract of carriage shall be governed by the law of the place where the carrier had the permanent residence or registered office respectively at the time of the receipt of the offer;

13) An insurance contract shall be governed by the law of the place where the insurer had the permanent residence or registered office respectively at the time of the receipt of the offer;

14) A copyright contract shall be governed by the law of the place where the author had the permanent residence or registered office respectively at the time of the receipt of the offer;

15) A donation contract shall be governed by the law of the place where the donor has the permanent residence or registered office respectively at the time of the receipt of the offer;

16) Stock business shall be governed by the law of the place in which the stock exchange is located;

17) A contract for autonomous bank guarantees shall be governed by the law of the place where the guarantee issuer had its registered office at the time of the receipt of the offer;

18) A contract for technology transfer (relating to licenses etc.) shall be governed by the law of the place where the receiving party had its registered office at the time of signing the contract;

19) Property claims arising from employment contracts shall be governed by the law of the country in which the work has/had been carried out;

20) Other contracts shall be governed by the law of the place where the offeror had a permanent residence or registered office respectively at the time the offer was received.

## **Article 21**

Contracts relating to immovable property shall be governed exclusively by the law of the country where the property is situated.

## **Article 22**

For contractual relationships, unless otherwise agreed between the contracting parties, the law referred to in Article 20, shall also govern:

1) The determination of the moment at which the title transferee or recipient of a movable property acquires the right to products and fruits of the property;

2) The determination of the moment at which the risk is transferred to the title transferee or recipient.

### **Article 23**

The law of the place where goods must be delivered shall govern the manner of delivery of goods and measures which should be taken in the case of refusal to collect the goods, unless the contracting parties agreed otherwise.

### **Article 24**

The law applicable to the effects of a voluntary assignment of a claim or assuming of debt on the debtor or the creditor who were not involved in the voluntary assignment or assuming of debt shall be the law applicable to the claim or the debt respectively.

### **Article 25**

The law applicable to an accessory legal transaction shall be the law applicable to the principal legal transaction.

### **Article 26**

The law applicable to a unilateral legal transaction shall be the law of the country of the debtor's permanent residence or registered office.

### **Article 27**

Unjust enrichment shall be governed by the law applicable to a contracted, expected or presumed legal relationship in connection with which unjust enrichment arose.

The law applicable to *negotiorum gestio* shall be the law of place where the act of the agent was performed.

The law applicable to obligations arising out of the use of property without due authority and other non-contractual obligations not arising from liability for damage shall be the law of the place where the events giving rise to the damage occurred.

### **Article 28**

The law applicable to non-contractual liability for damage, unless otherwise provided for specific cases, shall be the law of the place where the action took place or the place where the consequence occurred, depending on which law is more favorable to the person who has sustained damage.

The law referred to in paragraph 1 of this Article shall also govern non-contractual liability for damage incurred in connection with the legal relationship referred to in Article 27 hereof.

The law applicable to unlawfulness of an action shall be the law of the place where the action took place or where the consequence occurred, and if the action took place or the consequence occurred in more than one place – it shall be sufficient that the action is unlawful under the law of either of these places.

### **Article 29**

If the event giving rise to compensation for the damage occurred aboard a ship on the high seas or aboard an aircraft, the law of the country whose affiliation the ship has or the law of the country in which the aircraft is registered respectively shall be considered the law of the place where the events giving rise to the obligation of compensation of damage occurred.

### **Article 30**

The law applicable to succession shall be the law of the country of which the deceased person was a national at the time of death.

The law applicable to the capacity to testate shall be the law of the country whose nationality the testator had at the time of making the will.

### **Article 31**

A will shall be valid as to its form if it is valid under either of the following laws:

- 1) Under the law of place where the will was made;
- 2) Under the law of the country whose nationality the testator had at the time when the will was made;
- 3) Under the law of the place where the testor was permanently resident either at the time when the will was made or at the time of death;
- 4) Under the law of the place where the testator was resident either at the time when the will was made or at the time of death;
- 5) Under the law of the Federal Republic of Yugoslavia;
- 6) For immovable property – also under the law of the place where the property is situated.

The revocation of a testament shall be valid as to the form if such form is valid under either of the laws under which, in accordance with the provisions of paragraph 1 of this Article, a will could be validly made.

### **Article 32**



In relation to conditions governing celebration of marriage, with respect to each of the persons involved, the law applicable shall be the law of the country of which the person concerned was a national at the time of celebration of marriage.

Even where conditions governing celebration of marriage are met under the law of the country of which a person wishing to celebrate marriage before a competent authority of the Federal Republic of Yugoslavia is a national, the celebration of marriage shall not be allowed if in respect of such a person there are impediments under the law of the Federal Republic of Yugoslavia which relate to former marriage impediment, affinity and mental incapacity.

### **Article 33**

The law applicable to the form of marriage shall be the law of the place where the marriage is celebrated.

### **Article 34**

The law applicable to the invalidity of a marriage (non-existence and annulment) shall be the law under which the marriage was celebrated within the meaning of Article 32 hereof.

### **Article 35**

The law applicable to divorce matters shall be the law of the country of which both spouses are nationals at the time when the action for divorce is brought.

If spouses are nationals of different countries at the time when the action for divorce is brought, the laws of both countries cumulatively of which they are nationals shall govern divorce matters.

If a marriage cannot be divorced under the law referred to in paragraph 2 of this Article, the law applicable to divorce shall be the law of the Federal Republic of Yugoslavia, provided that one of the spouses is permanently resident in the Federal Republic of Yugoslavia at the time when the action is brought.

If one of the spouses is a Yugoslav national who is not permanently resident in the Federal Republic of Yugoslavia, and the marriage cannot be divorced under the law referred to in paragraph 2 of this Article, the law applicable to divorce shall be the law of the Federal Republic of Yugoslavia.

### **Article 36**

The law applicable to personal and statutory property relationships between spouses shall be the law of the country of which they are nationals.

If spouses are nationals of different countries, the applicable law shall be the law of the country in which they are both permanently resident.

If spouses have neither common nationality nor joint permanent residence in the same country, the law applicable shall be the law of the country in which they had their last joint permanent residence.

Where the law applicable cannot be determined on the basis of paragraphs 1 through 3 of this Article, the law applicable shall be the law of the Federal Republic of Yugoslavia.

### **Article 37**

The law applicable to contractual property relationships between spouses shall be the law applicable to personal and statutory property relationships at the time when the contract was entered into.

If the law referred to in paragraph 1 of this Article provides for the freedom of spouses to choose the law applicable to a matrimonial property contract, the law applicable shall be the law of their choice.

### **Article 38**

If a marriage is void or has been dissolved, the law applicable to personal and statutory property relationships shall be the law stipulated by Article 36 hereof.

In the cases enumerated in Article 36 hereof the law applicable to contractual property relations between spouses shall be the law stipulated by Article 37 hereof.

### **Article 39**

The law applicable to property relationships between persons living in non-marital cohabitation shall be the law of the country of which they are nationals.

If the persons referred to in paragraph 1 of this Article do not have the same nationality, the law of the country in which they have their joint permanent residence shall be applicable.

The law applicable to contractual property relationships between persons who live in non-marital cohabitation shall be the law applicable to their property relationships at the time when the contract was entered into.

### **Article 40**

The law applicable to relationships between parents and children shall be the law of the country of which they are nationals.

If parents and children are nationals of different countries, the law applicable shall be the law where they all have permanent residence.

If parents and children are nationals of different countries and not permanently resident in the same country, the law of the Federal Republic of Yugoslavia shall be applicable if a child or either of the parents is a Yugoslav national.

The law applicable to relationships between parents and children which are not covered by paragraph 1 through 3 of this Article shall be the law of country of which the child is a national.

#### **Article 41**

The law applicable to the acknowledgement, establishment or denial of paternity or maternity shall be the law of the country of which the person whose paternity or maternity respectively is subject to the acknowledgement, establishment or denial procedure was a national at the time when the child was born.

#### **Article 42**

The law applicable to maintenance obligations between blood relatives other than parents and children and maintenance of obligations between relatives-in-law shall be the law of the country of which the relative from whom maintenance is sought is a national.

#### **Article 43**

The law applicable to the legitimating of a child shall be the law of the country of which the parents are nationals, and if the parents are not nationals of the same country – the law of the parent's country under which the legitimating is valid.

If legitimating of a child is not allowed under the law stipulated in paragraph 1 of this Article, and the parents and the child are permanently resident in the Federal Republic of Yugoslavia, the law of the Federal Republic of Yugoslavia shall apply.

The law applicable to the consent of the child, other person or a public authority in charge of the legitimating shall be the law of the country of which the child is a national.

#### **Article 44**

The law applicable to the establishment and termination of adoption shall be the law of the country of which the adoptive parent and adoptee are nationals.

If the adoptive parent and adoptee are nationals of different countries, the establishment and termination of adoption shall be governed cumulatively by the laws of both countries of which they are nationals.

If spouses are adopting together, the establishment and termination of adoption shall be governed, in addition to the law of the country of which the adoptee is a national, by the laws of the countries of which both spouses are nationals.

The law applicable to the form of adoption shall be the law of the place where adoption is established.

## **Article 45**

The law applicable to the effects of adoption shall be the law of the country of which the adoptive parent and adoptee are nationals at the time when adoption is established.

If the adoptive parent and adoptee are nationals of different countries, the law applicable shall be the law of the country in which they are permanently resident.

If the adoptive parent and adoptee are nationals of different countries and not permanently resident in the same country, the law applicable shall be the law of the Federal Republic of Yugoslavia, provided that either of them is a Yugoslav national.

If, in the case stipulated by paragraph 3 of this Article, neither the adoptive parent nor the adoptee are Yugoslav nationals the law applicable shall be the law of the country of which the adoptee is a national.

## **Chapter Three JURISDICTION AND PROCEDURE**

### **1. Jurisdiction of courts and other authorities of the Federal Republic of Yugoslavia in matters with a foreign element**

## **Article 46**

Court of the Federal Republic of Yugoslavia shall have jurisdiction if the defendant has the permanent residence or registered office in the Federal Republic of Yugoslavia

If a defendant is neither permanently resident in the Federal Republic of Yugoslavia nor in any other country, a court of the Federal Republic of Yugoslavia shall have jurisdiction if the defendant is temporarily resident in the Federal Republic of Yugoslavia.

If parties to civil contentious proceedings are Yugoslav nationals, courts of the Federal Republic of Yugoslavia shall also have jurisdiction where the defendant is resident in the Federal Republic of Yugoslavia.

If more than one defendant is involved in the civil contentious proceedings as substantive co-defendants, a court of the Federal Republic of Yugoslavia shall also have jurisdiction where one of the defendants has the permanent residence or registered office in the Federal Republic of Yugoslavia.

Where a legal relationship is referred to non-contentious proceedings, a court of the Federal Republic of Yugoslavia shall have jurisdiction if the respondent has the permanent residence or registered office in the Federal Republic of Yugoslavia, and where the proceedings involve solely one person – if that person has the permanent

residence or registered office in the Federal Republic of Yugoslavia, unless otherwise provided herein.

#### **Article 47**

A court of the Federal Republic of Yugoslavia shall have exclusive jurisdiction where so explicitly provided in this or any other federal law.

#### **Article 48**

If a court of a foreign country has jurisdiction to entertain proceedings against Yugoslav nationals on the basis of the criteria on jurisdiction which are not covered by the provisions on jurisdiction of the courts of the Federal Republic of Yugoslavia, such criteria shall govern the existence of jurisdiction of a court of the Federal Republic of Yugoslavia in proceedings in which the defendant is a national of that foreign country.

#### **Article 49**

The parties may agree that the jurisdiction of a foreign court shall prevail, provided that at least one of them is a foreign national or legal person registered abroad and that, in compliance with the provisions of this or other federal law, an exclusive jurisdiction of a court of the Federal Republic of Yugoslavia does not apply to the proceedings in question.

The parties may agree that a court of the Federal Republic of Yugoslavia shall have jurisdiction provided that at least one of the parties is a Yugoslav national or a legal person registered in the Federal Republic of Yugoslavia.

The provisions of paragraphs 1 and 2 of this Article shall not apply with respect to jurisdiction in the matters referred to in Articles 61 through 70 hereof.

#### **Article 50**

Where jurisdiction of a court of the Federal Republic of Yugoslavia depends on the consent of the defendant that a court of the Federal Republic of Yugoslavia is to be seized, it shall be deemed that the defendant has given his/her consent by lodging a reply to the action or objection to a payment order without contesting jurisdiction or if he/she has engaged in litigation.

#### **Article 51**

Where the provisions of this Law provide for jurisdiction of a court of the Federal Republic of Yugoslavia under the assumption that the litigant is a Yugoslav national, such jurisdiction shall also extend to persons without nationality who are permanently resident in the Federal Republic of Yugoslavia.

Where appropriate, the provision of paragraph 1 of this Article shall apply to jurisdiction of other authorities of the Federal Republic of Yugoslavia.

### **Article 52**

In proceedings against Yugoslav nationals living abroad who have been sent there by government authorities, companies or other legal persons to perform an office or to work, a court of the Federal Republic of Yugoslavia shall have jurisdiction if they were permanently resident in Yugoslavia.

### **Article 53**

In proceedings concerning non-contractual liability for damage, a court of the Federal Republic of Yugoslavia shall have jurisdiction if so provided by the provisions of Articles 46 and 50 through 52 hereof or if the damage occurred within the territory of the Federal Republic of Yugoslavia.

The provision of paragraph 1 of this Article shall also apply to proceedings for compensation of damage sustained by third parties which are brought against an insurance company under that company's regulations on direct liability, as well to proceedings in relation to regress claims for compensation of damage against regress debtors.

### **Article 54**

In proceedings concerning claims under property law, a court of the Federal Republic of Yugoslavia shall have jurisdiction if the property of the defendant or the item sought by the action is situated within the territory of the Federal Republic of Yugoslavia.

A court of the Federal Republic of Yugoslavia shall also have jurisdiction in proceedings which have as their object obligations incurred during the defendant's stay in the Federal Republic of Yugoslavia.

### **Article 55**

In proceedings brought against a natural or a legal person registered abroad in relation to obligations incurred in the Federal Republic of Yugoslavia or obligations which are to be performed within the territory of the Federal Republic of Yugoslavia, a court of the Federal Republic of Yugoslavia shall have jurisdiction if that person has a branch or agency within the territory of the Federal Republic of Yugoslavia or if the legal person entrusted with the performance of its business activities has the registered office in the Federal Republic of Yugoslavia.

### **Article 56**

A court of the Federal Republic of Yugoslavia shall have exclusive jurisdiction in proceedings the object of which is the right of ownership and other rights *in rem*

belonging to citizens and civic legal persons, in proceedings concerning the trespass to immovable property, as well as in proceedings which have as their object tenancies of immovable property or contracts for the occupancy of an apartment or business premises, if the immovable property is situated within the territory of the Federal Republic of Yugoslavia.

#### **Article 57**

In proceedings concerning the trespass to chattel, a court of the Federal Republic of Yugoslavia shall have jurisdiction under the provisions of Article 46 and Articles 50 and 51 or if the trespass occurred within the territory of the Federal Republic of Yugoslavia.

#### **Article 58**

In proceedings concerning the right of ownership, right of pledge and related rights concerning an aircraft, a seagoing ship and an inland ship, as well as lease of aircraft and ships, a court of the Federal Republic of Yugoslavia shall also have jurisdiction where the aircraft and the ship, respectively is registered in the Federal Republic of Yugoslavia

In proceedings concerning the trespass to an aircraft or a ship referred to in paragraph 1 of this Article, a court of the Federal Republic of Yugoslavia shall also have jurisdiction where the aircraft and the ship, respectively is registered or if the trespass occurred within the territory of the Federal Republic of Yugoslavia

#### **Article 59**

In proceedings which have as their object property relationships between spouses that concern property situated in the Federal Republic of Yugoslavia, a court of the Federal Republic of Yugoslavia shall also have jurisdiction where the defendant is not resident in the Federal Republic of Yugoslavia and the plaintiff is, at the time when action is brought, permanently or temporarily resident in the Federal Republic of Yugoslavia.

If the major part of property is situated in the Federal Republic of Yugoslavia, and the remaining part is situated abroad, a court of the Federal Republic of Yugoslavia may entertain proceedings concerning the property situated abroad only if such proceedings also have as their object the property situated in the Federal Republic of Yugoslavia and only if the defendant accepts to submit the matter to the jurisdiction of a court of the Federal Republic of Yugoslavia.

#### **Article 60**

The provisions of Article 59 of this Law shall not prejudice the application of provisions on the exclusive jurisdiction of the courts of the Federal Republic of Yugoslavia in property-related proceedings.

A court of the Federal Republic of Yugoslavia shall have jurisdiction in proceedings concerning property relationships between spouses regardless of whether or not the marriage subsists or has been dissolved or declared void.

### **Article 61**

A court of the Federal Republic of Yugoslavia shall have jurisdiction in proceedings which have as their object the determination of the existence or non-existence of a marriage, annulment of a marriage or divorce (matrimonial proceedings) even where the defendant is not permanently resident in the Federal Republic of Yugoslavia, provided that:

- 1) Both spouses are Yugoslav nationals, regardless of their permanent residence, or
- 2) The plaintiff is a Yugoslav national permanently resident in the Federal Republic of Yugoslavia, or
- 3) The spouses had their last permanent residence in the Federal Republic of Yugoslavia and the plaintiff is permanently or temporarily resident in the Federal Republic of Yugoslavia at the time when action is brought

If the defendant spouse is a Yugoslav national permanently resident in the Federal Republic of Yugoslavia, the jurisdiction of the court of the Federal Republic of Yugoslavia shall be exclusive.

### **Article 62**

A court of the Federal Republic of Yugoslavia shall have jurisdiction in proceedings referred to in Article 61 hereof also where the spouses are foreign nationals who had their last joint permanent residence in the Federal Republic of Yugoslavia or where the plaintiff is permanently resident in the Federal Republic of Yugoslavia, only if the defendant is willing to submit to the jurisdiction of the court of the Federal Republic of Yugoslavia and if such jurisdiction is allowed under the law of the country of which the spouses are nationals.

### **Article 63**

A court of the Federal Republic of Yugoslavia shall have jurisdiction in divorce proceedings also where the plaintiff is a Yugoslav national and the law of the country whose courts would have jurisdiction does not permit divorce.

### **Article 64**

A court of the Federal Republic of Yugoslavia shall also have jurisdiction in proceedings which have as their object the establishment or contesting of paternity or maternity if the defendant is not permanently resident in the Federal Republic of Yugoslavia, provided:



- 1) That both the plaintiff and the defendant are Yugoslav nationals, regardless of their permanent residence, or
- 2) That the plaintiff is a Yugoslav national permanently resident in the Federal Republic of Yugoslavia.

If action is brought against a child who is a Yugoslav national, permanently resident or temporarily resident in the Federal Republic of Yugoslavia, the jurisdiction of the court of the Federal Republic of Yugoslavia shall be exclusive.

#### **Article 65**

A court of the Federal Republic of Yugoslavia shall have jurisdiction in proceedings referred to in Article 64 hereof even where the parties are foreign nationals, if the plaintiff or one of the plaintiffs is permanently resident in the Federal Republic of Yugoslavia and only if the defendant consents to submit the matter to the jurisdiction of a court of the Federal Republic of Yugoslavia, provided that such jurisdiction is allowed under the law of the country of which he/she is a national.

#### **Article 66**

A court of the Federal Republic of Yugoslavia shall have jurisdiction in proceedings which have as their object care and upbringing of and provision of guidance to children who are under parental custody even where the defendant is not permanently resident in the Federal Republic of Yugoslavia, provided that both parents are Yugoslav nationals.

If the defendant and the child are Yugoslav nationals who are both permanently resident in the Federal Republic of Yugoslavia, the jurisdiction of a court of the Federal Republic of Yugoslavia shall be exclusive.

Where appropriate, the provisions of paragraphs 1 and 2 of this Article, as well as the provisions of Article 46 hereof, shall apply to the determination of jurisdiction of other authorities of the Federal Republic of Yugoslavia if such authorities are tasked with deciding the issues of care and upbringing of and provision of guidance to children under parental custody.

#### **Article 67**

A court of the Federal Republic of Yugoslavia shall have jurisdiction in proceedings concerning statutory maintenance provided:

- 1) That the action is brought by a child who has a permanent residence in the Federal Republic of Yugoslavia, or
- 2) That the plaintiff and defendant are both Yugoslav nationals, regardless of where they are permanently resident, or
- 3) That the plaintiff is a minor and a Yugoslav national.

A court of the Federal Republic of Yugoslavia shall have jurisdiction in proceedings concerning statutory maintenance which are not stipulated in paragraph 1 of this Article also where the defendant is not permanently resident in the Federal Republic of Yugoslavia and the plaintiff is a Yugoslav national and permanently resident in the Federal Republic of Yugoslavia.

A court of the Federal Republic of Yugoslavia shall have jurisdiction in proceedings concerning statutory maintenance between spouses and former spouses also where the spouses had their last joint permanent residence in the Federal Republic of Yugoslavia and the plaintiff is still permanently resident in the Federal Republic of Yugoslavia at the time of the proceedings.

### **Article 68**

A court of the Federal Republic of Yugoslavia shall have jurisdiction in proceedings concerning statutory maintenance also where the plaintiff owns property in the Federal Republic of Yugoslavia which can be used to recover maintenance.

### **Article 69**

A court in the Federal Republic of Yugoslavia shall have jurisdiction in proceedings which have as their object deprivation and restoration of parental rights, granting of the right of custody over children's property to parents, declaring a child legitimate, as well as other matters concerning personal status and relationships between parents and children even where the requirements set out in paragraph 4 of Article 46 hereof are not met, provided that the applicant and respondent are Yugoslav nationals, or, where only one person is involved in the proceedings, provided that such person is a Yugoslav national.

### **Article 70**

A court of the Federal Republic of Yugoslavia shall have jurisdiction to issue a marriage license if the applicant is a Yugoslav national and if one of the applicants is a Yugoslav national, respectively, regardless of where the persons wishing to celebrate marriage are permanently resident.

A court of the Federal Republic of Yugoslavia shall have exclusive jurisdiction if a minor applying for a marriage license is a Yugoslav national or if both persons wishing to celebrate marriage are Yugoslav nationals and the marriage is to be celebrated abroad.

### **Article 71**

A court of the Federal Republic of Yugoslavia shall have exclusive jurisdiction to hear cases relating to immovable estate of Yugoslav nationals if such estate is situated in the Federal Republic of Yugoslavia.

If immovable estate of Yugoslav nationals is situated abroad, a court of the Federal Republic of Yugoslavia shall have jurisdiction only if the authorities of the country in which the immovable property is situated do not have jurisdiction under the law of that country.

A court of the Federal Republic of Yugoslavia shall have jurisdiction to hear cases relating to movable estate of Yugoslav citizens if the movable property is situated within the territory of the Federal Republic of Yugoslavia or if a foreign authority does not have jurisdiction under the law of the country in which the property is situated or has declined jurisdiction.

Provisions of paragraphs 1 through 3 of this Article shall also apply to jurisdiction in probate proceedings and proceedings concerning creditors' claims towards an estate.

### **Article 72**

A court of the Federal Republic of Yugoslavia shall have exclusive jurisdiction to hear cases concerning immovable estate of foreign nationals if such estate is situated in the Federal Republic of Yugoslavia.

A court of the Federal Republic of Yugoslavia shall have jurisdiction to hear cases concerning movable estate of a foreign national that is situated in the Federal Republic of Yugoslavia, unless the court in the country of the deceased has no jurisdiction to hear cases relating to movable property of Yugoslav nationals.

The provisions of paragraphs 1 and 2 of this Article shall also apply to jurisdiction in probate proceedings and proceedings concerning creditors' claims towards an estate.

When a court of the Federal Republic of Yugoslavia has no jurisdiction to hear cases on estate of a foreign national it may nevertheless order measures to secure the estate and protect the rights towards the estate which is situated in the Federal Republic of Yugoslavia.

### **Article 73**

A court of the Federal Republic of Yugoslavia shall have exclusive jurisdiction to hear cases concerning immovable estate of a person without nationality, person whose nationality cannot be established or a person who has been granted refugee status if the immovable property is situated in the Federal Republic of Yugoslavia.

A court of the Federal Republic of Yugoslavia shall have exclusive jurisdiction to hear cases on movable estate of a person without nationality, person whose nationality cannot be established or a person who has been granted refugee status if the movable property is situated in the Federal Republic of Yugoslavia or if the deceased was permanently resident in the Federal Republic of Yugoslavia at the time of death.

The provisions of paragraphs 1 and 2 of this Article shall also apply to jurisdiction in probate proceedings and proceedings concerning creditors' claims towards an estate.

If the deceased was not permanently resident in the Federal Republic of Yugoslavia, the provisions governing deciding on the estate of a foreign national shall apply as appropriate, while a foreign state shall be understood to mean the state in which the deceased was permanently resident at the time of death.

#### **Article 74**

An authority of the Federal Republic of Yugoslavia shall have exclusive jurisdiction to decide on the adoption and termination of adoption of a person who is a Yugoslav national permanently resident in the Federal Republic of Yugoslavia.

An authority of the Federal Republic of Yugoslavia shall have jurisdiction to decide on the adoption and termination of adoption if the person who is adopting is a Yugoslav national permanently resident in the Federal Republic of Yugoslavia.

When spouses are adopting together, the fact that one of them is a Yugoslav national and permanently resident in the Federal Republic of Yugoslavia shall be sufficient to trigger jurisdiction of an authority of the Federal Republic of Yugoslavia.

#### **Article 75**

An authority of the Federal Republic of Yugoslavia shall have exclusive jurisdiction in custody matters involving Yugoslav nationals, regardless of where they are permanently resident, unless otherwise provided for herein.

#### **Article 76**

An authority of the Federal Republic of Yugoslavia shall not make a decision or take measures in custody matters involving a Yugoslav national if it finds that an authority having jurisdiction under the law of a foreign state has made a decision or taken measures to ensure the protection of personality, rights and interests of the Yugoslav national.

#### **Article 77**

An authority of the Federal Republic of Yugoslavia shall take such measures as may be necessary to ensure provisional protection of personality, rights and interests of a foreign national resident or owning property in the Federal Republic of Yugoslavia and shall notify thereof the authority of the country of which the person concerned is a national.

An authority of the Federal Republic of Yugoslavia shall make a decision and take measures in custody matters involving a foreign national permanently resident in the Federal Republic of Yugoslavia if the protection of his/her personality, rights and interests has not been secured by an authority of the country of which he/she is a national.

#### **Article 78**

A court of the Federal Republic of Yugoslavia shall have exclusive jurisdiction to declare a missing Yugoslav citizen dead, regardless of where he/she was permanently resident.

The evidence of death of a foreign national may be produced before a court of the Federal Republic of Yugoslavia under its law if the foreign national died within the territory of the Federal Republic of Yugoslavia.

## **2. Other Provisions**

### **Article 79**

The law applicable to the capacity of a natural person to be party to proceedings and to litigate shall be the law of the country of which the concerned person is a national.

If a foreign national does not have the capacity to litigate under the provision of paragraph 1 of this Article, but has such capacity under the law of the Federal Republic of Yugoslavia, he/she may take actions in proceedings.

The legal guardian of the foreign national referred to in paragraph 2 of this Article may take actions in proceedings only until such time as the foreign national declares that he/she will personally take over the litigation.

The law applicable to the capacity of a legal person to be party to proceedings shall be the law designated in Article 17 hereof.

### **Article 80**

The court of the Federal Republic of Yugoslavia shall stay the proceedings at a request of a party if a foreign court is seized of the same cause of action between the same parties, provided:

- 1) That the foreign court is first seized of proceedings involving the same cause of action;
- 2) That the proceedings are other than those in which a court of the Federal Republic of Yugoslavia has exclusive competence;
- 3) That reciprocity is provided for.

### **Article 81**

The jurisdiction of a court of the Federal Republic of Yugoslavia shall be determined on the basis of facts existing at the moment of *lis pendens*.

### **Article 82**

Where a foreign national or a person without nationality who is not permanently resident in the Federal Republic of Yugoslavia is instituting litigation before a court of the Federal

Republic of Yugoslavia, he/she is under a duty to secure, at a request of the defendant, the litigation costs of the latter.

The defendant is under a duty to lodge the request referred to in paragraph 1 of this Article not later than at the preliminary hearing, and if no preliminary hearing took place – at the first hearing of the main proceedings, before he/she engages in arguments as to the substance of the matter or as soon as he/she learns that conditions to seek the provision of security have been met.

The security in relation to litigation costs shall be given in money or other suitable means.

### **Article 83**

A defendant shall not be entitled to the provision of security in relation to litigation costs in the following cases:

- 1) If Yugoslav nationals are not required to provide security in the country of which the plaintiff is a national;
- 2) If the plaintiff enjoys the right of asylum in the Federal Republic of Yugoslavia;
- 3) If the action concerns a claim of the plaintiff arising out of his employment in the Federal Republic of Yugoslavia;
- 4) In marital proceedings and proceedings to establish or challenge paternity or maternity and proceedings concerning statutory maintenance;
- 5) In relation to actions and counter-actions concerning bills of exchange or cheques or issuance of a payment order.

In the case of a doubt as to whether Yugoslav nationals are, within the meaning of item 1 of paragraph 1 of this Article, under a duty to provide security in the country of which the plaintiff is a national, a clarification shall be issued by the federal authority responsible for the judiciary.

### **Article 84**

In a ruling granting a request for the provision of security in relation to litigation costs the court shall fix the amount of security and the time-limit for the provision of security, and shall also caution the plaintiff of the consequences which are under the law attendant on a failure to prove that security has been provided on time.

If the plaintiff does not prove, within the set time-limit, that he/she has provided security for litigation costs, it shall be deemed that the action has been withdrawn or, in the case that a request for the provision of security was lodged only in proceedings initiated by a legal remedy, that the legal remedy has been abandoned.

A defendant who has lodged a timely request for the provision of security by the plaintiff shall not be under a duty to take part in the proceedings on the merits until such time as his request is finally settled, and, in the case that the request is granted, until such time as the plaintiff posts security.

If the court dismisses a request for the provision of security in relation to litigation costs, it may decide that proceedings are to continue even before the ruling on dismissal becomes final.

### **Article 85**

Foreign nationals shall be entitled to request relief from payment of litigation costs under the conditions of reciprocity.

In the case of doubt as to the existence of reciprocity in relation to relief from payment of litigation costs, a clarification shall be provided by the federal authority responsible for the judiciary.

The exercise of the right to relief from payment of litigation costs shall not be subject to the reciprocity requirement referred to in paragraph 1 if a foreign national is permanently resident in the Federal Republic of Yugoslavia.

A person without nationality may seek relief from payment of litigation costs if he/she is either permanently or temporarily resident in the Federal Republic of Yugoslavia.

## **Chapter Four RECOGNITION AND ENFORCEMENT OF FOREIGN DECISIONS**

### **1. Recognition and Enforcement of Foreign Decisions**

#### **Article 86**

A decision of a foreign court shall have the same status as the decision of the court of the Federal Republic of Yugoslavia and it shall produce legal effects in the Federal Republic of Yugoslavia only if recognized by a court of the Federal Republic of Yugoslavia.

A settlement reached before a court (a court settlement) shall also be considered a foreign court decision within the meaning of paragraph 1 of this Article.

A decision of another authority which is equivalent to the court decision in the country where it was taken shall also be considered a foreign court decision or court settlement respectively if it governs the relationships referred to in Article 1 hereof.

#### **Article 87**

A foreign court decision shall be recognized if the applicant has accompanied his request for the recognition with a confirmation of the competent foreign court or another authority respectively that the decision is final and enforceable under the law of the country in which it was taken.

### **Article 88**

The court of the Federal Republic of Yugoslavia shall decline to recognize a foreign court decision if it establishes, as a result of a review of an objection lodged by the person against whom the decision is passed, that such person was not able to participate in the proceedings due to procedural shortcomings.

It shall particularly be considered that a person against whom the decision was passed was not able to participate in the proceedings since the service of summons, action or ruling instituting the proceedings was not effectuated or at all attempted on him/her personally, unless the person concerned was engaged in the arguments on the merits in the first-instance proceedings.

### **Article 89**

A foreign court decision shall be recognized if it concerns a legal matter falling within the exclusive jurisdiction of the court or another authority of the Federal Republic of Yugoslavia.

If the defendant is seeking recognition of a foreign decision made in matrimonial proceedings or if the plaintiff requests so and the defendant is not opposing, the exclusive jurisdiction of a court of the Federal Republic of Yugoslavia shall not be an impediment to the recognition of such decision.

### **Article 90**

A foreign court decision shall not be recognized if a court or other authority of the Federal Republic of Yugoslavia has rendered an enforceable decision on the same cause of action or if another foreign court decision passed in relation to the same cause of action has already been recognized.

The court shall stay the recognition of a foreign court decision if proceedings involving the same cause of action between the same parties have been brought in a court of the Federal Republic of Yugoslavia until such time as the original proceedings are completed.

### **Article 91**

A foreign court decision shall not be recognized if it is contrary to the foundations of the social system established by the Constitution of the Federal Republic of Yugoslavia.

### **Article 92**

A foreign court decision shall not be recognized if reciprocity is lacking.



The lack of reciprocity shall not be an impediment to the recognition of a foreign court decision made in matrimonial proceedings or proceedings for the establishment or denial of paternity or maternity, nor if the recognition or enforcement is sought by a Yugoslav national.

The reciprocity in the field of recognition of foreign decisions shall be presumed until evidence to the contrary is presented. In the case of doubt as to the existence of such reciprocity, a clarification shall be provided by the federal authority responsible for the judiciary.

### **Article 93**

A foreign court decision shall be recognized even where a foreign law was applied to the determination of the status of a Yugoslav national which should have been governed by the law of the Federal Republic of Yugoslavia under this Law, if such decision does not depart significantly from the law of the Federal Republic of Yugoslavia which governs the issue concerned.

### **Article 94**

A decision of a foreign court relating to the personal status of a national of the country from which the decision originates shall be recognized without the court examination under Articles 89 and Articles 91 and 92 of this Law.

If an authority of the Federal Republic of Yugoslavia having jurisdiction finds that a foreign court decision concerns the personal status of a Yugoslav national, such decision shall be recognized subject to the examination under Articles 87 through 92 hereof.

### **Article 95**

If a foreign court decision relates to the personal status of foreigners who are not nationals of the country which passed the decision, the decision shall be recognized only if it meets the requirements for the recognition in the country of which such persons are nationals.

### **Article 96**

The provisions of Articles 87 through 92 hereof shall apply to the enforcement of a foreign court decision.

An applicant seeking enforcement of a foreign court decision must submit, in addition to the confirmation referred to in Article 87 hereof, a declaration of enforceability of that decision under the law of the country in which it was rendered.

## **2. Recognition and Enforcement of Foreign Arbitration Decisions**

### **Art. 97-100\***

*(Repealed)*

## **3. Procedure of Recognition and Enforcement of Foreign Court and Arbitration Decisions**

### **Article 101**

The court at the territory of which the procedure of recognition or enforcement is to be carried out shall have territorial jurisdiction for the recognition and enforcement of foreign decisions, respectively.

The court shall limit itself to the examination of the existence of the requirements set out in Articles 86 through 100 hereof, and may request an explanation from both the court which rendered the decision and the parties, if it finds it necessary to do so.

The parties may lodge an appeal against a decision on the recognition or enforcement within 15 days of service thereof.

An appeal to the decision referred to in paragraph 3 of this Article shall be decided upon by the second-instance court.

If no specific ruling has been rendered in relation to the recognition, every court may settle the issue of recognition in the course of proceedings as a preliminary question, which will have effect only in relation to the proceedings concerned.

Everyone who has a legal interest is entitled to request the recognition of a foreign court decision relating to the personal status.

## **Chapter Five SPECIAL PROVISIONS**

### **Article 102**

While abroad, Yugoslav nationals may celebrate marriage before a consular mission or a diplomatic mission of the Federal Republic of Yugoslavia responsible for consular

affairs, provided that the country in which the mission is located does not object thereto or if so provided for by an international treaty.

#### **Article 103**

The guardianship affairs for Yugoslav nationals abroad shall be carried out by a consular mission or a diplomatic mission of the Federal Republic of Yugoslavia responsible for consular affairs, provided that the country in which the mission is located does not object thereto or if so provided for by an international treaty.

#### **Article 104**

A Yugoslav national may have his/her will drawn up by a consular mission or a diplomatic mission of the Federal Republic of Yugoslavia responsible for consular affairs in accordance with the provisions governing court wills.

#### **Article 105**

Consular missions of the Federal Republic of Yugoslavia or diplomatic missions of the Federal Republic of Yugoslavia responsible for consular affairs may authenticate signatures, manuscripts and transcriptions in accordance with international treaties and legislation on the receiving country.

#### **Article 106**

A certificate of the contents of federal, republic and provincial regulations, which apply or have applied in the Federal Republic of Yugoslavia that is intended for the use before the authorities of a foreign country shall be issued by the federal authority responsible for the judiciary.

The certificate referred to in paragraph 1 of this Article shall contain a designation of the regulation, the date of issuance or cessation of its effect and the exact text of the relevant provisions of the regulation.

## **Chapter Six**

### **TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 107**

The provisions of this Law shall not apply to matters which emerged before the entry into force of this Law.

### **Article 108**

The following provisions shall be repealed with effect from the date of entry into force of this Law:

- 1) The provisions of Art. 28 through 32, Article 70, paragraph 5, Article 88, paragraph 1, Art. 169 through 171, Article 178 and Article 222 of the Law on Civil Proceedings (Official Gazette of SFRY, Nos. 4/77, 36/77 and 36/80);
- 2) The provisions of Art. 16 through 22 of the Introductory Law to the Law on Civil Contentious Proceedings (Official Gazette FNRJ, No. 4/57);
- 3) The provision of Article 26 of the Basic Law on Marriage (Official Gazette SFRY, No. 28/65);
- 4) The provision of Article 29 of the Basic Law on Custody (Official Gazette SFRY, No. 16/65);
- 5) The provisions of Art. 187 and Art. 188. of the Inheritance Law (Official Gazette SFRY, No. 42/65).

### **Article 109**

This Law shall come into effect on January 1, 1983.