

## **THE PRIVATE INTERNATIONAL LAW AND PROCEDURE ACT - ESLOVENIA**

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(This is not an official translation)

### **Chapter I. BASIC PROVISIONS ➡**

#### • **Article 1**

1. This Act contains rules for determining the law that shall be used in all personal, family, social labour, property and other civil law relations with an international element.
2. This Act also contains rules for determining the jurisdiction of courts and other bodies in the Republic of Slovenia to deal with relations from the first paragraph of this Article, the rules of procedure and the rules which govern recognition and execution of foreign court and arbitration decisions and decisions by other bodies.

#### • **Article 2**

1. The law that provisions of this Act instruct to use shall exceptionally not be used when, in view of all circumstances of the case, it is clear that the relation with that law is not the most important one and that there is an essentially closer link to some other law.
2. This provision shall not apply when the law is chosen by the parties.

#### • **Article 3**

If this Act contains no provision as to which law shall be used, then the provisions and principles of this Act, the principles of the legal system of the Republic of Slovenia and principles of private international law shall apply accordingly.

#### • **Article 4**

This Act shall not be used for relations which are regulated by another act or an international treaty.

- **Article 5**

The law that provisions of this Act instruct to use shall not be used if the effects of its use would be contrary to the legal system of the Republic of Slovenia.

- **Article 6**

1. If, under this Act, the law of a foreign country is to be used, then those of its rules shall be used that specify which law shall be used.
2. If the rules of a foreign country, specifying the law to be used, disallow the use of the law of the Republic of Slovenia, then the law of the Republic of Slovenia shall be used without accounting for the rules specifying which law should be used.
3. The provisions of the first and second paragraphs of this Article shall not apply when the parties in the procedure may choose the law.

- **Article 7**

Unless otherwise provided for by this Act, a legal transaction and legal action shall be valid with regard to their form, if they are valid under either the law of the place where the legal transaction or legal action was conducted, or under the law that applies to the contents of the legal transaction or legal action.

- **Article 8**

The statute of limitation shall be governed by the law applying to the contents of a legal transaction or legal action.

- **Article 9**

1. If the law of a country whose legal system is not uniform has to be used and the rules of this law do not lay down instructions on which specific legal area of that country is to be used, then the decision on which law to use shall be made under the rules of that country's legal system.
2. If the method described in the first paragraph of this Article does not suffice to establish which law of a country whose legal system is not uniform is to be used, then the law regulating the area in that country which has the closest links with such a relation shall be used.

- **Article 10**

1. If a citizen of the Republic of Slovenia also has citizenship in another country, then it shall be considered, for the requirements of this Act, that this person only has citizenship in the Republic of Slovenia.
2. If a person who is not a citizen of the Republic of Slovenia has two or more citizenships, then it shall be considered, for the requirements of this Act, that this person has citizenship in the country whose citizen he is and where he also maintains permanent residence.
3. If such a person described in the second paragraph of this Article has no permanent residence in any of the countries where he has citizenship, it shall be considered, for the requirements of this Act, that this person has citizenship in the country whose citizen he is and with which he has the closest ties.

- **Article 11**

1. For a person without citizenship or a person whose citizenship cannot be established, the law of the place of permanent residence shall be used.
2. If such a person described in the first paragraph of this Article does not have a permanent residence or his permanent residence cannot be established, the law of the place of temporary residence shall be used.

3. If not even a place of temporary residence can be established for such a person described in the first paragraph of this Article, then the law of the Republic of Slovenia shall be used.

- **Article 12**

1. The court or another competent body shall establish ex officio the content of the foreign law that is to be used.
2. The body as described in the first paragraph of this Article may request information on the foreign law from the ministry responsible for justice, or obtain its content in another suitable manner.
3. The parties may during the procedure submit a public or other document, issued by a competent foreign body or institution, on the content of the foreign law.
4. If it is not possible to establish the content of a foreign law with regard to individual relations, then the law of the Republic of Slovenia shall be used.

## **Chapter II. THE LAW WHICH MUST BE USED ➡**

- **Article 13**

1. The law of the country that a natural person is a citizen of shall be used to determine the legal or business capacity of this person.
2. A natural person who, under the law of the country whose citizen he is, has no business capacity, shall be considered to have such business capacity if he has it under the law of the place where the obligation arose.
3. The law described in the first paragraph of this Article shall apply to the revoking or limiting of the business capacity of a natural person.
4. The second paragraph of this Article shall not be used for family and probate relations.

- **Article 14**

For issues concerning personal names, the law of that country that the person, whose personal name is being determined or altered, is a citizen of, shall be used.

- **Article 15**

1. To place under guardianship or to terminate guardianship, and for relations between the guardian and the person under guardianship (the ward), the law of the country that the ward is a citizen of shall be used.
2. A foreign citizen or a person without citizenship who is in the Republic of Slovenia shall be placed under temporary protection measures, decreed under the law of the Republic of Slovenia, which shall last until the relevant country decides and undertakes what is necessary.
3. The second paragraph of this Article shall also apply to the protection of the property of a foreigner who is absent, and for persons without citizenship who are in the territory of the Republic of Slovenia.

- **Article 16**

The law of the country that a person was a citizen of at the time of becoming missing, shall be used to proclaim a missing person for dead.

- **Article 17**

1. The law of the country to which a legal entity belongs shall be used in matters concerning the legal status of this entity.
2. To whom a legal entity belongs shall be determined under the law of the country in which this entity was founded.
3. If the actual head office of a legal entity is in a country other than the country in

which it was founded, and under the law of this other country also belongs to it, it shall be considered that it belongs to this other country.

- **Article 18**

1. The law of the place where a certain item is shall be used for property relations and other rights in rem.
2. The law of the place of destination shall be used for relations as described the first paragraph for items in transit .
3. Unless otherwise provided for by regulations of the Republic of Slovenia, the law of the country that the transport means belong to shall be used in connection with transport for relations as described in the first paragraph of this Article.

- **Article 19**

1. Unless otherwise provided for by this Act or an international treaty, the law chosen by the parties shall be used for contracts.
2. The preference of the parties with regard to the law may be expressed explicitly, or must be unequivocally clear from contractual provisions or other circumstances.
3. The validity of the contract on the choice of law shall be judged under the chosen law.

- **Article 20**

If the parties have not chosen the law which is to be used, then the law with which the relation has the closest ties shall be used. Unless special circumstances of the case instruct that another law must be used, it shall be considered that the closest ties exist with the law of the country of permanent residence, or of the head office of that one of the parties which is obliged to carry out the task specific to the particular contract.

- **Article 21**

1. The law of the country where a contractual worker usually works shall be used for employment contracts.
2. It shall not be considered that the worker usually works in a certain country, if he is working there temporarily.
3. If a contractual worker does not usually work in one country only, then the law of the country of the employer's head office or permanent residence shall be used.
4. The parties shall not be able with an agreement on the law of choice to preclude the application of compulsory provisions on protection of workers' rights, contained in the law of the country which would have been used if the parties had not chosen the law.

- **Article 22**

1. Under this Act, a contract of transfer of property title or right to a consumer and a contract to provide services to a consumer shall be considered to be contracts of consumption.
2. Under this Act, a person who acquires items, rights and services primarily for his personal use or use by his own household, shall be considered a consumer.
3. A contract of transportation and a contract to provide services on behalf of a consumer, if by contract completely performed outside the country of permanent residence of the consumer, shall not be considered to be contracts of consumption.
4. Other provisions of this Act notwithstanding, the law of the country of permanent residence shall be used for contracts of consumption, if:
  - the contract was signed as result of an offer or advertising in that country and if the consumer performed in that country the actions which were necessary in order to sign the contract; or
  - if the consumer's partner contractor or his representative obtained the

- consumer's order in that country; or
- if the contract of sale was signed in another country and travel was organised by the seller with the intention of encouraging the signing of such contracts.

5. In cases described in the preceding paragraph, the parties shall not be able to preclude by an agreement on the law of choice from the application of compulsory provisions for the protection of consumers' rights, contained in the law of the country of the consumer's permanent residence.

• **Article 23**

For contracts concerning immovable property, the law of the country on whose territory this immovable property is located must be used in all cases.

• **Article 24**

Unless specified otherwise by the parties, the law described in Articles 19 and 20 of this Act shall also be used for relations between contractual parties:

1. in order to determine the time from when onwards the person who acquired or took over an immovable property is entitled to its products and benefits;
2. to determine the time from when onward the person who acquired or transported items assumes the associated risks.

• **Article 25**

Unless otherwise agreed on by the contractual parties, the manner of handing over items, and the measures which must be applied should the handover be rejected, shall be assessed under the law of the place where the handover is to be effected.

• **Article 26**

The law under which a claim or debt are being assessed shall also be used for the effects of renouncing a debt or of assuming a debt for a debtor or creditor not involved in the renouncing or takeover.

• **Article 27**

Unless provided for otherwise, the law which is used for the main legal transaction shall also be used for an accessory legal transaction.

• **Article 28**

The law of the country of the debtor's permanent residence or head office shall be used for any unilateral legal transaction.

• **Article 29**

1. For an unjustified acquisition, the law used to assess the legal relation created or anticipated or presumed, and on the grounds of which a take-over occurred, shall be used.
2. For any uncommissioned managerial acts, the law of the place where such action took place shall be used.
3. For obligations arising from the use of items without management and for other non-contractual obligations which do not arise out of the liability for damages, the law of the place where the fact occurred which gave rise to the obligation shall be used.

• **Article 30**

1. For non-contractual liability for damages, the law of the place where the action was committed shall be used. If it is more favourable for the injured party, the law of the place where the consequence occurred shall be used instead, but only

if the perpetrator could not have foreseen or should have foreseen the location where the consequence occurred.

2. If the law determined under the first paragraph of this Article does not have a close connection to the relation, and a connection with some other law obviously exists instead, then that law shall be used.

- **Article 31**

If the event which gave rise to the liability for damages occurred on a ship on the high seas or on board an aircraft, then the law of the place where the facts gave rise to liability for damages shall apply to the law of the country under whose flag the ship operates or the law of the country of registration of the aircraft.

- **Article 32**

1. For probate affairs, the law of the country whose citizen the deceased testator was at the time of death shall be used.
2. Testamentary capacity shall be assessed under the law of the country whose citizen the deceased testator was at the time of making the will.

- **Article 33**

1. The will shall be deemed to be valid with regard to its form if its form is valid under any of the following legal systems:
  1. the law of the place where the will was made;
  2. the law of the country whose citizen the testator was at the time of testamentary disposition or at the time of death;
  3. the law of the place of the testator's permanent residence at the time of testamentary disposition or at the time of death;
  4. the law of the place of the testator's temporary residence at the time of testamentary disposition or at the time of death;
  5. the law of the Republic of Slovenia;
  6. for immovable property – also the law of the country of this immovable property.
2. A cancellation of will shall be valid with regard to its form if this form is valid under any of the laws under which it would be deemed valid in keeping with the first paragraph of this Article.

- **Article 34**

The conditions for entering into marriage shall be assessed for each person separately under the law of the country whose citizen the person is at the time of entering into marriage.

- **Article 35**

The law of the place where the marriage takes place shall be used with regard to the forms of marriage.

- **Article 36**

The validity of a marriage shall be assessed under any of the substantive laws that the marriage was entered into under Articles 34 and 35 of this Act.

- **Article 37**

1. The law of the country whose citizens the spouses are at the time of filing for a divorce shall be used to dissolve a marriage.
2. If at the time of filing for a divorce the spouses are citizens of different countries, then the cumulative laws of the countries whose citizens they are shall be used to dissolve the marriage.
3. If the marriage cannot be dissolved under the law described in the second

paragraph of this Article, then the law of the Republic of Slovenia shall be used to dissolve a marriage, if the permanent residence of one of the spouses at the time of filing for a divorce is in the Republic of Slovenia.

4. If one of the spouses is a citizen of the Republic of Slovenia and does not have permanent residence in the Republic of Slovenia, and the marriage cannot be dissolved under the law specified in the second paragraph of this Article, then the law of the Republic of Slovenia shall be used.

• **Article 38**

1. The law of the country whose citizens the spouses are shall be used for personal and matrimonial property relations between spouses.
2. If the spouses are citizens of different countries, then the law of the country of their permanent residence shall be used.
3. If the spouses do not have the same citizenship nor joint permanent residence in the same country, then the law of the country of their most recent joint permanent residence shall be used.
4. If the law which is to be used cannot be determined under the first, second or third paragraphs of this Article, the law of the country with the closest connection to the relationship shall be used.

• **Article 39**

1. Contractual property relations of spouses shall be assessed under the law which at the time of sealing the contract applied to personal and matrimonial property relations.
2. If the law described in the first paragraph of this Article specifies that the spouses shall choose the law under which the contract of property between the spouses is to be assessed, then the law of their choice shall be used.

• **Article 40**

1. If a marriage is invalid or has been terminated, the law specified in Article 38 of this Act shall be used for personal and matrimonial property relations.
2. In cases relating to the first paragraph of this Article, the law specified in Article 39 of this Act shall be used for contractual property relations between spouses.

• **Article 41**

1. The law of the country of which the partners are citizens shall be used for property relations of people who live in a consensual marriage.
2. If persons referred to in the first paragraph of this Article do not share the same citizenship, then the law of the country of their joint permanent residence shall be used.
3. The law which applied to their property relations at the time of signing the contract shall be used for contractual property relations of partners living in a consensual marriage.

• **Article 42**

1. The relations between parents and children shall be assessed under the law of the country of whose citizens they are.
2. If parents and their children are citizens of different countries, then the law of the country of joint permanent residence shall be used.
3. If parents and their children are citizens of different countries and do not have permanent residence in the same country, then the law of the country whose citizen the child is shall be used.

• **Article 43**

Paternity or maternity shall be recognised, established or contested under the law of the country which the child is a citizen of.



- **Article 44**

The obligation to pay maintenance for blood relatives, except between parents and their children, or the obligation to support in-law relatives, shall be assessed under the law of the country that the relative expected to pay the maintenance is a citizen of.

- **Article 45**

1. The process of recognising a child as legitimate shall be assessed under the law of the country that the parents are citizens of; if the parents are citizens of different countries, then it shall be assessed under the law of the country under which the child was recognised as legitimate.
2. The consent given by the child, another person or state body to be recognised as legitimate, shall be assessed under the law of the country whose citizen this child is.

- **Article 46**

1. The conditions for adoption and for termination of adoption shall be assessed under the law of the country whose citizens the adopting parent and the adopted child are.
2. If the adopting parent and the adopted child are citizens of different countries, then the cumulative laws of the countries whose citizens they are shall be used for adoption and termination of adoption.
3. If the spouses adopt someone jointly, then in addition to the law of the country whose citizen the adopted person is, the laws of the countries whose citizens the two spouses are shall also be used for adoption and termination of adoption.
4. The form of adoption shall be assessed under the law of the country where the adoption takes place.

- **Article 47**

1. The effects of adoption shall be assessed under the law of the country whose citizens the adopting parent and the adopted child are at the time of adoption.
2. If the adopting parent and the adopted child are citizens of different countries, then the law of the country of their permanent residence shall be used.
3. If the adopting parent and the adopted child are citizens of different countries and do not have permanent residence in the same country, then the law of the country whose citizen the adopted child is shall be used.

### **Chapter III. JURISDICTION AND PROCEEDINGS ➡**

#### ***1. Jurisdiction of courts and other bodies of the Republic of Slovenia in matters with an international element ➡***

- **Article 48**

1. A court in the Republic of Slovenia shall have jurisdiction if the permanent residence or head office of the defendant is in the Republic of Slovenia.
2. If the defendant does not have a permanent residence in the Republic of Slovenia or any other country, then a court in the Republic of Slovenia shall have jurisdiction if the defendant's temporary residence is in the Republic of Slovenia.
3. When a legal relation is decided on in a non-contentious procedure, a court in the Republic of Slovenia shall have jurisdiction if the person against whom the claim was filed has a permanent residence or head office in the Republic of Slovenia; when only one person is involved in the procedure, then it shall have jurisdiction if this person has a permanent residence or head office in the Republic of Slovenia, unless otherwise provided for by this Act.



- **Article 49**

1. If one suit has been filed against several defendants who constitute a legal community or whose obligations are supported by the same legal and factual foundation, a court in the Republic of Slovenia shall also have jurisdiction when the permanent residence of one of the defendants is in the Republic of Slovenia.
2. If the main debtor and the guarantor are sued with the same suit, then a court in the Republic of Slovenia shall also have jurisdiction when it has jurisdiction in the suit against the main debtor.
3. A court in the Republic of Slovenia shall also have jurisdiction in the opposing suit, if the claim in the opposing suit is made in connection with the claim from the suit.

- **Article 50**

1. A court in the Republic of Slovenia shall have exclusive jurisdiction when explicitly provided for by this or any other act.
2. Courts in the Republic of Slovenia shall have no jurisdiction if there is a link between the matter and a foreign country which, if it existed between the matter and the Republic of Slovenia, would be the grounds for exclusive jurisdiction of courts in the Republic of Slovenia, unless otherwise provided for by this Act.

- **Article 51**

If under the criteria on jurisdiction which are not contained in the provisions on jurisdiction of courts in the Republic of Slovenia, a foreign court has jurisdiction in disputes against citizens of the Republic of Slovenia in a foreign country, then these criteria shall be the grounds for jurisdiction of a court in the Republic of Slovenia in those disputes in which the defendant is a citizen of that foreign country.

- **Article 52**

1. The parties may agree that a foreign court shall have jurisdiction only if at least one of them is a foreign citizen or a legal entity with the head office abroad, and unless the dispute is such that under the provisions of this Act or of another act it is within exclusive jurisdiction of a court in the Republic of Slovenia.
2. The provisions of the first paragraph of this Article notwithstanding, the parties may not agree that a foreign court shall have jurisdiction in disputes which arise from relations with consumers and in disputes which arise from insurance relations, if the consumer or the insured party, who is a natural person, has permanent residence in the Republic of Slovenia.
3. The parties may agree that a court in the Republic of Slovenia shall have jurisdiction if at least one of them is a citizen of the Republic of Slovenia or a legal entity with the head office in the Republic of Slovenia.
4. The first and third paragraphs of this Article shall not be used in matters concerning jurisdiction issues from Articles 68 to 77 of this Act.

- **Article 53**

1. In cases when under the third and fourth paragraphs of Article 52 of this Act, an agreement may be reached on jurisdiction of a court in the Republic of Slovenia, such jurisdiction by courts in the Republic of Slovenia shall be subject to consent from the defendant.
2. It shall be considered that the defendant consented to jurisdiction of courts in the Republic of Slovenia if he submitted a reply to the suit or appealed against a payment order, or if during the preliminary hearing or, if there was no such hearing, during the first hearing of the main hearing, addressed the main issue without objection as to such jurisdiction.

- **Article 54**

1. When, under this Act, the jurisdiction of a court in the Republic of Slovenia

depends on a requirement that the party involved in the suit must be a citizen of the Republic of Slovenia, then such jurisdiction shall also apply to people without citizenship and with permanent residence in the Republic of Slovenia.

2. The first paragraph of this Article shall apply accordingly for jurisdiction of other bodies of the Republic of Slovenia.

- **Article 55**

1. A court in the Republic of Slovenia shall have jurisdiction in disputes concerning non-contractual liability for damages also when the damaging action was committed on the territory of the Republic of Slovenia, or when the damaging consequence occurred on the territory of the Republic of Slovenia.
2. The provisions of this first paragraph of this Article shall also be used in suits against insurance companies requesting reimbursements for damages to third parties under the regulations on direct liability of insurance companies, and in claims for bonus payments arising from the entitlement to repayment for damages by the entities who owe bonus payments.

- **Article 56**

A court in the Republic of Slovenia shall also have jurisdiction in disputes arising from contractual relations when the subject of the dispute is an obligation which must be fulfilled or should have been fulfilled in the Republic of Slovenia.

- **Article 57**

A court in the Republic of Slovenia shall also have jurisdiction in individual labour disputes when the work is or was performed or should have been performed in the territory of the Republic of Slovenia.

- **Article 58**

1. A court in the Republic of Slovenia shall also have jurisdiction in disputes over legal property claims when the object of the suit is in the territory of the Republic of Slovenia.
2. If any of the defendant's property is located in the territory of the Republic of Slovenia, then a court in the Republic of Slovenia shall also have jurisdiction when the permanent residence or the head office of the defendant is in the Republic of Slovenia, provided that the plaintiff proves as probable that the decision can be executed from this property.

- **Article 59**

A court in the Republic of Slovenia shall also have jurisdiction in disputes against a natural person or legal entity with the head office abroad, if they have in the Republic of Slovenia a branch or a person who has been charged with conducting the business relating to those disputes which arise from the functioning of this branch or of this person in the territory of the Republic of Slovenia.

- **Article 60**

A court in the Republic of Slovenia shall have exclusive jurisdiction in disputes which arise during the founding or cessation of or status changes in a company, other legal entity or association of natural persons or legal entities and in disputes over the validity of decisions by their bodies, if the head office of the company, other legal entity or association, is in the Republic of Slovenia.

- **Article 61**

A court in the Republic of Slovenia shall have exclusive jurisdiction in disputes over the validity of entries in official registers kept in the Republic of Slovenia.

- **Article 62**

A court in the Republic of Slovenia shall have exclusive jurisdiction in disputes in connection with applications for a visa, and the validity of visas and of distinguishing marks, if the application was submitted in the Republic of Slovenia.

• **Article 63**

1. A court in the Republic of Slovenia shall have the exclusive power to permit and conduct execution of a ruling, if this is carried out in the territory of the Republic of Slovenia.
2. The provision of the second paragraph of this Article shall also apply to disputes which arise during an executive or bankruptcy procedure, if the procedure is conducted before a court in the Republic of Slovenia.

• **Article 64**

1. A court in the Republic of Slovenia shall have exclusive jurisdiction in disputes over substantive rights on immovable property, in disputes over disturbance of immovable property, and in disputes arising from the lease or hire of immovable property, if this immovable property is located in the territory of the Republic of Slovenia.
2. A court in the Republic of Slovenia shall also have exclusive jurisdiction when rights on immovable property are being decided on in a non-contentious procedure.

• **Article 65**

A court in the Republic of Slovenia shall also have jurisdiction in disputes over disturbance of immovable property if this disturbance occurred on the territory of the Republic of Slovenia.

• **Article 66**

1. A court in the Republic of Slovenia shall also have jurisdiction in disputes over substantive rights relating to a ship or aircraft and in disputes arising from the lease of a ship or aircraft, if the ship or aircraft is entered in a register kept in the Republic of Slovenia.
2. Courts in the Republic of Slovenia shall also have jurisdiction in disputes over disturbance of possession of a ship or aircraft relating to the first paragraph of this Article, if the register that the ship or the aircraft is registered with is kept in the Republic of Slovenia or if the possession was disturbed in the Republic of Slovenia.

• **Article 67**

1. A court in the Republic of Slovenia shall have jurisdiction in disputes over property relations between spouses concerning their property in the Republic of Slovenia, also when the permanent residence of the defendant is not in the Republic of Slovenia.
2. If the majority of the property is in the Republic of Slovenia, and the remainder abroad, then a court in the Republic of Slovenia may rule on that property which is abroad only if the defendant permits a court in the Republic of Slovenia to rule on the matter.
3. Under the provisions of this Act, a court in the Republic of Slovenia shall have jurisdiction in disputes over property relations between spouses, regardless of whether the marriage still exists, has been terminated or has been established not to exist.

• **Article 68**

1. A court in the Republic of Slovenia shall have jurisdiction in legal disputes also when the defendant does not have permanent residence in the Republic of Slovenia:

1. if both spouses are Slovene citizens, regardless of where they have their permanent residence;
  2. if the plaintiff is a Slovene citizen with permanent residence in the Republic of Slovenia;
  3. if the last joint permanent or temporary residence of the spouses was in the Republic of Slovenia.
2. A court in the Republic of Slovenia shall have exclusive jurisdiction if the spouse who is the defendant is a Slovene citizen with permanent residence in the Republic of Slovenia.

• **Article 69**

A court in the Republic of Slovenia shall also have jurisdiction in disputes relating to Article 68 of this Act if both spouses are foreign citizens and their last joint permanent residence was in the Republic of Slovenia, but only if the defendant permits a Slovene court to rule, and if the regulations of the country whose citizens the spouses are permit such jurisdiction.

• **Article 70**

A court in the Republic of Slovenia shall also have jurisdiction in divorce suits when the plaintiff is a Slovene citizen, and the law of the country whose court would have jurisdiction does not provide for dissolution of a marriage.

• **Article 71**

1. A court in the Republic of Slovenia shall also have jurisdiction in suits to establish or contest paternity or maternity when the defendant does not have permanent residence in the Republic of Slovenia:
  1. if the plaintiff and the defendant are Slovene citizens, regardless of where they have their permanent residence;
  2. if the plaintiff is a Slovene citizen with permanent residence in the Republic of Slovenia.
2. A court in the Republic of Slovenia shall have exclusive jurisdiction if the suit has been filed against a child who is a Slovene citizen and has permanent or temporary residence in the Republic of Slovenia.

• **Article 72**

The court in the Republic of Slovenia with jurisdiction in suits relating to Article 71 of this Act shall also have jurisdiction when the parties are foreign citizens if the plaintiff or one of the plaintiffs has permanent residence in the Republic of Slovenia, but only if the defendant permits that the ruling shall be carried out by a court in the Republic of Slovenia and if the regulations of the country whose citizen he is permit such jurisdiction.

• **Article 73**

1. A court in the Republic of Slovenia shall also have jurisdiction in disputes over the guardianship and upbringing of children who are cared for by their parents when the defendant does not have permanent residence in the Republic of Slovenia, if both parents are Slovene citizens or if the child is a Slovene citizen and has permanent residence in the Republic of Slovenia.
2. A court in the Republic of Slovenia shall have exclusive jurisdiction if the defendant and the child are Slovene citizens and they both have permanent residence in the Republic of Slovenia.
3. The first and second paragraphs of this Article and Article 48 of this Act shall apply accordingly for the decisions adopted by other bodies of the Republic of Slovenia when adopting decisions concerning guardianship and upbringing of children who are cared for by their parents.

- **Article 74**

1. A court in the Republic of Slovenia shall also have jurisdiction in disputes over maintenance payments for children when the defendant does not have permanent residence in the Republic of Slovenia:
  1. if the suit has been filed by a child with permanent residence in the Republic of Slovenia;
  2. if the plaintiff and the defendant are Slovene citizens and both have permanent residence in the Republic of Slovenia; or
  3. if the plaintiff is a minor and a Slovene citizen.
2. A court in the Republic of Slovenia shall also have jurisdiction in disputes over maintenance payments not listed in the first paragraph of this Article when the defendant does not have permanent residence in the Republic of Slovenia, if the plaintiff is a Slovene citizen and has permanent residence in the Republic of Slovenia.
3. A court in the Republic of Slovenia shall also have jurisdiction in disputes over maintenance payments between spouses if their last joint permanent residence was in the Republic of Slovenia and the plaintiff continues to reside in the Republic of Slovenia during the trial.

- **Article 75**

A court in the Republic of Slovenia shall also have jurisdiction in disputes over maintenance payments when the defendant has a property in the Republic of Slovenia which may be used to pay the maintenance.

- **Article 76**

A court in the Republic of Slovenia shall also be competent to adopt decisions concerning the guardianship, upbringing and maintenance of children when such disputes are being resolved jointly with marital disputes or with suits contesting paternity or maternity which are, under this Act, within the jurisdiction of courts in the Republic of Slovenia.

- **Article 77**

1. A court in the Republic of Slovenia shall also have the power to remove or restore the right of a parent, prolong the right of a parent, appoint a parent as a guardian of the property of the child, to pronounce a child to have been born within a marriage and to decide on other matters concerning personal conditions and relationships between parents and children when the conditions from the third paragraph of Article 48 of this Act do not exist, if the person who submitted the claim and the person against whom it was submitted are Slovene citizens or, when one person only is involved in the procedure, if this person is a Slovene citizen.
2. A court in the Republic of Slovenia shall also have jurisdiction in matters relating to the first paragraph of this Article when the child is a Slovene citizen and has permanent residence in the Republic of Slovenia.

- **Article 78**

1. A court in the Republic of Slovenia shall have the exclusive power to pronounce a missing Slovene citizen to be dead, regardless of the location of that person's permanent residence.
2. The death of a foreign citizen who died on the territory of the Republic of Slovenia may under the law of the Republic of Slovenia be established before a court in the Republic of Slovenia.

- **Article 79**

1. A court in the Republic of Slovenia shall have exclusive jurisdiction in probate

process concerning immovable estate of the deceased if this estate is in the Republic of Slovenia.

2. If the immovable estate of a deceased Slovene citizen is abroad, then a court in the Republic of Slovenia shall have jurisdiction only if under the law of the country where the estate of the deceased is located, its own body does not have jurisdiction.
3. A court in the Republic of Slovenia shall be competent in probate proceedings involving the estate of a deceased Slovene citizen if the estate is in the territory of the Republic of Slovenia or, if under the law of the country where the estate is located, a body of this country is competent or if this body does not wish to deal with the estate.
4. The first, second and third paragraphs of this Article shall also apply to jurisdiction in disputes arising from inheritance law relations and for claim suits by creditors towards the estate.

• **Article 80**

1. A court in the Republic of Slovenia shall have exclusive jurisdiction in dealing with the immovable estate of a foreign citizen if the estate is in the Republic of Slovenia.
2. A court in the Republic of Slovenia shall have jurisdiction in dealing with the movable estate of the deceased in the Republic of Slovenia, unless a court in the deceased person's country has jurisdiction in dealing with the movable estate of Slovene citizens.
3. The first and second paragraphs of this Article shall also apply to jurisdiction in disputes arising from inheritance law relations and claim suits towards the estate by creditors.
4. When a court in the Republic of Slovenia does not have jurisdiction to deal with the movable estate of a deceased foreign citizen, it may decree measures for its protection and to protect the rights towards the estate in the Republic of Slovenia.

• **Article 81**

1. A court in the Republic of Slovenia shall have exclusive jurisdiction in dealing with the immovable estate of a person without citizenship, a person whose citizenship cannot be determined or a person with refugee status, if the immovable property is in the territory of the Republic of Slovenia.
2. A court in the Republic of Slovenia shall have jurisdiction to deal with the estate of a person without citizenship, a person whose citizenship cannot be established or a person with refugee status, if the movable estate is in the Republic of Slovenia or the deceased testator had permanent residence in the Republic of Slovenia at the time of death.
3. The first and second paragraphs of this Article shall also apply to jurisdiction in disputes arising from inheritance law relations or claim suits towards the estate by creditors.
4. If the deceased testator did not have permanent residence in the Republic of Slovenia at the time of death, the provisions applying to dealing with the estate of a deceased foreigner shall apply accordingly, whereby the term "foreign country" shall refer to the country of permanent residence of the deceased testator at the time of death.

• **Article 82**

1. A body of the Republic of Slovenia shall have the power to allow a marriage to take place if the applicant or one of the applicants is a Slovene citizen, regardless of where the persons who wish to enter into marriage have their permanent residence.
2. A body of the Republic of Slovenia shall have exclusive jurisdiction if a minor requesting to be allowed to marry is a Slovene citizen, or if the persons who wish



to marry are Slovene citizens and the wedding is taking place abroad.

- **Article 83**

1. A body of the Republic of Slovenia shall have exclusive jurisdiction for decisions regarding adoption and termination of adoption of a person who is a Slovene citizen and has permanent residence in the Republic of Slovenia.
2. A body of the Republic of Slovenia shall have jurisdiction to decide on the adoption and termination of adoption if the adopting parent is a Slovene citizen with permanent residence in the Republic of Slovenia.
3. If the spouses adopt jointly, then it shall suffice for jurisdiction of a body of the Republic of Slovenia that one of the spouses is a Slovene citizen with permanent residence in the Republic of Slovenia.

- **Article 84**

A body of the Republic of Slovenia shall be exclusively competent in matters of guardianship of Slovene citizens, regardless of where they have permanent residence, unless otherwise provided for by this law.

- **Article 85**

A body of the Republic of Slovenia shall not issue a decision and take action in matters of guardianship of Slovene citizens with permanent residence abroad if it is established that the body with jurisdiction under the law of the foreign country has issued a decision or adopted measures for protecting the personality, rights and interests of the Slovene citizen.

- **Article 86**

1. A body of the Republic of Slovenia shall issue urgent temporary measures to protect the personality, rights and interests of a foreign citizen who is in the Republic of Slovenia or has property there, and shall notify the relevant body in his country of this.
2. A body of the Republic of Slovenia shall issue decisions and adopt measures in matters of guardianship of a foreign citizen with permanent residence in the Republic of Slovenia, if the relevant body in his country has not undertaken any measures for protecting his personality, rights and interests.

## **2. Other provisions ➡**

- **Article 87**

1. The law of the country of a natural person shall be used to determine the capacity to be a party in proceedings and the capacity to sue.
2. A foreign citizen with no capacity to sue under the first paragraph of this Article, but with capacity to sue under the law of the Republic of Slovenia, shall be able to conduct actions in the procedure himself.
3. The legal representative of a foreign citizen with reference to the second paragraph of this Article may conduct actions in a procedure only until this foreign citizen has stated that he shall conduct these himself.
4. If a foreign person is involved, the law specified in Article 17 of this Act shall be used to determine the capacity to be a party in proceedings.

- **Article 88**

A court in the Republic of Slovenia shall, at the request of a party, suspend the procedure if another procedure on the same matter has been initiated before a foreign court, between the same parties:

1. if the charge in the suit conducted abroad was filed before the charge in the suit



in the Republic of Slovenia was made; or if a non-contentious procedure abroad started earlier than in the Republic of Slovenia;

2. if it is probable that the foreign decision can be recognised in the Republic of Slovenia;
3. if mutuality exists between the two countries.

• **Article 89**

The facts decisive for the determination of jurisdiction of courts in the Republic of Slovenia shall be those which were in existence at the beginning of the procedure.

• **Article 90**

1. When a foreign citizen or a person without citizenship who does not have permanent residence in the Republic of Slovenia initiates a suit before a court in the Republic of Slovenia, he shall pay the defendant, upon the defendant's request, a deposit towards the costs of the suit.
2. The defendant must make the request described in the first paragraph before the preliminary hearing at the latest, and if there is no such hearing then by the first hearing of the main hearing, before addressing the main matter, or as soon as when learning that the conditions for requesting a deposit have been met.
3. The deposit towards the court costs shall be made in cash; the court may permit the deposit to be made in another appropriate form.

• **Article 91**

1. The defendant shall not be entitled to a deposit towards court costs:
  1. if citizens of the Republic of Slovenia are not obliged to pay deposits in the country that the defendant is a citizen of;
  2. if the plaintiff has the right to asylum in the Republic of Slovenia;
  3. if the claim made in the suit by the plaintiff arose from work relations in the Republic of Slovenia;
  4. in cases of matrimonial suits, paternity or maternity suits or maintenance suits;
  5. in cases of suits concerning bills of exchange or cheques, counter-suits or suits requesting issuance of a payment order.
2. When in doubt as to whether under point 1 of the first paragraph of this Article citizens of the Republic of Slovenia do have to pay a deposit in the country of the plaintiff, the instructions shall be issued by the ministry responsible for justice.

• **Article 92**

1. In the decision granting the request for a deposit towards court costs, the court shall set the amount of the deposit as well as the deadline when the deposit is to be paid, and inform the plaintiff of the consequences as laid down by law for failing to prove that the deposit has been paid within the set period.
2. If the plaintiff fails to prove that the deposit towards court costs was paid within the set period, it shall be considered that the suit or legal remedy, if the defendant made the request for a deposit during the legal redress procedure, has been withdrawn.
3. A defendant who had on time requested from the plaintiff to pay a deposit towards court costs shall not have to continue the procedure on the main issue until the court has passed a legally binding decision on his request; if the request has been granted, then until the plaintiff has paid the deposit.
4. If the court rejects a request for a deposit towards court costs, then it may rule that the procedure shall be continued before the rejection decision becomes legally binding.

• **Article 93**

1. Foreign citizens shall be entitled, under the condition of mutuality, to be exempt

- from paying for court costs.
2. When there are doubts as to whether mutuality exists, then the explanation in connection with paying for court costs shall be provided by the ministry responsible for justice.
  3. Mutuality, as referred to in the first paragraph of this Article, shall not be a requirement for being able to exercise the right to be exempt from paying for court costs if the foreign citizen has permanent residence in the Republic of Slovenia.
  4. A person without citizenship shall be entitled to be exempt from paying for court costs if that person has permanent or temporary residence in the Republic of Slovenia.

## **Chapter IV. RECOGNITION AND EXECUTION OF FOREIGN DECISIONS**



### ***1. Recognition and execution of foreign decisions ➡***

#### **• Article 94**

1. Foreign court decisions shall be equal to the decisions passed by courts in the Republic of Slovenia, and shall have the same legal effect in the Republic of Slovenia, only if having been recognised by a court in the Republic of Slovenia.
2. A settlement reached before a court (court settlement) shall also be considered to be a foreign court decision as described in the first paragraph of this Article.
3. A decision by another body which in the country where it was issued is equal to a court decision or court settlement shall be considered to be a foreign court decision, if governing relations from Article 1 of this Act.

#### **• Article 95**

1. A person filing for recognition of a foreign court decision shall have to supplement the request with the original foreign court decision or an authenticated copy thereof and a certificate, issued by a competent foreign court or other body and stating that the decision is legally binding under the law of the country in which it was issued.
2. If the foreign court decision or an authenticated copy thereof are not written in a language in official use at the court, then the party requesting the recognition shall have to submit an authenticated translation of the foreign court decision into the language in official use at the court.

#### **• Article 96**

1. A court in the Republic of Slovenia shall decline to recognise a foreign court decision if, following an objection by the person against whom it was issued, it establishes that such irregularities have been committed in the procedure which prevented this person from taking part in the procedure.
2. In particular, it shall deem that the person against whom a foreign court decision was issued was not able to take part in the procedure if the invitation, suit or decision which was the basis for initiating the procedure were not delivered in person or personal delivery was not even attempted, except when the person in any way engaged in the first-instance process on the main issue.

#### **• Article 97**

1. A foreign court decision shall not be recognised if the subject matter is within the exclusive jurisdiction of the court or other body of the Republic of Slovenia.
2. If a request to recognise a foreign court decision issued in a matrimonial suit is put forward by the defendant or if requested by the plaintiff and is not objected to

by the defendant, then exclusive jurisdiction of a court in the Republic of Slovenia shall not be an obstacle to its recognition.

- **Article 98**

1. The court shall, following an objection by the person against whom it was issued, decline to recognise a foreign court decision if the jurisdiction of the foreign court was based exclusively on any of the following three circumstances:
  1. the citizenship of the plaintiff;
  2. the property of the defendant in the country where the decision was issued;
  3. personal delivery of the suit or of another act on initiating a procedure to the defendant.
2. The court shall, following an objection by the person against whom it was issued, also decline to recognise a foreign court decision when the court which issued the decision did not take into account the agreement on jurisdiction of courts in the Republic of Slovenia.

- **Article 99**

1. A foreign court decision shall not be recognised if the court or another body of the Republic of Slovenia has issued on the same matter a legally binding decision, or if some other foreign decision on the same matter has been recognised in the Republic of Slovenia.
2. A court shall wait with regard to recognising a foreign court decision if a suit on the same matter had been initiated earlier in the Republic of Slovenia between the same parties, until this suit has been brought to a legally binding conclusion.

- **Article 100**

A foreign court decision shall not be recognised if the effect of its recognition would be contrary to the public order of the Republic of Slovenia.

- **Article 101**

1. A foreign court decision shall not be recognised if mutuality does not exist.
2. The absence of mutuality shall not be an obstacle for recognising a foreign court decision issued in a matrimonial suit and in suits to establish or contest paternity or maternity, or when the recognition or execution of a foreign decision has been requested by a Slovene citizen.
3. The existence of mutuality in connection with recognition of a foreign court decision shall be presumed until proven otherwise; if there are doubts as to whether mutuality exists, then an explanation shall be provided by the ministry responsible for justice.

- **Article 102**

1. A foreign court decision which concerns the personal condition (status) of a citizen of the country in which it was issued shall be recognised in the Republic of Slovenia without having to be tested under Articles 97, 100 and 101 of this Act.
2. If the competent body of the Republic of Slovenia believes that the decision by a foreign court concerns the personal condition (status) of a Slovene citizen then it shall be necessary, if it is to be recognised, to test such a decision under the provisions of Articles 95 to 101 of this Act.

- **Article 103**

1. The provisions of Articles 95 to 101 of this Act shall be used for the execution of foreign court decisions.
2. The person submitting a request for the execution of a foreign court decision shall have to submit, in addition to the certificate described in Article 95 of this Act, a certificate of executability under the law of the country in which it was

issued.

## **2. Recognition and execution of foreign arbitration decisions ➡**

### **• Article 104**

1. A foreign arbitration decision shall be an arbitration decision which was not issued in the Republic of Slovenia.
2. A foreign arbitration decision shall have the appurtenance of the country in which it was issued.
3. Unless contrary to compulsory regulations of the Republic of Slovenia, an arbitration decision issued in the Republic of Slovenia shall also be considered to be a foreign arbitration decision if the law of a foreign country was applied in the procedure.
4. A foreign arbitration decision with reference to the third paragraph of this Article shall have the appurtenance of the country whose law was used in the procedure.

### **• Article 105**

1. A foreign arbitration decision shall be recognised and executed if the party requesting the recognition and execution supplements the request submitted to the court with the following:
  1. the original arbitration decision or an authenticated copy thereof;
  2. the original agreement to arbitrate or a authenticated copy thereof.
2. If the foreign arbitration decision or agreement to arbitrate are not written in a language in official use at the court where the procedure to recognise and execute the decision has been initiated, then the party requesting the recognition and execution of the decision shall have to supply a translation into such language by an authorised translator.

### **• Article 106**

1. The recognition and execution of a foreign arbitration decision shall be declined if it is established by the court:
  1. that under the law of the Republic of Slovenia the contested matter may not be ruled on in an arbitration;
  2. that the effects of recognition or execution of the decision would be contrary to the public order of the Republic of Slovenia;
  3. that mutuality does not exist;
  4. that the agreement to arbitrate was not made in writing or through an exchange of letters, telegrams or teleprinter messages;
  5. that any of the parties was not in possession of capacity to reach an arbitration agreement under the law applicable to assessing the capacity of the person;
  6. that the agreement to arbitrate is not valid under the law of the country chosen by the parties; if the parties did not choose the law, then under the law of the country where the arbitration decision was issued;
  7. that the party against whom the recognition and execution were requested was not correctly notified as to the appointment of arbitrators or of the arbitration procedure, or if prevented from exercising his rights in the procedure for any other reasons;
  8. if the composition of the arbitration court or the arbitration procedure was not in keeping with the agreement to arbitrate;
  9. that the arbitration court exceeded its authorities as laid down by the agreement to arbitrate;
  10. that the decision has not yet become legally binding or executable for the

parties, or if the decision was annulled or its execution was suspended by the competent body of the country in which it was issued, or a body of the country under whose law it was issued;

11. if the disposition of the arbitration decision is incomprehensible or contradictory.

2. If a foreign decision contains sections which address issues that can be separated from the section in which the court exceeded its authorisations, then those sections of the decision where the court did not exceed its authorisations shall be recognised and executed.

- **Article 107**

If a procedure to annul or suspend execution of a foreign arbitration decision has been initiated before a competent body as referred to in point 10 of Article 106 of this Act, then the court may postpone the decision on a request to recognise and execute such a decision, and may, at the request of the creditor or the debtor, set as a requirement for making the decision to postpone, that the debtor must pay a suitable deposit.

### ***3. Procedure for recognition and execution of foreign court and arbitration decisions ➡***

- **Article 108**

1. The procedure for recognition of a foreign court or arbitration decision shall be initiated upon a proposal.
2. Any person satisfying the requirement of legal standing shall be entitled to a request for the recognition of a foreign court decision in matters which concern personal condition (status).
3. The decision to recognise a foreign or arbitration decision shall be passed by an individual judge at a circuit court.
4. Local jurisdiction for recognising a foreign court or arbitration decision shall be within the jurisdiction of any court competent with regard to the subject matter.
5. Local jurisdiction to execute a foreign court or arbitration decision shall be within the jurisdiction of the court on whose territory the execution is to be effected.
6. If no special decision has been issued on recognising a foreign court or arbitration decision, then any court may rule on recognition of such decision as a preliminary issue, with the effect limited only to that particular procedure.

- **Article 109**

1. In the procedure of recognising a foreign court or arbitration decision, the court shall limit itself to testing only whether the conditions from provisions of Articles 94 to 107 of this Act exist.
2. If the court establishes that there are no obstructions for recognising the decision, it shall issue a decision of recognition of a foreign decision.
3. The decision of recognition shall be delivered by the court to the opposite party or other participants in the procedure in which the foreign decision was issued, and shall instruct them on the possibility of filing an appeal within fifteen days of having been delivered the decision.
4. The appeal shall be ruled on by the court which issued the decision of recognition in a panel of three judges. If the decision at the appellate level depends on contentious facts, then it shall rule after a hearing.
5. An appeal may be filed with the Supreme Court against the decision with which the court rejected the proposal to recognise and the decision of the court at the appellate level.
6. The provision of the third paragraph of this Article notwithstanding, the decision to recognise a foreign divorce decision shall not be delivered to the opposite party if the person who requested the recognition is a citizen of the Republic of

Slovenia and the opposite party does not have a permanent or temporary residence in the Republic of Slovenia.

- **Article 110**

The court shall determine the court costs under the regulations that would be used if the decision on the matter was made by a court or another body of the Republic of Slovenia.

- **Article 111**

Unless special provisions are provided for in this chapter, the provisions of the Non-contentious Procedure Act shall apply accordingly to the procedure of recognising foreign court and arbitration decisions.

## **Chapter V. SPECIAL PROVISIONS ➡**

- **Article 112**

1. Citizens of the Republic of Slovenia may be married abroad by a consular office of the Republic of Slovenia, unless this is objected to by the country in which this consular office is situated or if specified otherwise by an international treaty.
2. The minister responsible for foreign affairs shall determine which representative offices of the Republic of Slovenia may marry citizens of the Republic of Slovenia.

- **Article 113**

Matters concerning guardianship of citizens of the Republic of Slovenia who are abroad shall be performed by the consular office of the Republic of Slovenia, unless this is objected to by the country in which this consular office is situated or unless otherwise provided for by an international treaty.

- **Article 114**

A citizen of the Republic of Slovenia may have his will drawn up abroad by a consular office of the Republic of Slovenia under the provisions which apply to court-deposited wills.

- **Article 115**

1. A consular office of the Republic of Slovenia may, in keeping with international treaties and regulations of the country of destination, authenticate signatures, hand-written texts and copies.
2. The minister responsible for foreign affairs shall regulate in detail the manner in which actions described in the first paragraph of this Article are to be conducted.

- **Article 116**

1. Certificates on regulations which are or have been valid in Slovenia shall be issued to be used before bodies of a foreign country by the minister responsible for justice.
2. The certificate described in the first paragraph of this Article shall state the title of the regulation, the date of its becoming valid or of termination of its validity, and the exact text of the relevant provisions.

- **Article 117**

The duties of a consular office of the Republic of Slovenia may under this Act also be performed by a mission of the Republic of Slovenia, if in the town where it has its seat and that part of the territory of that foreign country there is no consular office.

## **Chapter VI. FINAL PROVISIONS** ➔

- **Article 118**

On the day of this Act entering into force, the Act Regulating Conflict of Laws With Regulations of Other Countries in Certain Relations (Zakon o ureditvi kolizije zakonov s predpisi drugih držav v določenih razmerjih, Ur.l SFRY, Nos. 43/82 and 72/82) shall cease to apply.

- **Article 119**

This Act shall enter into force on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia.