

# **ACT CONCERNING THE RESOLUTION OF CONFLICTS OF LAWS WITH THE PROVISIONS OF OTHER COUNTRIES IN CERTAIN MATTERS**

(OG of ex SFRY nos. 43/82, 72/82, OG no. 53/91)

## **CROATIAN PRIVATE INTERNATIONAL LAW ACT**

### **Chapter I**

#### **Basic provisions**

##### **Article 1**

1. This Act establishes rules for the determination of the applicable law in respect of the status, family relations as well as property relations and other material legal relations with international element.

2. This Act also establishes rules concerning the jurisdiction of the courts and other organs of the Republic of Croatia in the cases of paragraph 1 of this Article, rules of procedure and rules for the recognition and execution of foreign judicial decisions and arbitral awards.

##### **Article 2**

If in this Act there is no provision concerning the law to be applied in respect of one of the cases of Article 1 paragraph 1 of this Act, the provisions and principles of this Act the principles of the legal order of the Republic of Croatia and the principles of private international law are to be applied accordingly.

##### **Article 3**

The provisions of this Act shall not apply in respect of the cases of Article 1 of this Act if they have been provided for by another Act or international agreement.

##### **Article 4**

The law of a foreign state shall not be applied if its application would be contrary to the basic principles of the state structure laid down by the Constitution of the Republic of Croatia.

##### **Article 5**

The law of a foreign state that would be applicable according to the provisions of this or another Act shall not be applied if the purpose of its application is the evasion of the application of the law of the Republic of Croatia.

##### **Article 6**

If according to the provisions of this Act the law of a foreign state should be applied, its conflict of laws rules shall be taken into consideration.

If the rules of a foreign country on the choice of the applicable law refer to the law of the Republic of Croatia, the law of the Republic of Croatia shall be applied, without taking into consideration the rules on the choice of the otherwise applicable law.

#### **Article 7**

Unless otherwise provided by this or another Act legal transactions and legal acts are considered to be valid as to their form if they are valid either according to the law of the place where the legal transaction was entered into or the legal act performed, or according to the law to be applied in respect of the content of the legal transaction or legal act.

#### **Article 8**

The law governing the content of legal transaction or legal act applies in respect of prescription.

#### **Article 9**

The law of a foreign state shall be applied in accordance with its meaning and notions.

#### **Article 10**

If the law of a state the legal order of which is not uniform is to be applied and the rules of this Act do not refer to specific area of jurisdiction in that state, the applicable law shall be determined according to the rules of that legal order.

If the applicable law of the state the legal order of which is not uniform cannot be found in the way provided in paragraph 1 of this Article, the law of the area in that state which is most closely connected is to be applied.

#### **Article 11**

If a person who is a citizen of the Republic of Croatia also has the nationality of another state, for the application of this Act he is considered to have only nationality of the Republic of Croatia.

If a person who is not a citizen of the Republic of Croatia has two or more foreign nationalities, for the application of this Act he is considered to have the nationality of that state of which he is citizen and where he is domiciled .

If the person referred to in paragraph 2 of this Article is not domiciled in any of the states of which he is a citizen, for the application of this Act he is considered to have the nationality of that state of which he is a citizen and with which he is most closely connected.

#### **Article 12**

If a person has no nationality or his nationality cannot be established, the applicable law shall be determined according to his domicile.

If a person referred to in paragraph 1 of this Article has no domicile or that domicile cannot be established, the applicable law shall be determined according to his residence.

If the residence of the person referred to in paragraph 1 of this Article cannot be established, the law of the Republic of Croatia shall be applied.

### **Article 13**

The court or another competent organ shall *ex officio* determine the content of the foreign law to be applied.

The organ referred to in paragraph 1 of this Article may make inquiries about the foreign law from the Ministry of Justice and Administration of the Republic of Croatia.

The litigating parties may also submit an official document on the content of the foreign law.

## **Chapter II**

### **The applicable law**

#### **Article 14**

The law governing the legal capacity and the capacity to act of a natural person is the law of the state of which he is a citizen.

The natural person who would have no capacity to act according to the law of the state of which he is a citizen, has capacity to act if he has that capacity by the law of the place where the obligation arose.

The law governing the curtailment or denial of the capacity to act is the law referred to in a paragraph 2 of this Article

The provision of paragraph 2 of this Article does not apply to family relations and to questions of succession.

#### **Article 15**

The law governing guardianship and its termination, as well as the relations between guardian and the person who is placed under guardianship, is the law of the state of which the person under guardianship is a citizen.

Interim measures concerning aliens or stateless persons who are in the Republic of Croatia are determined according to the law of the Republic of Croatia and will remain operative as long as the competent state does not decision and does not take the necessary measures.

The provision of paragraph 2 of this Article applies also in respect of the protection of the property of an absent alien or a stateless person which is situated on the territory of the Republic of Croatia.

### **Article 16**

The law governing the declaration of the death of a person who has disappeared is the law of the state of which that person was a citizen at the time of his disappearance.

### **Article 17**

The nationality of a legal person is determined by the law of the state under which it was established.

If a legal person has its real seat in another state and not in the one in which it was established and according to the law of that other state it has the nationality of that state, it shall be considered to be a legal person of that state.

### **Article 18**

The law governing ownership relations and other rights *in rem* as well as the right of managing social property, is the law of the place where the property is situated.

The law governing the relations referred to in paragraph 1 of this Article in respect of goods in transit is the law of the place of destination.

The law governing the relation the relations referred to in paragraph 1 of this Article in respect of means of transport is the law of the state of which those means have the nationality, unless otherwise provided by the legislation of the Republic of Croatia.

### **Article 19**

The law governing contracts is the law which the contracting parties have chosen unless otherwise provided by this Act or an international agreement.

### **Article 20**

If no applicable law has been chosen and the special circumstances of the case do not refer to another law, the law to be applied is:

In respect of sale of movables- the law of the place where the seller was domiciled or had its seat at the time of the acceptance of the offer;

In respect of a contract of works or a building contract-the law of the place where the person who has to perform the work or the contractor was domiciled or had its seat at the time of the acceptance of the offer;

In respect of a contract of agency - the law of the place where the agent was domiciled or had its seat at the time of the acceptance of the offer;

In respect of a contract of representation- the law of the place where the representative was domiciled or had its seat at the time of acceptance of the offer;

In respect of a contract of commission- the law of the place where the commission agent was domiciled or had its seat at the time of the acceptance of the offer;

In respect of forwarding contract- the law of the place where the agent was domiciled or had its seat at the time of the acceptance of the offer;

In respect of a contract for the hire of movables- the law of the place where the domicile or the seat of the letter was at the time of acceptance of the offer;

In respect of a contract of loan of money- the law of the place where the lender was domiciled or had its seat at the time of the acceptance of the offer;

In respect of a contract of a contract of use - the law of the place where the lender was domiciled or had its seat at the time of the acceptance of the offer;

In respect of a contract of bailment- the law of the place where the bailee was domiciled or had its seat at the time of the acceptance of the offer;

In respect of a contract of storage- the law of the place where the warehouseman was domiciled or had its seat at the time of the acceptance of the offer;

In respect of a contract of carriage- the law of the place where the carrier was domiciled or had its seat at the time of the acceptance of the offer;

In respect of a contract of insurance- the law of the place where insurer was domiciled or had its seat at the time of the acceptance of the offer;

In respect of a contract of copyright- the law of the place where the author was domiciled or had its seat at the time of the acceptance of the offer;

In respect of a contract of donation- the law of the place where the donor was domiciled or had its seat at the time of the acceptance of the offer;

In respect of a stock-exchange transactions- the law of the stock-exchange`s seat;

In respect of a contract of independent bank guaranties- the law of the place where the guarantor had its seat at the time of conclusion of the contract;

In respect of a contract on the transfer of technology (licenses etc) - the law of the place where the receiver of the technology had its seat at the time of conclusion of the contract;

In respect of property (*not in rem*) claims arising out of a labor contract- the law of the state where the labor contract is to be or was performed;

In respect of other contracts- the law of the place where the offerer was domiciled or had its seat at the time of the acceptance of the offer.

## **Article 21**

The law exclusively governing contracts concerning immovables is the law of the state on the territory of which the real property is situated.

#### **Article 22**

Unless the contracting parties have otherwise agreed, in their relations also the law of Article 20 of this Act is to be applied to:

The determination of the moment from which the acquirer of movable property has a right to its products and fruits;

The determination of the moment from which the acquirer bears the risk of the property.

#### **Article 23**

Unless the contracting parties have otherwise agreed, the law of the place where movables must be handed over shall be applied to the means of transfer of the movable property and the measures to be taken if receipt of the movable property is refused.

#### **Article 24**

In respect of the effect of the cession of a right or the assignment of a debt to a debtor or a creditor who have not participated in the cession or the assignment, the law which is applicable to claim or the debt shall be applied.

#### **Article 25**

Unless otherwise provided, the law governing an accessory legal transaction shall be the law applicable to the principal legal transaction.

#### **Article 26**

The law governing a unilateral legal transaction is the law of the state of the debtor's domicile or seat.

#### **Article 27**

The law governing enrichment without cause is the law which is applicable to the legal relation which arose, was expected or was supposed to arise, in pursuance whereof the enrichment took place.

The law governing *negotiorum gestio* is the law of the place where the act of the *negotiorum gestor* was performed.

The law governing the obligations arising from the use of property without *negotiorum gestio* as well other non-contractual obligations which do not result from tortious liability is the law of the place where the facts have occurred that have created the obligation.

#### **Article 28**

Unless otherwise provided for individual cases, the law governing tortious liability is the law of the place where the act has been performed or the law of the place where the consequences have occurred, depending on which is most favorable for the injured party.

The law referred to in paragraph 1 of this Article shall be applied also to the tortious liability which has arisen in connection with the legal relations of Article 27 of this Act.

The law governing the unlawful character of an act is the law of the place where the act was performed or the consequences have occurred, and if the act was performed or the consequences have occurred at more than one place- it is sufficient that the act is unlawful according to the law of any of those places.

#### **Article 29**

If an event from which liability for damages results has occurred on a ship on the high seas or on an airplane, the law of the state of the nationality of the ship or the law of the state where the airplane was registered is considered as the law of the place where the acts have occurred which have created the liability for damages.

#### **Article 30**

The law governing succession is the law of the state of which the deceased was a citizen at the date of his death.

The law governing capacity to execute a will is the law of the state of the nationality of the testator at the moment the will was drawn up.

#### **Article 31**

A will is formally valid in law if it is valid according to:

The law of the place where the will has been drawn up, or

The law of the state of which the testator was a citizen whether at the date of the execution of the will or his death, or

The law of the testator`s domicile whether at the date of execution of the will or at his death, or

The law of the testator`s residence whether at the date of the execution of the will or at his death, or

The law of the Republic of Croatia, or

In respect of immovables - also the law of the place where the immovable is situated.

2. The revocation of a will is formally valid in law if it is formally valid according to any law by which, in accordance with the provision of paragraph 1 of this Article, the will could be validly drawn up.

#### **Article 32**

The law governing the conditions under which a marriage may be entered into is, for each person, the law of the state of which he is a citizen at the date the marriage is entered into.

Even when the conditions to enter into marriage are fulfilled according to the law of the state, of which person who wants to enter into marriage before the competent organ of the Republic of Croatia is a citizen, the marriage shall not be allowed if, with respect to that person, there is, according to the law of the Republic of Croatia, an impediment which relates to the existence of an earlier marriage, kinship or mental incapacity.

### **Article 33**

The law governing the formal requirement of a marriage is the law of the place where the marriage is entered into.

### **Article 34**

The law governing the invalidity of marriage (non-existence and nullity) is any law according to which the marriage was entered into within the meaning of Article 32 of this Act.

### **Article 35**

The law governing divorce is the law of the state of which both spouses are citizens at the time the suit is instituted.

If spouses are citizens of different states at the time the suit is instituted, the governing law is cumulatively the law of the states of which each is a citizen.

If a marriage cannot be dissolved by virtue of the law determined in paragraph 2 of this Article, the law governing divorce is the law of the Republic of Croatia if one of the spouses was domiciled in the Republic of Croatia at the time the suit was instituted.

If one of the spouses is a citizen of the Republic of Croatia who is not domiciled in the Republic of Croatia and the marriage could not be dissolved by virtue of the law determined in paragraph 2 of this Article, the law governing divorces is the law of the Republic of Croatia.

### **Article 36**

The law governing the personal relations and statutory matrimonial property regime of spouses is the law of the state of which they are citizens.

If the spouses are citizens of different states the law of the state where they are domiciled shall be applied.

If the spouses have neither a common nationality nor domicile in the same state, the law of the state where they had a last common domicile shall be applied.

If the applicable law cannot be determined in accordance with paragraphs 1-3 of this Article, the law of the Republic of Croatia shall be applied.

### **Article 37**



The law governing a matrimonial property contract is the law which governed the personal relations and statutory matrimonial property regime at the time the marriage was entered into.

If the law referred to in paragraph 1 of this Article provides that spouses may choose the law governing the matrimonial property contract, the law that they have chosen is to be applied.

### **Article 38**

If a marriage is invalid or has ceased to exist, the law governing personal relations and statutory matrimonial property regime is the law referred to in Article 36 of this Act.

In the cases mentioned in Article 36 of this Act the law governing a matrimonial property contract is the law in Article 37 of this Act.

### **Article 39**

1. The law governing the property relations of persons who live in cohabitation without form of marriage is the law of the state of which they are citizens.
2. If the persons referred to in paragraph 1 of this Article do not have the same nationality, the law of the state where they have their common domicile is to be applied.
3. The law of the contractual property relations between persons who live in cohabitation without form of marriage is the law governing their property relations at the time the contract is concluded.

### **Article 40**

1. The law governing the relations between parents and children is the law of the state of which they are citizens.
2. If the parents and children are citizens of different states, the law of the state where they all are domiciled is the applicable law.
3. If the parents and children are citizens of different states, and they are not domiciled in the same state, the law of the Republic of Croatia is the applicable law if the child or any parent is a citizen of the Republic of Croatia.
4. The law governing the relations between parents and children that have not been provided for in paragraphs 1-3 of this Article is the law of the state of which the child is a citizen.

### **Article 41**

The law governing the recognition, determination or contestation of paternity or maternity is the law of the state of which, at the time the child was born, the person whose paternity or maternity is recognized, determined or contested was a citizen.

## **Article 42**

The law governing the duty of maintenance between blood-relatives, other than parents and children, or the duty of maintenance of other persons related by affinity is the law of the state of which the relative from whom maintenance is claimed is a citizen.

## **Article 43**

1. The law governing legitimation is the law of the state of which the parents are citizens, and if the parents are not citizens of the same state- the law of the state of that parent according to which legitimation is valid.
2. If according to the law referred to in paragraph 1 of this Article the conditions for legitimation are not fulfilled, and the parents and child are domiciled in the Republic of Croatia, the applicable law is the law of the Republic of Croatia.
3. The law governing the consent of a child, other person or state organ to legitimation is the law of the state of which the child is a citizen.

## **Article 44**

1. The law governing the conditions for adoption and its termination is the law of the state of which the adopting and the adopted person are citizens.
2. If the adopting and the adopted person are citizens of different states, the law governing the conditions for adoption and its termination is cumulatively the law of the state of which each is a citizen.
3. If spouses adopt together, the laws governing the conditions for adoption and its termination are, besides the law of the state of which the adopted person is a citizen, the laws of the states of which each parent is a citizen.
4. The law governing the formal requirements for adoption is the law of the place where the adoption takes place.

## **Article 45**

1. The law governing the effect of adoption is the law of the state of which the adopting and the adopted persons are citizens at the time the adoption takes place.
2. If the adopting and the adopted persons are citizens of different states the law of the state where they are domiciled is the applicable law.
3. If the adopting and the adopted persons are citizens of different states, and are not domiciled in the same state, the law of the Republic of Croatia is the applicable law if one of them is a citizen of the Republic of Croatia.

4. If neither the adopting nor the adopted person is a citizen of the Republic of Croatia, the applicable law is the law of the state of which the adopted person is a citizen.

### **Chapter III**

#### **Jurisdiction and procedure**

##### *1. The competence of the courts and other organs of the Republic of Croatia in matters with an international element*

#### **Article 46**

1. The court of the Republic of Croatia has jurisdiction if the defendant is domiciled or has its seat in the Republic of Croatia.
2. If the defendant is domiciled neither in the Republic of Croatia nor in any other state, the court of the Republic of Croatia has jurisdiction also when the defendant is resident in the Republic of Croatia.
3. If the litigants are citizens of the Republic of Croatia, the court of the Republic of Croatia has jurisdiction also when the defendant is resident in the Republic of Croatia.
4. If there is more than one "material" defendant, the court of the Republic of Croatia has jurisdiction also when one of the defendants is domiciled or has its seat in the Republic of Croatia.
5. When a dispute is resolved in non-contentious proceedings, the court of the Republic of Croatia has jurisdiction if the person against whom the claim is brought is domiciled or has its seat in the Republic of Croatia, and when only one person takes part in the proceedings- if that person is domiciled or has its seat in the Republic of Croatia, unless it is otherwise provided by this Act.

#### **Article 47**

The court of the Republic of Croatia has exclusive jurisdiction when that is expressly determined by this or another act of the Republic of Croatia.

#### **Article 48**

If in a foreign state a foreign court has jurisdiction in proceedings against citizens of the Republic of Croatia according to criteria concerning jurisdiction which do not exist in the provisions concerning the jurisdiction of the court of the Republic of Croatia, those criteria shall be applicable to the existence of the jurisdiction of the court of the Republic of Croatia in disputes in which the defendant is a citizen of that foreign state.

#### **Article 49**

1. The parties may agree on the jurisdiction of a foreign only if at least one of them is a foreign citizen or a legal person with its seat abroad and the dispute in question is not a dispute in respect

of which, according to provisions of this or another act of the Republic of Croatia, the court of the Republic of Croatia has exclusive jurisdiction.

2. The parties may agree on the jurisdiction of the court of the Republic of Croatia if at least one party is a citizen of the Republic of Croatia or a legal person with its seat in the Republic of Croatia.

3. The provisions of paragraphs 1 and 2 of this Article do not apply to jurisdiction concerning the matters contained in Articles 61-70 of this Act.

#### **Article 50**

When the jurisdiction of the court of the Republic of Croatia depends on the defendant's consent, the defendant is considered to have given his consent by entering a plea or objecting to an order of payment, without contesting the jurisdiction or entering the discussion.

#### **Article 51**

1. When by the provisions of this Act the jurisdiction of the court of the Republic of Croatia is determined on the presumption that a litigant is a citizen of the Republic of Croatia, it also has jurisdiction in respect of stateless persons who are domiciled in the Republic of Croatia.

2. Paragraph 1 of this Article is applicable to the jurisdiction of other organs of the Republic of Croatia in like manner.

#### **Article 52**

In respect of proceedings against citizens of the Republic of Croatia who live abroad, where they have been sent on duty or to work by a state organ, company or other legal person, the court of the Republic of Croatia has jurisdiction if they were domiciled in the Republic of Croatia.

#### **Article 53**

1. As regards proceedings for tortious liability the court of the Republic of Croatia has jurisdiction if that jurisdiction exists by virtue of the provisions of Article 4 and Articles 50 -52 of this Act or if the damage has occurred on the territory of the Republic of Croatia.

2. Paragraph 1 of this Article shall be applied also to proceedings against the insurance cooperative for insurance of property and persons for third-party liability on the basis of the rule of direct liability of that cooperative, and to proceedings involving a right of recourse against debtors on basis of the liability for damages.

#### **Article 54**

1. As regards proceedings involving property claims the court of the Republic of Croatia has jurisdiction if the property of the defendant or the object for which the proceedings are instituted is situated on the territory of the Republic of Croatia.

2. The court of the Republic of Croatia also has jurisdiction in respect of proceedings involving obligations which arose at the time the defendant was present in the Republic of Croatia.

#### **Article 55**

As regards proceedings against a natural or legal person which has its seat abroad in respect of obligations that have arisen in the Republic of Croatia or that must be performed on the territory of the Republic of Croatia the court of the Republic of Croatia has jurisdiction if that person has its representative or agency on the territory of the Republic of Croatia or if the seat of the firm to which the discharge of business has been entrusted is in the Republic of Croatia.

#### **Article 56**

The court of the Republic of Croatia has exclusive jurisdiction as to proceedings concerning the right of ownership and other rights *in rem* to immovables in the ownership of citizens, legal persons and other legal subjects, proceedings concerning the disturbance of possession of immovables as well as those which have arisen out of the lease or rent of immovables, or out of a contract about the use of a house or business premises, if the immovables is situated on the territory of the Republic of Croatia.

#### **Article 57**

As regards proceedings concerning the disturbance of the possession of movables the court of the Republic of Croatia has jurisdiction in accordance with the provisions of Article 46, Articles 50 and 51 of this Act or if the disturbance has occurred on the territory of the Republic of Croatia.

#### **Article 58**

1. As regards proceedings concerning the right of ownership and other rights *in rem* to a vessel or airplane, as well as the contracts of lease in respect of an airplane and vessel, the court of the Republic of Croatia also has jurisdiction when the register in which the airplane or vessel was entered is kept on the territory of the Republic of Croatia.

2. As regards proceedings concerning the disturbance of the possession of an airplane and vessel referred to in paragraph 1 of this Article the court of the Republic of Croatia also has jurisdiction when the register in which the airplane or vessel was entered is kept on the territory of the Republic of Croatia or when the disturbance has occurred on the territory of the Republic of Croatia.

#### **Article 59**

1. As regards proceedings concerning the matrimonial property regime between spouses in respect of property situated in the Republic of Croatia the court of the Republic of Croatia also has jurisdiction when the defendant is not domiciled in the Republic of Croatia and the plaintiff was domiciled or resident in the Republic of Croatia at the time the suit was instituted.

2. If the greater part of the property is in the Republic of Croatia and the other part abroad, the court of the Republic of Croatia may only adjudicate as to the property that is abroad in proceedings in which judgment is also given on the property in the Republic of Croatia, and only if the defendant agrees that the court of the Republic of Croatia gives judgment.

#### **Article 60**

1. The provisions of Article 59 of this Act do not affect the exclusive jurisdiction of the court of the Republic of Croatia in property disputes.

2. The court of the Republic of Croatia has jurisdiction in disputes about the matrimonial property regime between spouses in accordance with the provisions of this Act, irrespective of whether the marriage continues or has ceased to exist, or whether it is determined that the marriage does not exist.

#### **Article 61**

1. The court of the Republic of Croatia also has jurisdiction in proceedings concerning the declaration of existence or non existence, the annulment or dissolution of marriage (matrimonial causes) when the defendant is not domiciled in the Republic of Croatia:

1) If both spouses are citizens of the Republic of Croatia, irrespective of where they are domiciled, or

2) If the plaintiff is a citizen of the Republic of Croatia and is domiciled in the Republic of Croatia, or

3) If the spouses have had their last domicile in the Republic of Croatia, and the plaintiff was domiciled or resident in the Republic of Croatia at the time the suit was instituted.

2. If the summoned spouse is a citizen of the Republic of Croatia and is domiciled in the Republic of Croatia, the court of the Republic of Croatia has exclusive jurisdiction.

#### **Article 62**

The court of the Republic of Croatia also has jurisdiction in the proceedings concerning Article 61 of this Act when the spouses are foreign citizens who have had their last domicile in the Republic of Croatia or when the defendant is domiciled in the Republic of Croatia, but only when in those cases the defendant agrees that a court of the Republic of Croatia may give jurisdiction and if that jurisdiction is admitted by virtue of the rules of the state of which the spouses are citizens.

#### **Article 63**

As regards proceedings concerning dissolution of marriage the courts of the Republic of Croatia also have jurisdiction if the plaintiff is a citizen of the Republic of Croatia and the law of the state the courts of which would have jurisdiction does not provide for the institution of dissolution of marriage.

#### **Article 64**

1. As regards proceedings concerning the determination or contestation of paternity or maternity the court of the Republic of Croatia also has jurisdiction when the defendant is not domiciled in the Republic of Croatia:

- 1) If the plaintiff and the defendant are citizens of the Republic of Croatia irrespective of where they are domiciled, or
- 2) If the plaintiff is a citizen of the Republic of Croatia and is domiciled in the Republic of Croatia.

2. If proceedings have been instituted against a child who is a citizen of the Republic of Croatia and is domiciled or resident in the Republic of Croatia, the court of the Republic of Croatia has exclusive jurisdiction.

#### **Article 65**

The court of the Republic of Croatia also has jurisdiction in proceedings concerning Article 64 of this Act when the parties are foreign citizens if the plaintiff or one of the plaintiffs is domiciled in the Republic of Croatia, but only if the defendant agrees that a court of the Republic of Croatia may give judgment and if that jurisdiction is admitted by virtue of the rules of the state of which he is a citizen.

#### **Article 66**

1. The court of the Republic of Croatia also has jurisdiction in proceedings concerning the care, upbringing and education of children of whom parents have the charge, when the defendant is not domiciled in the Republic of Croatia, if both spouses are citizens of the Republic of Croatia.

2. If the defendant and the child are citizens of the Republic of Croatia and if both are domiciled in the Republic of Croatia, the court of the Republic of Croatia has exclusive jurisdiction.

3. The provisions of paragraphs 1 and 2 of this Article as well as the provisions of Article 46 of this Act are also accordingly applicable to the determination of the competence of other organs of other organs of the Republic of Croatia, when they decide on the care, upbringing and education of children of whom the parents have the charge.

#### **Article 67**

1. The court of the Republic of Croatia also has jurisdiction in proceedings concerning the maintenance of children when the defendant is not domiciled in the Republic of Croatia:

- 1) If the child instituting proceedings is domiciled in the Republic of Croatia, or
- 2) If the plaintiff and the defendant are citizens of the Republic of Croatia irrespective of where they are domiciled, or
- 3) If the plaintiff is a minor and a citizen of the Republic of Croatia.

2. The court of the Republic of Croatia also has jurisdiction in proceedings concerning maintenance in cases not mentioned in paragraph 1 of this Article when the defendant is not

domiciled in the Republic of Croatia if the plaintiff is a citizen of the Republic of Croatia and is domiciled in the Republic of Croatia.

3. The court of the Republic of Croatia also has jurisdiction in proceedings concerning maintenance between spouses and between former spouses if the spouses have had their last domicile in the Republic of Croatia and the plaintiff is domiciled in the Republic of Croatia at the time of the proceedings and afterwards.

#### **Article 68**

The court of the Republic of Croatia also has jurisdiction in proceedings concerning maintenance if the defendant has property in the Republic of Croatia from which the maintenance may be paid.

#### **Article 69**

As to decisions about the deprivation and restoration of parental power, the extension of parental power, the appointment of a parent as trustee in respect of the property of children, the declaration that a child is born of a marriage as well as decisions about other matters that relate to the personal status and relations between parents and children, the court of the Republic of Croatia has jurisdiction also when the conditions of Article 46 paragraph 4 of this Act do not exist, if the applicant and the person against whom the suit is instituted are citizens of the Republic of Croatia or when only one person participates in the proceedings if that person is a citizen of the Republic of Croatia.

#### **Article 70**

1. The court of the Republic of Croatia may give consent to the applicant to enter into a marriage if the applicant is a citizen of the Republic of Croatia or if one of the applicants is a citizen of the Republic of Croatia, irrespective of where the persons who wish to enter into marriage are domiciled.

2. The court of the Republic of Croatia has exclusive jurisdiction if the minor who asks the consent to enter into a marriage is a citizen of the Republic of Croatia or if both persons who wish to enter into marriage are citizens of the Republic of Croatia, and the marriage is being concluded abroad.

#### **Article 71**

1. As to the administration of the immovable property of a deceased citizen of the Republic of Croatia the court of the Republic of Croatia has exclusive jurisdiction if that immovable property is situated in the Republic of Croatia.

2. If the immovable property of a deceased citizen of the Republic of Croatia is situated abroad, the court of the Republic of Croatia only has jurisdiction if according to the law of the state where the immovable property is situated its organ does not have jurisdiction.



3. The court of the Republic of Croatia has jurisdiction as to the administration of the movable property of a deceased citizen of the Republic of Croatia if the movable property is situated on the territory of the Republic of Croatia or if according to the law of the state where the movable property situated a foreign organ refuses to administer the property.

4. Paragraphs 1- 3 of this Article also apply to jurisdiction in proceedings concerning succession and claims of creditors in respect of an estate.

#### **Article 72**

1. As to the administration of the immovable property of a deceased alien the court of the Republic of Croatia has exclusive jurisdiction if the immovable property is situated in the Republic of Croatia.

2. As to the administration of the movable property of a deceased alien which is situated in the Republic of Croatia the court of the Republic of Croatia has jurisdiction, except if in the state of the deceased alien the court does not have jurisdiction as to the administration the movable property of a citizen of the Republic of Croatia.

3. Paragraph 1 and 2 of this Act also apply to jurisdiction in proceedings concerning succession and claims of creditors in respect of an estate.

4. When the court of the Republic of Croatia has no jurisdiction as to the administration of the estate of a deceased alien, the court may decide on measures to safeguard the estate as well as for the protection of the right to an estate which is in the Republic of Croatia.

#### **Article 73**

1. As to the administration of the immovable property of a deceased stateless person, a person whose nationality cannot be determined or a person who has the status of refugee, the court of the Republic of Croatia has exclusive jurisdiction if the immovable property is situated on the territory of the Republic of Croatia.

2. As to the administration of the movable property of a deceased stateless person, a person whose nationality cannot be determined or a person who has the status of refugee, the court of the Republic of Croatia has jurisdiction if the movable property is situated on the territory of the Republic of Croatia or if the deceased person was domiciled at the date of his death in the Republic of Croatia.

3. Paragraphs 1 and 2 of this Article also apply to jurisdiction in proceedings concerning succession in claims of creditors in respect of an estate.

4. If the deceased person was not domiciled in the Republic of Croatia, the provisions governing the administration of the estate of a deceased alien are to be applied accordingly, by foreign state being understood the state where the deceased person was domiciled at the date of his death.

#### **Article 74**

1. The organ of the Republic of Croatia has exclusive jurisdiction to decide on the adoption as well as the termination of adoption of a person who is a citizen of the Republic of Croatia and is domiciled in the Republic of Croatia.
2. The organ of the Republic of Croatia has jurisdiction to decide on adoption as well as its termination if the adopting person is a citizen of the Republic of Croatia and is domiciled in the Republic of Croatia.
3. When spouses adopt together, it is sufficient for the jurisdiction of the organ of the Republic of Croatia that one of the spouses is a citizen of the Republic of Croatia and is domiciled in the Republic of Croatia.

#### **Article 75**

The organ of the Republic of Croatia has exclusive jurisdiction in cases of guardianship over citizens of the Republic of Croatia irrespective of where they are domiciled, unless otherwise provided by this Act.

#### **Article 76**

The organ of the Republic of Croatia shall not take decisions and provide measures in cases concerning the guardianship of citizens of the Republic of Croatia who are domiciled in abroad if they establish that the organ which has jurisdiction according to the law of foreign state has taken a decision and provided measures by which the protection of the person, rights and interests of the citizens of the Republic of Croatia have been secured.

#### **Article 77**

The organ of the Republic of Croatia shall take necessary provisional measures for the protection of the person, rights and interest of a foreigner who is or has property in the Republic of Croatia, about which they shall inform the organ of the state of which that person is a citizen.

The organ of the Republic of Croatia shall take decisions and measures in cases concerning the guardianship if a foreigner who is domiciled in the Republic of Croatia if the protection of his person, rights and interests has not been secured by the organ of the state of which he is citizen.

#### **Article 78**

The court of the Republic of Croatia has exclusive jurisdiction as to the declaration of death of a citizen of the Republic of Croatia who has disappeared irrespective of where he was domiciled.

Before the court of the Republic of Croatia the death of and foreigner who died on the territory of the Republic of Croatia may be proved according to the law of the Republic of Croatia.

#### **Other provisions**

#### **Article 79**

The law governing the capacity of a natural person to be a litigant and to act in proceedings is the law of the state of which he is citizen.

If a foreigner is not capable to act in the proceedings as provided by paragraph 1 of this Article, but is capable to act according to the law of the Republic of Croatia, he may carry on proceedings himself.

The legal representative of a foreigner referred to in paragraph 2 of this Article may carry on proceedings himself as long as that alien does not declare that he takes over the further conduct of the action himself.

The law governing capacity to be a litigant of a foreign legal person is the law referred to in Article 17 of this Act.

#### **Article 80**

The court of the Republic of Croatia shall suspend proceedings on the application of a party if proceedings are pending before a foreign court in the same case and between the same parties, i.e.

If the proceedings in connection with that case were first instituted before the foreign court;

If the court of the Republic of Croatia has no exclusive jurisdiction to give judgment on the dispute in question;

If reciprocity exists.

#### **Article 81**

As to the determination of the jurisdiction of the court of the Republic of Croatia the facts that exists at the moment the proceedings start, are decisive.

#### **Article 82**

If a foreigner or stateless person who is not domiciled in the Republic of Croatia institutes proceedings before a court of the Republic of Croatia, he is obliged, at the defendant's request, to deposit security for costs.

The defendant is obliged to make request referred to in paragraph 1 of this Article not later than during preparatory session of the court in chambers, and if session in chamber has not been held at the first hearing on the merits before he enters a plea or soon he has learned that there are grounds for the asking of a security.

The security for costs is given in money, but court may approve that security also is given in another suitable form.

#### **Article 83**

The defendant has no right to security of costs:

If the state of which the plaintiff is a citizen citizens of the Republic of Croatia are not obliged to deposit security for costs;

If the plaintiff enjoys the right of asylum in the Republic of Croatia;

If the proceedings relate to a claim of the defendant arising out of his contract of employment in the Republic of Croatia;

If proceedings between spouses or disputes about determination or contestation of paternity or maternity are concerned as well if maintenance is concerned;

If proceedings in respect of bills of exchange or cheques, counterclaims or the issuance of orders of payment are concerned.

If there is a doubt whether citizens of the Republic of Croatia, in the sense of point 1 of paragraph 1 of this Article, are obliged to deposit security for costs in the state of which the plaintiff is a citizen, the republic organ for the administration of justice shall furnish an explanation.

#### **Article 84**

The court shall determine the amount of the security for costs and the period within which it must be deposited, in the decision by which the request for the security for costs is allowed, and it shall point out the plaintiff the consequences provided for by law it shall not be shown that security for costs has been deposited within the specified period.

If the plaintiff does not show within the specified period that he has deposited security for costs, it shall be considered that the claim has been withdrawn or that plaintiff has waived his legal remedy if the request for the security for costs was made only during the proceedings in pursuance of the legal remedy.

The defendant who in the time has entered his request that the plaintiff deposits security for costs is not obliged to continued the proceedings on the merits as long as no final and binding decision is given on whether the request will be allowed- as long as the plaintiff does not deposit security for costs.

If the court dismisses the request for depositing security for costs, it may decide that the proceedings continue even before the decision on dismissal becomes final and binding.

#### **Article 85**

Foreigners have the right to exemption from the payment of costs of litigation on the condition of reciprocity.

If there is doubt as to the existence of reciprocity, the republic organ for the administration of justice shall furnish an explanation in respect of exemption from the payment of costs of litigation.

The reciprocity referred to in paragraph 1 in this article is not condition for the realization of the right to exemption from the payment of costs of litigation, if the foreigner is domiciled in the Republic of Croatia.

A stateless person has the right to exemption from the payment of costs of litigation if he is domiciled or resident in the Republic of Croatia.

## **Chapter IV**

### **The recognition and execution foreign decisions**

#### *The recognition and execution of foreign judicial decisions*

#### **Article 86**

A foreign judicial decision becomes equal to a decision of the court of the Republic of Croatia and has legal effect in the Republic of Croatia only if it has been recognized by the court of the Republic of Croatia.

A settlement entered into before a court is also considered as a foreign judicial decision in accordance with paragraph 1 of this Article.

The decision of another organ which in the state where it has been rendered is considered as equal to a judicial decision or settlement is also considered as a foreign judicial decision if it regulates the relations referred to in Article 1 of this Act.

#### **Article 87**

A foreign judicial decision shall be recognized if the applicant for the recognition has submitted also a certificate of the competent foreign court or other organ certifying that the decision is final and binding according to the law of the state where it was rendered.

#### **Article 88**

The court of the Republic of Croatia shall refuse recognition of a foreign judicial decision if in pursuance of an objection of the person against whom that decision was rendered it finds that that person could not take part in the proceedings because of an irregularity.

In particular, the person against whom the foreign judicial decision was rendered shall be considered to have been unable to take part in the proceedings if any summons, writ or decision by which proceedings were started had not been served upon him personal or that no such service had been attempted, unless he has in any way entered into the proceedings on the merits at first instance.

#### **Article 89**

A foreign judicial decision shall not be recognized if a court or other organ of the Republic of Croatia has exclusive jurisdiction in that case.

If a defendant applies for the recognition of a foreign judicial decision that was rendered in a matrimonial case or if the plaintiff applies for it and defendant does not make an objection

thereto, the exclusive jurisdiction of the court of the Republic of Croatia is no obstacle to the recognition of that decision.

#### **Article 90**

A foreign judicial decision shall not be recognized if in the same case a court or other organ of the Republic of Croatia has rendered a final and binding decision or if in the Republic of Croatia another foreign judicial decision that was rendered in the same case has been recognized.

A court shall stay recognition of a foreign judicial decision if before a court of the Republic of Croatia earlier instituted proceedings in the same case and between the same parties are pending-until the final and binding termination of the those proceedings.

#### **Article 91**

Foreign judicial decision shall not be recognized if they are contrary to the basic principles of social organization laid down by the Constitution of the Republic of Croatia.

#### **Article 92**

A foreign judicial decision shall not be recognized if there is no reciprocity.

The non-existence of reciprocity is no obstacle for the recognition of a foreign judicial decision rendered in matrimonial causes or in disputes concerning the determination and contestation of paternity or maternity as well as the recognition or execution of a foreign judicial decision is applied for by citizen of the Republic of Croatia.

The existence of reciprocity relating to the recognition of a foreign judicial decision is presumed until the contrary is proved, and where there is doubt as the existence of that reciprocity the organ for the administration of justice shall furnish and explanation.

#### **Article 93**

If on deciding as to the personal status of a citizen of the Republic of Croatia in accordance with this act the law of the Republic of Croatia had to be applied, a foreign judicial decision also shall be recognized when a foreign has been applied if that decision does not substantially differ from the law of the Republic of Croatia that is applied to such question.

#### **Article 94**

Decision of foreign courts that relate to the personal status of a citizen of that state are recognized in the Republic of Croatia without judicial examination as provided for in Articles 89, 91 and 92 of this act.

If the competent organ of the Republic of Croatia considers that a foreign judicial decision relates to the personal status of a citizen of the Republic of Croatia, such a decision, in order to be recognized, is subject to examination in accordance with Articles 87-92 of this Act.

#### **Article 95**

If a foreign judicial decision relates to the persona status of aliens who are not citizens of the state that has rendered that decision, the decision only shall be recognized if it satisfies the conditions for recognition in the state of which those persons are citizens.

#### **Article 96**

The provision of Articles 87-92 of this Act apply to the execution of foreign judicial decision.

An application for the execution of a foreign judicial decision must submit besides the certificate of Article 87 of this Act, also a certificate that the decision can be executed in accordance with the law of the state where it was rendered.

#### *2. The recognition and execution of foreign arbitral awards*

#### **Article 97**

Arbitral awards that have not been delivered in the Republic of Croatia are considered as foreign arbitral awards.

Foreign arbitral awards have the nationality of the state where they were delivered.

The arbitral awards that have been delivered in the Republic of Croatia, whereby the law of a foreign state has been applied as to procedure, are also considered as foreign arbitral awards, if that is not contrary to mandatory rules of Republic of Croatia.

The foreign arbitral awards referred to in paragraph 3 of this Article have the nationality of the state the law of which has been applied in respect o procedure.

#### **Article 98**

A foreign arbitral award shall be recognized and executed if the party that applies for recognition and execution has submitted to the court in addition to its application:

The original arbitral award or certified copy of it

The original arbitration agreement or a certified copy of it.

If the foreign arbitral award or arbitration agreement or their certified copies have not been worded in the official language of the court before which the proceedings for recognition and execution of that award are started, the party that applies for recognition and execution of the award must submit a translation in that language which has been made by and authorized person.

#### **Article 99**

The recognition and execution of a foreign arbitral award shall be refused if it is found:

That according to the law of the Republic of Croatia the matter in dispute may not be subject to arbitration;

That a court or other organ of the Republic of Croatia has exclusive jurisdiction;

That the recognition or execution of the award would be contrary to the basic principles of social organization laid down by the Constitution of the Republic of Croatia;

That reciprocity does not exist;

That the arbitration agreement has not been concluded in written form or by exchange of letters, telegrams or telex message;

That the arbitration agreement is not valid;

That the party against whom the recognition and execution of an award is applied for was not properly informed about the appointment of an arbiter or of the arbitral proceedings, or of the arbitral proceedings, or of any other reason was not enabled;

That the composition of the court or arbitration or the arbitral procedure have not been in accordance with the provisions of the arbitration agreement;

That the court of arbitration has acted beyond the scope of its powers as determined by the arbitration agreement;

That the award has not yet become final and executable in respect of the parties or if the award has been annulled or suspended by a competent organ of the state where it has been delivered or of the state on the basis of the law of which it has been delivered;

That the part containing the decision on merits in the arbitral award is unintelligible or contradictory.

If in a foreign arbitral award the parts that relate to the question that were subject to arbitration may be separated from the parts in which the court has acted beyond the scope of its powers may be recognized and executed.

### **Article 100**

If proceedings have been started for the annulment or suspension of a foreign arbitral award before the competent organ referred to in Article 99 para. 10 of this Act, the court may delay its decision on the application for recognition and execution of that award, and on the request of the creditor or debtor, it may make such decision for delay on condition that debtor deposits adequate security.

### *3. The procedure of recognition and execution of foreign judicial decisions and arbitral awards*

### **Article 101**



In the respect of the recognition and execution of foreign judicial decision and arbitral awards the court on the territory of which proceedings for recognition and execution have to take place has competence.

The court shall confine itself to an examination whether the conditions of Article 86-100 of this Act are fulfilled and, if it considers it necessary, it may also request the court that has rendered the decision and the parties to furnish an explanation.

The parties may appeal against a decision on the recognition or execution of a decision within 15 days from the day decision was served (on the parties).

The court of second instance shall decide on the appeal against decision as referred in paragraph 3 of this Article.

If no separate decision has been rendered on the recognition of a foreign judgment, each court may decide during the proceedings on the recognition of that judgment as on a preliminary question, but only with effect to those proceedings.

The recognition of the decision of a foreign court in proceedings relating to personal status may be requested by anyone who has a legal interest in it.

## **Chapter V**

### **Special provisions**

#### **Article 102**

Citizens of the Republic of Croatia may enter into a marriage abroad before the competent consular representative or diplomatic representative of Republic of Croatia that renders consular representative of the Republic of Croatia is does not make objection thereto or if it is provided by international agreement.

The official who is in charge of the federal executive organ for foreign affairs shall determine the representatives of the Republic of Croatia before which marriages may be entered into abroad between citizens of the Republic of Croatia.

#### **Article 103**

Acts of guardianship with respect to citizens of the Republic of Croatia who are abroad are administrated by consular representative of the Republic of Croatia rendering consular services, if the state where the representative of the Republic of Croatia is does not make objection thereto, or it is provided by an international agreement.

#### **Article 104**

A citizen of the Republic of Croatia may have a will made abroad, in accordance with the provisions governing the making of judicial will, by consular representative or diplomatic representative of the Republic of Croatia abroad rendering consular service.

#### **Article 105**

The consular representative of the Republic of Croatia or the diplomatic representative of the Republic of Croatia or the diplomatic representative of the Republic of Croatia abroad rendering consular service may verify signatures, manuscripts and copies in accordance with international agreements and the rules of the receiving state.

The official who is in charge of the executive organ for foreign affairs by general act makes detailed provisions for the rendering of the services of paragraph 1 of this Article.

#### **Article 106**

Certificates on the republican and provincial rules which are in force or have been in force in the Republic of Croatia are issued for their use before the organs of a foreign state, by organ for the administration of justice.

In the certificate referred to in paragraph 1 of this Article are mentioned the name of the ac, the date that it was promulgated or when it ceased to be in force and the literal wording of the relevant provision of that Act.

### **Chapter VI**

#### **Transitional and final provisions**

#### **Article 107**

The provisions of this Act shall not be applied to relations existing before its entry into force.

#### **Article 108**

On the day of the entry into force of this Act the following provisions cease to be in force:

Articles 28-37, Article 70 para.5, Article 169-171, Article 178 and Article 188 of the Act of Civil Procedure

Article 16-22 of the Introductory Act to the Act of Civil procedure

Article 26 of Basic Marriage Act

Article 29 of the Basic Guardianship Act

Articles 187 and 188 of Succession Act

#### **Article 109**

This act enters into force on 1 January 1983.

