LAW 4800 2021

CHAPTER A

PURPOSE AND OBJECT

Article 1

Purpose

The purpose of this Act is to serve the best interests of the child through the active presence of both parents in the upbringing of the child and the fulfillment of their responsibilities towards the child. Its provisions shall be interpreted and applied in accordance with the international conventions binding the Country, in particular the International Convention on the Rights of the Child, ratified by Act No. 2101/1992 (A' 192) and the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), ratified by Law No. 4531/2018 (A' 62), and cannot be considered to justify the non-fulfillment of the obligations arising from them.

Article 2

Subject matter

The object of this Law is the reform of the relations between parents and child after the termination of cohabitation, divorce, annulment of marriage or dissolution of the cohabitation agreement.

CHAPTER B

RESIDENCE, DIVORCE BY CONSENT, PARENT-CHILD RELATIONSHIPS - AMENDMENTS TO THE CIVIL CODE

Article 3

Residence of a minor - Amendment of Article 56 CC

In Article 56 of the Civil Code (CC, Decree Law 456/1984, A 164), the third and fourth paragraphs are added and the article is worded as follows:

"'Article 56

A minor under parental care shall have his or her parents' residence or the residence of the parent exercising parental care alone. If both parents exercise parental authority without having the same domicile, the minor shall have the domicile of the parent with whom he/she resides.

Service of documents relating to the child shall be effected at the residence of the parent with whom the child resides or of the third party exercising parental responsibility. The parent with whom the child resides shall immediately inform the other parent of the service and the content of the documents relating to the child.

A minor who is under guardianship or who is subject to full legal custody shall have his or her guardian's or guardian ad litem's residence."

**Article 4**

**Divorce by consent - Replacement of Article 1441 CC.**

Article 1441 of the Civil Code (CC, Decree 456/1984, A 164) shall be replaced as follows:

"'Article 1441

Divorce by consent

1. The spouses may, by written agreement or joint digital declaration, dissolve their marriage. The written agreement shall be drawn up between the spouses or the joint digital statement shall be submitted by them in the presence or with the digital assistance of a lawyer authorized to act on behalf of each of them respectively. Where the agreement is in writing, it shall be signed by them and by their attorneys-in-fact or only by the latter, if they are provided with a special power of attorney. The power of attorney must have been granted within the month preceding the signing of the agreement.

2. If there are minor children, in order to dissolve the marriage, the written agreement or the joint digital declaration of par. 1 or by another agreement between the spouses, drawn up as specified in par. 1, the division of parental responsibility and in particular the custody of the children, their place of residence, the parent with whom they reside, their contact with the other parent and their maintenance. The above written agreement or joint digital declaration shall be valid for at least two (2) years and shall be extended automatically, unless one of the two parents declares in writing to the other parent, before the expiry of the agreed period, that he or she does not wish it to be extended.

3. α. The written agreement on the dissolution of the marriage, as well as any separate agreement on the division of parental responsibility, custody, residence, contact and maintenance of minor children, shall be submitted by the attorneys representing each spouse together with special powers of attorney to a notary public.

β. The drawing up of the notarial deed referred to in par. 4 shall be at least ten (10) days from the written agreement of the spouses or the joint digital declaration. The date of the written agreement of the spouses shall be evidenced by a certificate of the authenticity of their signatures. Certification of the authenticity of the spouses' signatures is not required in the case of a joint digital declaration.

4. The notary shall draw up a deed confirming the dissolution of the marriage, certify the agreements of the spouses and incorporate them into the deed. The notarial act shall be signed or approved by electronic means by the spouses and their attorneys or only by the latter, if they have a special power of attorney. The power of attorney shall be granted in the last month before the signing of the instrument. Where the certificate concerns custody, communication and maintenance of minor children, the instrument shall constitute an enforceable title, provided that the provisions of Articles 950 and 951 of the Code of Civil Procedure have been included in the agreement. After the expiry of the validity of the authenticated agreement

the custody, communication and maintenance of the children for a further period of time may be regulated by a new agreement in accordance with the same procedure.

5. The dissolution of the marriage shall be effected by filing a copy of the notarial deed at the registry office where the establishment of the marriage has been filed, or by informing the registry office using Information and Communication Technologies."

**Article 5**

**Interest of a child - Amendment of Article 1511 CC**

Article 1511 of the Civil Code (CC, Decree 456/1984, A 164) shall be replaced as follows:

"'Article 1511

Exercise of parental authority in the best interests of the child

1. Any decision of the parents concerning the exercise of parental responsibility shall be in the best interests of the child.

2. The best interests of the child, which are served in particular by the effective participation of both parents in his or her upbringing and care and by the prevention of a breakdown in his or her relationship with either of them, must also be the aim of the court's decision when it decides on the award of parental responsibility or on the manner in which it is to be exercised. The court's decision shall take into account parameters such as the ability and intention of each of the parents to respect the rights of the other, the conduct of each parent during the previous period and his or her compliance with his or her legal obligations, court decisions, public prosecutor's orders and previous agreements concluded with the other parent concerning the child.

3. The court's decision must also respect equality between parents and must not discriminate on the grounds of, in particular, sex, sexual orientation, race, language, religion, political or any other opinion, nationality, ethnic or social origin or property.

4. Depending on the maturity of the child, the child's opinion shall be sought and taken into account before any decision relating to parental responsibility and the child's interests is taken."

**Article 6**

**In case of disagreement - Replacement of Article 1512 CC.**

Article 1512 of the Civil Code (CC, Decree 456/1984, A' 164) shall be replaced as follows:

"Article 1512 In the event of a disagreement in the exercise of parental responsibility, the parents shall make an effort to find mutually acceptable solutions. If they disagree, the court shall decide.

**Article 7**

**Joint exercise of parental responsibility - Amendment of Article 1510 CC - Replacement of the title and Article 1513 CC.**

1. In the first paragraph of Article 1510 of the Civil Code (CC, Decree 456/1984, A 164), after the words "jointly" the words "and equally" shall be added and the paragraph shall be worded as follows: "The care of a minor child shall be the duty and right of the parents (parental care), who shall exercise it jointly and equally.".

2. The title and Article 1513 of the Civil Code (CC, Decree 456/1984, A' 164) shall be replaced by the following:

"'Article 1513

Divorce or annulment of marriage - separation of spouses In cases of divorce or annulment of marriage or dissolution or annulment of the cohabitation agreement or termination of cohabitation of the spouses or parties to the cohabitation agreement, and if both parents are living, they shall continue to exercise parental responsibility jointly and equally. The parent with whom the child resides shall attempt the acts provided for in the first subparagraph of Article 1516, after informing the other parent."

**Article 8**

**Derogation from the joint exercise of parental authority - Replacement of the title and Article 1514 CC.**

The title and Article 1514 of the Civil Code (CC, Decree 456/1984, No. 164) shall be replaced as follows:

"'Article 1514

Derogation from the joint exercise of parental responsibility

1. By way of derogation from Article 1513, the parents may, in a document of certified date, otherwise regulate the division of parental responsibility, in particular by entrusting the exercise of parental responsibility to one of them, and determine the place of residence of their child, the parent with whom he or she will reside and the manner of communication with the other parent. The above document shall be valid for at least two (2) years and shall be automatically renewed, unless one of the two parents declares in writing to the other parent, before the expiry of the agreed period, that he or she does not wish it to be renewed.

2. If the joint exercise of parental responsibility is not possible because of a disagreement between the parents and in particular if one parent is indifferent or does not cooperate in it or does not respect any existing agreement on the exercise or manner of exercising parental responsibility or if such agreement is contrary to the child's best interests or if parental responsibility is exercised contrary to the child's best interests, either of the parents shall have recourse to mediation, except in cases of domestic violence as provided by law. If they disagree, the court shall decide.

3. The court may, depending on the case:

(a) allocate the exercise of parental responsibility between the parents, specify how it is to be exercised in private matters or entrust the exercise of parental responsibility to one parent or to a third party,

(b) order an expert examination or any other appropriate measure;

(c) order mediation or the resumption of discontinued mediation, appointing at the same time the mediator.

In reaching its decision, the court shall take into account the child's hitherto existing ties with his or her parents and siblings, as well as any agreements made by the child's parents on the exercise of parental responsibility."

**Article 8**

**Derogation from the joint exercise of parental responsibility - Replacement of the title and Article 1514 CC.**

The title and Article 1514 of the Civil Code (CC, Decree 456/1984, A 164) are replaced as follows:

"'Article 1514

Derogation from the joint exercise of parental responsibility

1. By way of derogation from Article 1513, the parents may, in a document of certified date, otherwise regulate the division of parental responsibility, in particular by entrusting the exercise of parental responsibility to one of them, and determine the place of residence of their child, the parent with whom he or she will reside and the manner of communication with the other parent. The above document shall be valid for at least two (2) years and shall be automatically renewed, unless one of the two parents declares in writing to the other parent, before the expiry of the agreed period, that he or she does not wish it to be renewed.

2. If the joint exercise of parental responsibility is not possible because of a disagreement between the parents and in particular if one parent is indifferent or does not cooperate in it or does not respect any existing agreement on the exercise or manner of exercising parental responsibility or if such agreement is contrary to the child's best interests or if parental responsibility is exercised contrary to the child's best interests, either of the parents shall have recourse to mediation, except in cases of domestic violence as provided by law. If they disagree, the court shall decide.

3. The court may, depending on the case:

(a) allocate the exercise of parental responsibility between the parents, specify how it is to be exercised in private matters or entrust the exercise of parental responsibility to one parent or to a third party,

(b) order an expert examination or any other appropriate measure; (c) order mediation or the resumption of discontinued mediation, appointing at the same time the mediator.

In reaching its decision, the court shall take into account the child's hitherto existing ties with his or her parents and siblings, as well as any agreements made by the child's parents on the exercise of parental responsibility."

**Article 9**

**Children without the marriage of their parents - Replacement of Article 1515 CC**

Article 1515 of the Civil Code (CC, Decree 456/1984, No. 164) shall be replaced as follows:

"'Article 1515

Children born to unmarried parents

Parental custody of a minor child born and remaining unmarried to his or her parents shall be vested in the mother. Where the child is recognized voluntarily or by court in an action brought by the father, the father shall also acquire parental responsibility, which he shall exercise jointly with the mother. If the parents do not live together, Articles 1513 and 1514 shall apply mutatis mutandis.

In the case of a judicial recognition contested by the father, the father shall not exercise parental responsibility or substitute for the mother in exercising it, except by agreement between the parents. The court may, if the interests of the child so require, decide otherwise on application by the father.

**Article 10**

**Acts by one parent - Amendment of Article 1516 CC.**

The second paragraph of Article 1516 of the Civil Code (CC, Decree Law 456/1984, A 164) shall be replaced and Article 1516 shall read as follows:

"'Article 1516

Acts by one parent

Each of the parents shall attempt acts relating to the exercise of parental authority on his or her own:

1. When it concerns ordinary acts of custody of the child's person or the current management of the child's property or acts of an urgent nature.

2. When it concerns the making of a declaration of will addressed to the child.

In cases of termination of cohabitation of the parents, divorce or annulment of their marriage, as well as in the case of a child born out of wedlock of his/her parents, each of the parents may exercise the maintenance claims that the child has against the other parent or a third party."

**Article 11**

**Custody of a person - Amendment of Article 1518 CC.**

In Article 1518 of the Civil Code (CC, Decree 456/1984, No. 164), the second paragraph shall be amended, a new paragraph shall be added at the end and Article 1518 shall be worded as follows:

"'Article 1518

Custody of the person

Custody of the child's person shall include in particular the child's upbringing, supervision, education and training, as well as the determination of the child's place of residence.

In bringing up a child, the parents shall encourage him or her, without discrimination on grounds of sex, to develop his or her personality in a responsible and socially conscious manner. Correctional measures may be taken only if they are necessary for educational purposes and do not harm the child's dignity.

In the education and vocational training of the child, parents shall take into account the child's abilities and personal inclinations. To this end, they must cooperate with the school and, if necessary, seek the assistance of the competent State departments or public bodies.

Each parent is obliged to safeguard and strengthen the child's relationship with the other parent, his/her brothers and sisters and with the other parent's family.

**Article 12**

**Joint exercise of custody of the child in important matters - Replacement of the title and Article 1519 CC.**

The title and Article 1519 of the Civil Code (CC, Decree 456/1984, A 164) are replaced as follows:

"'Article 1519

Important issues of child custody

Where custody is exercised by one parent or has been divided between the parents, decisions on the naming of the child, on the child's religion, on matters of the child's health, except for urgent and completely current matters, and on matters of education which have a decisive influence on the child's future, shall be taken jointly by both parents. The last two subparagraphs of Article 1510 and Article 1512 shall apply mutatis mutandis.

A change in the child's place of residence which substantially affects the right of contact of the parent with whom the child does not reside shall require the prior written agreement of the parents or a prior court order issued at the request of one of the parents. The court may order any appropriate measure.

A parent who has not been awarded custody shall have the right to ask the other parent for information about the person and property of the child."

CHAPTER C

ESTABLISHMENT OF A PRESUMPTION OF COMMUNICATION AND CONSEQUENCES OF THE ABUSE OF PARENTAL RESPONSIBILITY - AMENDMENTS TO THE CIVIL CODE

**Article 13**

**Right of communication - Replacement of Article 1520 CC**

Article 1520 of the Civil Code (CC, Decree 456/1984,

A 164) is replaced as follows:

"'Article 1520

Personal communication

The parent with whom the child does not reside shall have the right and obligation to communicate with the child as widely as possible, including both physical presence and contact with the child and the child's residence in his or her home. The parent with whom the child resides shall facilitate and promote communication between the child and the other parent on a regular basis. The child's contact time in physical presence with the parent with whom he or she does not reside shall be presumed to be one third (1/3) of the total time, unless that parent requests a shorter contact time, or a shorter or longer contact time is required for reasons relating to living conditions or the best interests of the child, provided that, in any event, the child's daily life is not disrupted. Exclusion or restriction of contact shall be possible only for exceptionally serious reasons, in particular where the parent with whom the child does not reside is considered unfit to exercise the right of contact. In order to establish the unfitness of the parent, the court may order any appropriate means, in particular the drawing up of a detailed report by social workers or psychiatrists or psychologists.

The parents shall not have the right to prevent the child from communicating with his or her senior ascendants and brothers and sisters, except for good cause. Parents shall not have the right to prevent communication between the child and third parties with whom the child has developed a social-emotional relationship of a family nature, provided that such communication serves the best interests of the child.

The matters relating to communication shall be determined in particular either by written agreement between the parents or by the court. In such a case, paragraph 1 shall also apply. 4 of Article 1511 shall also apply. Where there is a case of misuse or abuse of the right of communication, the other parent or either parent, if the communication is with a third party, may request the court to reform the communication."

Article 14

Consequences of misuse - Replacement of Article 1532 CC

Article 1532 of the Civil Code (CC, Decree 456/1984, No. 164) shall be replaced as follows:

"'Article 1532 Consequences of malpractice

If the father or the mother violate the duties imposed on them by their function of custody of the child's person or the administration of the child's property, or if they exercise this function improperly or are unable to perform it, the court may, if the other parent or the child's next of kin or the public prosecutor so request, order any appropriate measure.

Misuse of parental responsibility shall in particular constitute:

a. culpable non-compliance with decisions and provisions of judicial and prosecutorial authorities concerning the child or with the existing agreement of the parents on the exercise of parental responsibility;

b. disturbing the emotional relationship of the child with the other parent and his or her family and in any way causing a breakdown in the child's relations with them,

c. culpably violating the terms of the parents' agreement or the court order for the child to communicate with the parent with whom the child does not reside and otherwise obstructing communication,

d. misuse and culpable failure to exercise the right of access by the entitled parent,

e. the unjustified parent's refusal to pay the maintenance awarded to the child by the court or agreed between the parents;

f. the conviction of the parent, by final court decision, for domestic violence or crimes against sexual freedom or crimes of economic exploitation of sexual life;

g. the wrongful exercise of the right of access to the rightful parent;

h. the parent's failure to exercise the right of access to the rightful parent

The court may, in the cases referred to in the preceding subparagraph, deprive the parent responsible of the exercise of parental authority or custody, in whole or in part, and entrust it exclusively to the other parent, and order all appropriate measures to safeguard the child's best interests. If both parents are in the circumstances referred to in the second subparagraph, the court may entrust the actual care or even the custody of the child, in whole or in part, to a third party or appoint a guardian.

In cases of extreme urgency, where the conditions of the first subparagraph are fulfilled and there is an imminent danger to the child's physical or mental health, the public prosecutor shall order all appropriate measures for the child's protection until the court's decision, which must be taken within ninety (90) days, with the possibility of extending this period by a further ninety (90) days for good cause."