

**LAW NO. 08/L -028****ON PRIVATE INTERNATIONAL LAW****Assembly of the Republic of Kosovo;**

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Adopts:

**LAW ON PRIVATE INTERNATIONAL LAW****SECTION ONE  
GENERAL PROVISIONS****Article 1  
Purpose**

1. This Law establishes rules for the determination of the applicable law in respect of private law relations having an international element, rules on jurisdiction of courts and other authorities of the Republic of Kosovo with respect to the said relations, rules of procedure, and rules on the recognition and enforcement of foreign judgments and of decisions of other authorities of foreign states.

2. This Law is partially in compliance with:

2.1. Regulation (EC) No. 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations ("Rome II");

2.2. Regulation (EC) No. 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations ("Rome I");

2.3. Council Regulation (EU) No. 1259/2010 of 20 December 2010 implementing enhanced co-operation in the area of the law applicable to divorce and legal separation ("Rome III");

2.4. Regulation (EU) No. 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession ("Succession Regulation");

2.5. Council Regulation (EU) No. 2016/1103 of 24 June 2016 implementing enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes ("Matrimonial Property Regulation");

2.6. Hague Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations;

2.7. Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) ("Brussels I recast");

2.8. Council Regulation (EC) No. 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 ("Brussels II-bis").

**Article 2**  
**Supremacy of international agreements**

The provisions of this Law shall not apply to relations referred under Article 1 of this Law, if regulated by international agreements.

**Article 3**  
**Filling of legal gaps**

If this Law contains no provision for determining the applicable law on relations stipulated under Article 1 of this Law, the provisions and principles of this Law and the principles of international private law shall apply accordingly.

**Article 4**  
**Persons with multiple nationalities**

1. The nationality of a natural person is to be determined according to the law of the state whose nationality is at issue.

2. If a national of the Republic of Kosovo also has the nationality of another state, for the application of this Law he/she shall be considered as having only the nationality of the Republic of Kosovo.

3. If a person, who is not a national of the Republic of Kosovo has two or more foreign nationalities, for the application of this Law he/she shall be considered as having the nationality of that state of which he/she is a national and in which he/she is habitually resident.

4. If a person referred to in paragraph 3 of this Article has no habitual residence in any of the states of which he/she is a national, for the application of this Law, he/she shall be considered as having the nationality of that state of which he/she is a national and with which he/she has the closest connection.

**Article 5**  
**Stateless persons and refugees**

1. If a person has no nationality or if his/her nationality cannot be established, the applicable law shall be determined according to his/her habitual residence.

2. If a person has the status of a refugee, the applicable law shall be determined according to his/her habitual residence.

3. If a person referred to in paragraph 1 or 2 of this Article has no habitual residence or if the same cannot be established, the applicable law shall be determined according to his/her residence.

**Article 6**  
**Habitual residence of natural persons**

1. For the application of this Law, the habitual residence of a natural person shall be deemed to be the place where that person has established the permanent centre of his/her vital activities, regardless of any formalities of registration and independent of a residence or establishment permit from the competent state authorities.

2. When determining the habitual residence within the meaning of paragraph 1 of this Article, special consideration shall be given to the circumstances of personal or professional nature which indicate durable connections of the person with that place or indicate an intention to establish such connections.

3. Notwithstanding paragraphs 1 and 2 of this Article, for determining the habitual residence of a natural person acting in the course of his/her business activity, with respect to the relations from sub-chapters 6 and 7 of this Law, the provisions of Articles 75 and 87 of this Law shall apply.

#### **Article 7** **Domicile of natural persons**

1. For the purposes of this Law, the domicile of a natural person is deemed to be the place where that person has settled with intention to live there permanently.

2. A natural person is presumed to have established a domicile in the State where his/her domicile is registered.

3. Where the registration referred to in paragraph 2 of this Article was made in several States, a natural person is deemed to be domiciled in the State in which the registration was made and to which the person is most closely connected.

#### **Article 8** **Domicile of legal persons**

1. A legal person or an organization without the capacity of a legal person is deemed to be domiciled at the place where it has its:

- 1.1. statutory seat;
- 1.2. central administration;
- 1.3. principal place of business.

### **SECTION TWO** **APPLICABLE LAW**

#### **CHAPTER I** **GENERAL PROVISIONS**

#### **Article 9** **Renvoi**

1. If, pursuant to this Law, the law of a foreign state is to be applied, the rules of that law on the determination of the applicable law shall be taken into consideration.

2. The provisions of paragraph 1 of this Article shall not apply to:

- 2.1. the formal requirements of legal transactions;
- 2.2. the status of legal persons and forms of organizations without capacity of a legal person;
- 2.3. the matrimonial property regime;
- 2.4. divorce;
- 2.5. maintenance;
- 2.6. contractual relations;
- 2.7. non-contractual relations;
- 2.8. the choice of the applicable law.

3. If the provisions of a foreign state for determining the applicable law refer back to the law of the Republic of Kosovo or refer to the law of a third state, the law of the Republic of Kosovo or of that third state shall apply respectively, without taking into consideration the provisions for determining the applicable law.

#### **Article 10** **States with more than one legal system**

1. If the law of a state whose legal system is not uniform is applicable and the rules of this Law do not refer to a particular legal area within that state, the applicable law shall be determined pursuant to the private international law rules of that legal system.

2. If the manner laid down in paragraph 1 of this Article cannot determine the particular legal area within the state having a non-uniform legal system, the law of the legal area within that state that has the closest connection with the matter shall be applied.

#### **Article 11** **Determination of the content of foreign law**

1. The court or other competent authority shall ex officio determine the content of the foreign applicable law. The court or other competent authority may resort to the methods provided for in international agreements, may request information regarding the content of the foreign law from the authority of state administration responsible for justice matters, or request an expert opinion.

2. The parties to the proceedings may submit a public document or an expert opinion on the content of the foreign law.

3. Upon choice of the applicable law, the court or other authority may order a party which bases motions or objections on foreign law to assist in the determination of the content of the said law.

4. If the content of a foreign law cannot be determined in manners provided in paragraphs 1, 2 and 3 of this Article, the law of the Republic of Kosovo shall apply.

#### **Article 12** **Interpretation and application of foreign law**

1. The law of a foreign state shall be interpreted and applied in accordance with the interpretation and application of the legal system it comes from.

2. Non-application or incorrect application of foreign law shall be a ground for a legal remedy.

#### **Article 13** **General escape clause**

1. By way of exception, the law designated by this Law shall not apply whenever it is evident from all the circumstances of the case that the matter has only a slight connection with the state whose law was designated but is manifestly more closely connected to another state.

2. If the conditions set forth in paragraph 1 of this Article are met, the law of the state with which the matter is manifestly more closely connected shall apply.

3. Paragraphs 1 and 2 of this Article shall not apply if the parties have chosen the applicable law.

#### **Article 14** **Public order**

1. A provision of a foreign law determined as applicable by this Law shall not apply if the effects

of such application would be manifestly contrary to the public order of the Republic of Kosovo.

2. In applying paragraph 1 of this Article, special regard is to be had to the extent to which the situation is connected with the legal order of the Republic of Kosovo, and to the significance of the consequences that would be produced by application of the foreign law.

3. If a provision of a foreign law cannot be applied due to the violation of public order of the Republic of Kosovo, a relevant provision of the law of Republic of Kosovo shall apply if needed.

#### **Article 15**

#### **Overriding mandatory provisions**

1. Provisions of the law of the Republic of Kosovo the respect of which is regarded as crucial for safeguarding its public interests, such as its political, social or economic organization, shall be applicable to any situation falling within their scope, irrespective of the law otherwise applicable.

2. By way of exception, effect may be given to the overriding mandatory provisions of another state with which the matter is closely connected. When deciding on their application, the court shall have regard to the purpose and consequences of their application or non-application.

#### **Article 16**

#### **Qualification**

1. Where determination of the applicable law depends on the qualification of the essential elements or of the relationships, the said qualification shall be performed pursuant to the law of the Republic of Kosovo.

2. Where a specific legal institution is unknown to the law of the Republic of Kosovo and cannot be defined through interpretation pursuant to the law of the Republic of Kosovo, the foreign law which governs the said institution shall be taken into consideration for qualification thereof.

### **CHAPTER II**

### **SPECIAL PROVISIONS FOR DETERMINING THE APPLICABLE LAW**

#### **Sub-chapter I - Status relations for natural persons**

#### **Article 17**

#### **Legal capacity**

Legal capacity of a natural person shall be governed by the law of the state of which the person is a national.

#### **Article 18**

#### **Capacity to act**

1. Capacity to act of a natural person shall be governed by the law of the state of which the person is a national.

2. In a contract concluded between persons who are in the same state, a natural person who would have capacity under the law of that state may invoke his incapacity resulting from the law of another state, only if the other party to the contract was aware of that incapacity at the time of the conclusion of the contract or was not aware thereof as a result of negligence.

3. The provisions of paragraph 2 of this Article shall not apply to legal transactions relating to family and inheritance matters, and legal transactions relating to real rights in immovable property located in the territory of a state other than the state in which the legal transaction is concluded.

**Article 19****The capacity of a natural person to exercise a commercial activity**

Capacity of a natural person acting in the course of his/her business activity without the status of a legal person shall be governed by the law of the state in which that person is registered as an entrepreneur. Where no registration is required, the law of the state where the person has the principle place of business shall apply.

**Article 20****Guardianship and provisional protective measures**

1. Placement under guardianship and termination of guardianship, as well as the relationship between the guardian and the person under guardianship shall be governed by the law of the state of which the person under guardianship is a national.

2. Provisional protective measures against a foreign national or a stateless person staying in the Republic of Kosovo shall be taken in accordance with the law of the Republic of Kosovo and shall be in force until the competent state decides upon the same and takes the necessary measures.

3. Paragraph 2 of this Article shall also apply in respect of the protection of property of an absent foreign national and of a stateless person staying in the territory of the Republic of Kosovo

**Article 21****Declaration of death of a missing person**

Declaration of death of a missing person shall be governed by the law of the state of which the person was a national at the time of being missed.

**Article 22****Name**

1. The name of a person and the change of the said name shall be governed by the law of the state of which the person is a national.

2. The effect of the change of nationality on the name shall be determined by the law of the state whose nationality the person has acquired. Where such person is stateless, the effect of the change of his/her habitual residence on the name shall be determined by the law of the state in which the said person establishes his/her new habitual residence.

3. Notwithstanding paragraph 1 of this Article, the name and the change thereof may be governed by the law of the Republic of Kosovo, should this be requested by a person who is habitually resident in the Republic of Kosovo.

**Sub-chapter II: Status relations for legal persons****Article 23****Legal status of legal persons**

1. Legal persons shall be governed by the law of the state where the said persons are registered in the public registry.

2. Where no registration in a public registry is required for incorporation of the legal person, or where the legal person is registered in public registers of several states, the law of that state shall be applicable in which the statutory seat of the said legal person is located.

**Article 24**  
**Organizational forms without capacity of a legal person**

Associations or organizations without the capacity of a legal person shall be governed by the law of the state in which they are registered or have been established.

**Article 25**  
**Scope of the applicable law**

1. The law applicable under Articles 23 and 24 of this Law shall refer in particular to the following:

- 1.1. establishment, legal nature and legal form of the organization or legal person;
- 1.2. name or title of a legal person;
- 1.3. legal subjectivity and system of management of the organizational;
- 1.4. composition, competences and functions of the bodies of the legal person or organization;
- 1.5. representation of a legal person or organization;
- 1.6. acquisition and loss of membership, and related rights and obligations of a legal person or organization;
- 1.7. liability for the obligations of a legal person or organization;
- 1.8. liability for the violation of the law or of founding act of a legal person or organization;
- 1.9. reorganization and termination of a legal person or organization.

**Sub-chapter III-Family relations: Marriage**

**Article 26**  
**Substantive conditions for conclusion of a marriage**

Substantive conditions for conclusion of a marriage shall be for each person governed by the law of the state of which the person is a national at the time of conclusion of the marriage.

**Article 27**  
**Form of marriage**

The form of the marriage shall be governed by the law of the place where the marriage is concluded.

**Article 28**  
**Invalidity (nullity) of marriage**

Invalidity of marriage shall be governed by the substantive law of the state whose law governed the conditions for conclusion of marriage.

**Article 29**  
**Choice of the law applicable to the divorce**

1. The spouses may choose the law applicable to divorce provided that it is one of the following:

- 1.1. law of the state where the spouses are habitually resident at the time the choice is made;

1.2. law of the state where the spouses were last habitually resident, in so far as one of them still resides there at the time the choice is made;

1.3. law of the state of nationality of either spouse at the time the choice is made;

1.4. law of the Republic of Kosovo.

2. The agreement on choice of law competent to the divorce may be concluded or modified at latest at the moment of filing the suit for divorce.

3. Notwithstanding paragraph 2 of this Article, the spouses may also choose the applicable law during the course of the proceeding. In that event, such choice shall be recorded in the minutes.

#### **Article 30**

##### **Formal validity of the contract on the choice of law applicable to divorce**

1. The agreement on choice of law shall be expressed in writing, dated and signed by both spouses.

2. The agreement on choice of the applicable law concluded through means of electronic communication which provides a durable record of the agreement shall be deemed equivalent to writing as provided in paragraph 1 of this Article.

#### **Article 31**

##### **Law applicable to divorce in the absence of a choice by the spouses**

1. In the absence of a choice pursuant to Article 29 of this Law, divorce shall be governed by the law of the state where both spouses are habitually resident at the time the court is seized.

2. If the spouses are not habitually resident in the same state at the time the court is seized, divorce shall be governed by the law of the state where the spouses were last habitually resident, provided that the period of residence did not end more than one (1) year before the court was seized, in so far as one of the spouses still resides in that state at the time the court is seized.

3. If conditions from paragraphs 1 and 2 of this Article are not met, divorce shall be governed by the law of the state of which both spouses are nationals at the time the court is seized.

4. If conditions from paragraphs 1, 2, and 3 of this Article are not met, the divorce shall be governed by the law of the Republic of Kosovo.

#### **Article 32**

##### **Application of the law of the Republic of Kosovo**

Where the law applicable pursuant to Article 29 or 31 of this Law makes no provision for divorce or does not grant one of the spouses equal access to divorce on grounds of their sex, the law of the Republic of Kosovo shall apply.

#### **Sub-chapter IV-Family relations: Effects of marriage - personal effects of marriage**

#### **Article 33**

##### **Personal relations of spouses**

1. Personal relations of the spouses shall be governed by the law of the state of which the spouses are nationals.

2. If the spouses are nationals of different states, the law of the state shall apply in which they have their common habitual residence.



3. If the spouses have neither the same nationality nor common habitual residence in the same state, the law of the state shall apply in which they both have had the last common habitual residence.

4. If the applicable law cannot be determined in accordance with paragraphs 1, 2 or 3 of this Article, the law of the Republic of Kosovo shall apply.

#### **Article 34** **Choice of applicable law**

1. The spouses or future spouses may agree to choose or to change the law applicable to their matrimonial property regime, provided that the law is one of the following:

1.1. the law of the state where both spouses or future spouses are habitually resident at the time the choice is made;

1.2. the law of the state where one of the spouses or future spouses is habitually resident at the time the choice is made;

1.3. the law of the state of nationality of either spouse or future spouse at the time the choice is made.

2. Unless the spouses agree otherwise, a change of the law applicable to the matrimonial property regime made during the marriage shall have prospective effect only.

3. Any retroactive change of the applicable law under paragraph 2 of this Article shall not adversely affect the rights of third parties deriving from that law.

#### **Article 35** **Formal and material validity of the agreement on choice of applicable law**

1. The agreement on choice of law applicable to the matrimonial property regime shall be expressed in writing, dated and signed by both spouses.

2. Any agreement concluded by means of electronic communication which provides a durable record of the agreement shall be deemed equivalent to writing as provided in paragraph 1 of this Article.

3. The existence and validity of an agreement on choice of law or of any term thereof, shall be determined by the law which would govern it pursuant to Article 34 of this Law if the agreement or term were valid.

#### **Article 36** **Applicable law in the absence of choice by the spouses**

1. If the spouses did not make a choice, the law applicable to their matrimonial property regime shall be the law of the state:

1.1. of the spouses' first common habitual residence after the conclusion of the marriage;  
or, failing that

1.2. of the spouses' common nationality at the time of the conclusion of the marriage;  
or, failing that

1.3. with which the spouses jointly have the closest connection at the time of the conclusion of the marriage, taking into account all the circumstances.

2. Sub-paragraph 1.2 of this Article shall not apply if the spouses have more than one common nationality.

3. By way of exception and upon application by either spouse, the court may decide that the law of a state other than the state whose law is applicable pursuant to sub-paragraph 1.1 of this Article shall govern the matrimonial property regime if the applicant demonstrates that:

3.1. the spouses had their last common habitual residence in that other state for a significantly longer period of time than in the state designated pursuant to sub-paragraph 1.1. of this Article;

3.2. both spouses had relied on the law of that other state in arranging or planning their property relations.

#### **Article 37**

##### **Formal validity of the matrimonial property agreement**

1. The matrimonial property agreement shall be expressed in writing, dated and signed by both spouses.

2. The agreement concluded by means of electronic communication which provides a durable record of the agreement shall be deemed equivalent to writing as provided in paragraph 1 of this Article.

3. Notwithstanding paragraph 1 of this Article, if the law of the state in which both spouses have their habitual residence at the time the agreement is concluded lays down additional formal requirements for matrimonial property agreements, those requirements shall apply.

4. If the law applicable to the matrimonial property regime imposes additional formal requirements, those requirements shall apply.

#### **Article 38**

##### **Scope of the applicable law**

1. The law applicable to the matrimonial property regime shall govern, inter alia:

1.1. the classification of property of either or both spouses into different categories during and after marriage;

1.2. the transfer of property from one category to the other one;

1.3. the responsibility of one spouse for liabilities and debts of the other spouse;

1.4. the powers, rights and obligations of either or both spouses with regard to property;

1.5. the dissolution of the matrimonial property regime and the partition, distribution or liquidation of the property;

1.6. the effects of the matrimonial property regime on a legal relationship between a spouse and third parties; and

1.7. the material validity of a matrimonial property agreement.

#### **Article 39**

##### **Property relations in out-of-marriage relations**

The applicable law for property relations of persons living in out-of-marriage cohabitation shall be determined in accordance with Articles 34 to 38 of this Law.

**Sub-chapter V- Family relations: Relations between parents and children****Article 40****Recognition, establishment or contestation of paternity, respectively maternity**

1. Establishment or contestation of paternity respectively maternity respectively, shall be governed by the law of the state whose nationality the child has acquired at the time of birth.
2. Notwithstanding paragraph 1 of this Article, one of the following laws may be applied should this be more favourable to the child:
  - 2.1. the law of the state of which the child is a national or in which the child is habitually resident at the time of initiating the procedure for recognition, establishment or contestation of paternity or maternity;
  - 2.2. if the mother is married, the law that governs the personal effects of the marriage under Article 33 paragraphs 1, 2 and 3 of this Law at the time of the birth of the child or, if the marriage was dissolved before death, at the time of dissolution.
3. Recognition of paternity or maternity shall be effective if it conforms to:
  - 3.1. the law of the state whose nationality the person who does the recognition bears;
  - 3.2. the law of the state, whose nationality the child has at the time of recognition; or
  - 3.3. the law of the state in which the child is habitually resident at the time of recognition.
4. The formal requirements of recognition shall be governed by the law of the state where recognition has been made or by a law listed in paragraph 3 of this Article.

**Article 41****Relations between parents and children**

1. The relations between parents and children shall be governed by the law of the state in which they have their common habitual residence.
2. If the parents and the child are habitually resident in different states, the law of the state where the child is habitually resident shall apply.

**Sub-chapter VI: Family relations: Maintenance****Article 42****General rule**

1. Unless otherwise provided by this Law, maintenance obligations shall be governed by the law of the state of the habitual residence of the creditor.
2. In case of a change in the habitual residence of the creditor, the law of the state of the new habitual residence shall apply as from the moment when the change occurs.

**Article 43****Special rules favouring certain creditors**

1. The special provisions of this Article shall apply in the case of maintenance obligations of:
  - 1.1. parents towards their children;

1.2. persons, other than parents, towards persons who have not attained the age of 21 years, except for obligations arising out of the relationships referred to in Article 44 of this Law; and

1.3. children towards their parents.

2. If the creditor is unable, by virtue of the law referred to in Article 42 of this Law, to obtain maintenance from the debtor, the law of the state in whose court the proceeding is taking place shall apply.

3. Notwithstanding Article 42 of this Law, if the creditor has seized the competent authority of the state where the debtor has his/her habitual residence, the law of that state shall apply. However, if the creditor is unable, by virtue of this law, to obtain maintenance from the debtor, the law of the state of the habitual residence of the creditor shall apply.

4. If the creditor is unable, by virtue of the laws referred to in Article 42 of this Law and in paragraphs 2 and 3 of this Article, to obtain maintenance from the debtor, the law of the state of their common nationality, if there is one, shall apply.

#### **Article 44** **Special rule with respect to spouses and ex-spouses**

In the case of a maintenance obligation between spouses, ex-spouses or parties to a marriage which has been annulled, Article 42 of this Law shall not apply if one of the parties objects and the law of another state, in particular the state of their last common habitual residence, has a closer connection with the marriage. In such a case the law of that other state shall apply.

#### **Article 45** **Special rule on defence**

In the case of maintenance obligations other than those arising from a parent-child relationship towards a child and those referred to in Article 44 of this Law, the debtor may contest a claim from the creditor on the ground that there is no such obligation under both the law of the state of the habitual residence of the debtor and the law of the state of the common nationality of the parties, if there is one.

#### **Article 46** **Choice of the law applicable for the purpose of a particular proceeding**

1. Notwithstanding the provisions of Articles 42 to 45 of this Law, the maintenance creditor and debtor, for the purpose only of a particular proceeding in a given state may expressly designate the law of that state as applicable to a maintenance obligation.

2. A designation made before the institution of such proceedings shall be in an agreement, signed by both parties, in writing or recorded in any medium, the information contained in which is accessible so as to be usable for subsequent reference.

#### **Article 47** **Choice of the applicable law**

1. Notwithstanding the provisions of Articles 42 to 46 of this Law, the maintenance creditor and debtor may at any time designate one of the following laws as applicable to a maintenance obligation:

1.1. the law of any state of which either party is a national at the time the choice is made;

1.2. the law of the state of habitual residence of either party at the time the choice is made;

1.3. the law chosen by the parties as applicable, or the law in fact applied, to their property regime;

1.4. the law chosen by the parties as applicable, or the law in fact applied, to their divorce or legal separation.

2. The agreement on the choice of the applicable law shall be in writing or recorded in any medium, the information contained in which is accessible so as to be usable for subsequent reference, and shall be signed by both parties.

3. Paragraph 1 of this Article shall not apply to maintenance obligations in respect of a person under the age of eighteen (18) years or of an adult who, by reason of an impairment or insufficiency of his/her personal faculties, is not in a position to protect his/her interest.

4. Notwithstanding the law designated by the parties in accordance with paragraph 1 of this Article, the question of whether the creditor can renounce his/her right to maintenance shall be determined by the law of the state of the habitual residence of the creditor at the time the choice of the applicable law is made.

5. Unless at the time of the designation the parties were fully informed and aware of the consequences of their choice, the law chosen by the parties according to paragraph 1 of this Article shall not apply where the application of that law would lead to manifestly unfair or unreasonable consequences for any of the parties.

#### **Article 48 Public bodies**

The right of a public body to seek reimbursement of a benefit provided to the creditor in place of maintenance shall be governed by the law of the state to which that body belongs.

#### **Article 49 Scope of the applicable law**

1. The law applicable to the maintenance obligation in accordance with Articles 42 to 48 of this Law shall determine inter alia:

1.1. whether, to what extent and from whom the creditor may claim maintenance;

1.2. the extent to which the creditor may claim retroactive maintenance;

1.3. the basis for calculation of the amount of maintenance, and indexation;

1.4. who is entitled to institute maintenance proceedings, except for issues relating to procedural capacity and representation in the proceedings;

1.5. prescription or limitation periods;

1.6. the extent of the obligation of a maintenance debtor, where a public body seeks reimbursement of benefits provided for a creditor in place of maintenance.

#### **Article 50 Determining the amount of maintenance**

Even if the applicable law provides otherwise, the needs of the creditor and the resources of the debtor as well as any compensation which the creditor was awarded in place of periodical maintenance payments shall be taken into account in determining the amount of maintenance.

**Article 51**  
**Interpretation and application of provisions of this sub-chapter**

The provisions contained in this sub-chapter shall be interpreted and applied in accordance with the Council Regulation (EC) 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations.

**Sub-chapter VII- Family relations: Adoption**

**Article 52**  
**Conditions for creation, effect and termination of adoption**

1. The conditions for creation, effect and termination of adoption shall be governed by the law of the state of nationality of the adoptive parent and the adoptee, depending on the fact that what law is in a better interest for the adoptee.
2. If spouses are commonly adopting a child, the applicable law of the adopting parents for purposes of paragraph 1 of this Article shall be the law of the state of which they are both nationals at the time of filing the request for adoption.
3. If spouses are commonly adopting a child and they do not have common nationality, the applicable law the adopting parents for purposes of paragraph 1 of this Article shall be the law of their common habitual residence at the time of filing the request for adoption.
4. The form of the adoption shall be governed by the law of the place where the adoption is created.

**Sub-chapter VIII- Succession**

**Article 53**  
**General rule**

The law applicable to the succession as a whole shall be the law of the state in which the deceased had his/her habitual residence at the time of death.

**Article 54**  
**Choice of applicable law**

1. Notwithstanding Article 53 of this Law, a person may choose as the law to govern his succession as a whole the law of the state whose nationality he/she possesses at the time of making the choice or at the time of death. If the deceased person has multiple nationalities, he/she may choose the law of any of the states whose nationality he/she possesses at the time of making the choice or at the time of death.
2. The choice of law shall be made expressly in a declaration in the form of a testament or other form of disposition of property upon death or shall be demonstrated by the terms of the testament or such a disposition.
3. The substantive validity of the act whereby the choice of law was made shall be governed by the chosen law.
4. Paragraph 2 of this Article shall also apply to the formal requirements of any modification or revocation of a testament or other disposition of property upon death.

**Article 55**  
**Scope of the applicable law**

1. The law determined pursuant to Articles 53 and 54 of this Law shall govern the succession as a whole.
2. That law shall govern in particular:
  - 2.1. the causes, time and place of the opening of the succession;
  - 2.2. the determination of the beneficiaries, of their respective shares and of the obligations which may be imposed on them by the deceased, and the determination of other succession rights, including the succession rights of the surviving spouse or partner;
  - 2.3. the capacity to inherit;
  - 2.4. disinheritance and unworthiness to inherit;
  - 2.5. the transfer to the heirs and, as the case may be, to the legatees of the assets, rights and obligations forming section of the estate, including the conditions and effects of the acceptance or waiver of the succession or of a legacy;
  - 2.6. the powers of the heirs, the executors of the wills and other administrators of the estate, in particular as regards the sale of property and the payment of creditors;
  - 2.7. liability for the debts under the succession;
  - 2.8. the necessary part and other restrictions of the free disposition in case of death, including the parts previously separated from the inheritance for the benefit of the deceased's relatives and that based on the court decision, or any other body;
  - 2.9. any obligation to restore or account for gifts in succession part;
  - 2.10. transfer of the property that creates the estate.

**Article 56**  
**The applicable law on the admissibility and material validity of testament or other forms of disposition of property upon death**

1. The competent right for the admissibility and material validity of the testament or other form of disposition of property upon death, shall be the right which, according to this Law, would be competent for the inheritance of the person that has made the testament as he died on the day in which the act of disposition has been made.
2. Notwithstanding paragraph 1 of this Article, a person may choose as the law to govern the existence, material validity, effects and interpretation of the testament in accordance with Article 54 of this Law.
3. Paragraph 1 of this Article shall apply, as appropriate, to the modification or revocation of a testament or other form of disposition of property upon death. In the event of a choice of law in accordance with paragraph 2 of this Article, the modification or revocation shall be governed by the chosen law.
4. This Article does not apply to agreements as to succession.

### **Article 57**

#### **Agreements as to succession**

1. An agreement as to succession regarding the succession of one person shall be governed, as regards its admissibility, its substantive validity and its binding effects between the parties, including the conditions for its dissolution, by the law which, under this Law, would have been applicable to the succession of that person if he had died on the day on which the agreement was concluded.
2. An agreement as to succession regarding the succession of several persons shall be admissible only if it is admissible under all the laws which, under this Law, would have governed the succession of all the persons involved if they had died on the day on which the agreement was concluded.
3. An agreement as to succession which is admissible under such designated law shall be governed, as regards its substantive validity and its binding effects between the parties, including the conditions for its dissolution, by the law, from among those referred laws, with which it has the closest connection.
4. Notwithstanding paragraphs 1 and 2 of this Article, the parties may choose as the law to govern their agreement as to succession, as regards its admissibility, its substantive validity and its binding effects between the parties, including the conditions for its dissolution, the law which the person or one of the persons whose estate is involved could have chosen in accordance with Article 54 of this Law.

### **Article 58**

#### **Form of testament or of other form of disposition of property upon death made in writing**

1. A testament is valid upon the form if its valid form complies with the law of:
  - 1.1. the state in which the testament or the disposition was made or the agreement as to succession was concluded;
  - 1.2. the state whose nationality the testator or at least one of the persons whose succession is concerned by an agreement as to succession possessed, either at the time when the disposition was made or the agreement concluded, or at the time of death;
  - 1.3. the state in which the testator or at least one of the persons whose succession is concerned by an agreement as to succession had his domicile, either at the time when the disposition was made or the agreement was concluded, or at the time of death;
  - 1.4. the state in which the testator or at least one of the persons whose succession is concerned by an agreement as to succession had his habitual residence, either at the time when the disposition was made or the agreement concluded, or at the time of death;
  - 1.5. the Republic of Kosovo;
  - 1.6. in so far as immovable property is concerned, the state in which that property is located;
  - 1.7. the law that is applicable or would be applicable for the inheritance at the time when the testament or other form of disposition of property upon death was made, or the agreement as to succession was concluded.
2. The form of the revocation of the testament shall be valid if according to any law it is valid as



per provisions of paragraph 1 of this Article, provided that the testament could have been made in a valid form.

#### **Article 59**

##### **Formal validity of a declaration concerning acceptance or waiver of succession**

1. A declaration concerning the acceptance or waiver of the succession, of a legacy or of a reserved share, or a declaration designed to limit the liability of the person making the declaration, shall be valid as to form where it meets the requirements of:

1.1. the law applicable to the succession pursuant to Article 53 or 54 of this Law;

1.2. the law of the state in which the person making the declaration has his/her habitual residence.

#### **Article 60**

##### **Commorientes**

Where two or more persons whose successions are governed by different laws die in circumstances in which it is uncertain in what order their deaths occurred, and where those laws provide differently for that situation or make no provision for it at all, it is considered that such persons have died at the same time.

#### **Article 61**

##### **Interpretation and application of provisions of this sub-chapter**

The provisions contained in this sub-chapter of this Law shall be interpreted and applied in accordance with EU Regulation No. 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession.

### **Sub-chapter IX- Real Rights**

#### **Article 62**

##### **Types of corporeal objects**

The evaluation as to whether a corporeal object is movable or immovable shall be determined by the law of the state on the territory of which the object is located.

#### **Article 63**

##### **Real rights in immovable property**

Real rights in respect of immovable property shall be governed by the law of the state on the territory of which the property is located.

#### **Article 64**

##### **Real rights in respect of movable property**

1. The acquisition and loss of a real right in respect of movable property shall be governed by the law of the state on the territory of which the movable property is located when the action or facts that are invoked as basis of the acquisition or the termination occur.

2. Where particular actions or circumstances, that are prerequisite to the acquisition or loss of a real right in respect of movable property, were initiated in one state, they shall be deemed also consummated in another state where the last action or circumstance occurred thereby initiating acquisition or termination of the real right.

3. The content and exercise of the real right in respect of movable property shall be governed by the law of the state on the territory of which the movable property is located.

#### **Article 65**

##### **Transfer of movable property to the Republic of Kosovo (mobile conflict of laws)**

1. Where a movable property, in respect of which a real right has been acquired in another state, is transferred to the Republic of Kosovo, the acquired real right shall be recognized in the Republic of Kosovo on condition that Kosovo law knows a real right which in terms of its content and effects is equivalent to the real right which has been acquired in another state.

2. The content, exercise and registration of a real right in respect of movable property from paragraph 1 of this Article shall be governed by the law of the Republic of Kosovo.

3. Where Kosovo law requires the registration of a real right from paragraph 1 of this Article and where the right is registered within sixty (60) days of the date the property arrived in the Republic of Kosovo, the date of registration shall be deemed to be the date when the property arrived in the territory of the Republic of Kosovo.

#### **Article 66**

##### **Goods in transit**

1. The acquisition and loss of real rights in respect of goods in transit shall be governed by the law of the state of destination.

2. Real rights in respect of personal belongings that the passenger carries with him shall be governed by the law of the state of his/her habitual residence.

#### **Article 67**

##### **Means of transport**

The acquisition and termination of real rights in respect of ship, aircraft and other means of transport recorded in a public register shall be governed by law of the state where the said means of transport is registered.

#### **Article 68**

##### **Validity of registration**

The validity of registration by which the real rights are acquired, transferred or terminated shall be governed by the law of the state in the territory of which the property was located at the time when the legal transaction was concluded.

#### **Article 69**

##### **Cultural property**

1. If a corporeal object, which is proclaimed as being cultural heritage of a state, has unlawfully left the territory of that state, the revindication by the state shall be governed by the law of that state except where the state chooses the law of the state on the territory of which the property is located at the time of the revindication claim.

2. If the law of the state that has proclaimed an item as being its cultural heritage does not grant any protection to the possessor in good faith, the latter may invoke the protection that is attributed to him by the law of the state on the territory of which the item is located at the time of the revindication claim.

**Article 70**  
**Scope of the applicable law**

1. The law applicable to real rights shall refer to the following in particular:
  - 1.1. existence, type, content and scope of real rights;
  - 1.2. holders of the rights;
  - 1.3. manner of acquisition, transfer and termination of the real rights;
  - 1.4. transferability of real rights;
  - 1.5. effects of real rights on third persons;
  - 1.6. obligation to register real rights in a public register.

**Sub-chapter X-Intellectual property rights**

**Article 71**  
**General rule**

1. The existence, validity, scope, ownership, duration and transferability of copyrights, related rights and other non-registered intellectual property rights shall be governed by the law of the state for which protection is claimed.
2. The existence, validity, scope, ownership, duration and transferability of registered industrial property rights shall be governed by the law of the state in which that right is registered or in which registration has been claimed.

**Article 72**  
**Intellectual property rights arising within the course of the employment**

The law applicable to employment contracts shall also apply to the determination of the holder of an intellectual property right if the subject matter of that right emerged within the course of employment.

**Article 73**  
**Contracts relating to intellectual property**

Contracts relating to intellectual property rights shall be governed by the competent law designated under sub-chapters 6 and 8 of this chapter.

**Article 74**  
**Infringement of intellectual property rights**

1. A non-contractual liability for damages arising from an infringement of an intellectual property right shall be governed by the law of the state for which protection is claimed.
2. The law applicable pursuant to paragraph 1 of this Article may not be derogated from by an agreement pursuant to Article 99 of this Law.

**Sub-chapter XI-Contractual obligations**

**Article 75**  
**Choice of the applicable law**

1. A contract shall be governed by the law chosen by the parties. The choice of the applicable law shall be made expressly or clearly demonstrated by the terms of the contract or the

circumstances of the case. By their choice the parties can select the law applicable to the whole or to part only of the contract.

2. The contractual parties may at any time agree to subject the contract to a law other than that which previously governed it. Any change in the law to be applied that is made after the conclusion of the contract shall not prejudice its formal validity under Article 83 of this Law or adversely affect the rights of third parties.

3. Where all other elements relevant to the situation at the time of the choice are located in a state other than the state whose law has been chosen, the choice of the parties shall not prejudice the application of provisions of the law of that other state which cannot be derogated from by agreement.

4. The existence and validity of the consent of the parties as to the choice of the applicable law shall be determined in accordance with the provisions of Articles 18, 82 and 83 of this Law.

#### **Article 76**

#### **Applicable law in the absence of choice by parties**

1. To the extent that the law applicable to the contract has not been chosen in accordance with Article 75 of this Law, without prejudice to contracts referred to in Articles 78, 79, 80 and 81 of this Law, the law governing the contract shall be determined as follows:

1.1. a contract for the sale of goods shall be governed by the law of the state where the seller has his/her habitual residence;

1.2. a contract for the provision of services shall be governed by the law of the state where the service provider has his/her habitual residence;

1.3. a contract relating to a real right in immovable property or to a tenancy of immovable property shall be governed by the law of the state where the property is situated;

1.4. notwithstanding sub-paragraph 1.3 of this Article, a tenancy of immovable property concluded for temporary private use for a period of no more than six (6) consecutive months shall be governed by the law of the state where the landlord has his/her habitual residence, provided that the tenant is a natural person and has his/her habitual residence in the same state;

1.5. a franchise contract shall be governed by the law of the state where the franchisee has his/her habitual residence;

1.6. a distribution contract shall be governed by the law of the state where the distributor has his/her habitual residence;

1.7. a contract on the sale of goods by auction shall be governed by law of the state where the auction takes place, if such a place can be determined.

2. Where the contract is not covered by paragraph 1 of this Article or where the elements of the contract would be covered by the provisions of more sub-paragraphs of this Article, the contract shall be governed by the law of the state where the party required to affect the characteristic performance of the contract has his/her habitual residence.

3. Where the law applicable cannot be determined pursuant to paragraph 1 or 2 of this Article, the contract shall be governed by the law of the state with which it is most closely connected.

## **Article 77**

### **Habitual residence**

1. For the purposes of this sub-chapter:

1.1. the habitual residence of companies and other bodies, whether they are legal persons or do not have the capacity of a legal person, shall be the place of central administration.

1.2. the habitual residence of a natural person acting in the course of his/her business activity shall be his/her principal place of business.

2. Where the contract is concluded in the course of the operations of a branch, agency or any other establishment, or if, under the contract, performance is the responsibility of such a branch, agency or establishment, the place where the branch, agency or any other establishment is located shall be treated as the place of habitual residence.

3. For the purposes of determining the habitual residence, the relevant point in time shall be the time of the conclusion of the contract.

## **Article 78**

### **Contracts for the carriage of goods**

1. To the extent that the law applicable to a contract for the carriage of goods has not been chosen in accordance with Article 75 of this Law, the law applicable shall be the law of the state of habitual residence of the carrier, provided that the place of receipt or the place of delivery or the habitual residence of the consignor is also situated in that state.

2. If requirements from paragraph 1 of this Article are not met, the law of the state where the place of delivery as agreed by the parties is situated shall apply.

## **Article 79**

### **Contracts for the carriage of passengers**

1. The parties may choose as the law applicable to a contract for the carriage of passengers. In accordance with Article 75 of this Law, only the law of the state where:

1.1. the passenger has his/her habitual residence;

1.2. the carrier has his/her habitual residence;

1.3. the carrier has his/her central administration;

1.4. the place of departure is situated; or

1.5. the place of destination is situated.

2. To the extent that the law applicable to a contract for the carriage of passengers has not been chosen by the parties in accordance with the paragraph 1 of this Article, the law applicable shall be the law of the state where the passenger has his/her habitual residence, provided that either the place of departure or the place of destination is situated in that state. If these requirements are not met, the law of the state where the carrier has his/her habitual residence shall apply.

## **Article 80**

### **Consumer contracts**

1. A contract concluded by a natural person for a purpose which can be regarded as being outside his/her trade or profession (the consumer) with another person acting in the exercise of his/her trade or profession (the entrepreneur), shall be deemed to be a consumer contract.

2. Notwithstanding Articles 78 and 79 of this Law, a contract as per paragraph 1 of this Article shall be governed by the law of the state where the consumer has his habitual residence, provided that the entrepreneur:

2.1. pursues his/her commercial or professional activities in the state where the consumer has his/her habitual residence, or

2.2. by any means, directs such activities to that state or to several states including that state, and the contract falls within the scope of such activities.

3. Notwithstanding the provision of paragraph 2 of this Article, the parties may choose the law applicable to a contract which fulfils the requirements of paragraph 2 of this Article, in accordance with Article 75 of this Law. Such a choice may not, however, have the result of depriving the consumer of the protection afforded to him by provisions that cannot be derogated from by agreement by virtue of the law which, in the absence of choice, would have been applicable on the basis of paragraph 2 of this Article.

4. If the requirements of paragraph 2 of this Article are not fulfilled, the law applicable to a consumer contract shall be determined pursuant to the provisions of Articles 75 and 76 of this Law.

5. The provisions of paragraphs 2 and 3 of this Article shall not apply to:

5.1. a contract for the supply of services where the services are to be supplied to the consumer exclusively in a state other than that in which he has his habitual residence;

5.2. a contract of carriage other than a contract with which a combined service of travel and accommodation is provided for a single price;

5.3. a contract relating to a real right in immovable property or a tenancy of immovable property other than a contract relating to the right to use immovable properties on a timeshare basis.

#### **Article 81**

##### **Individual employment contracts**

1. An individual employment contract shall be governed by the law chosen by the parties in accordance with Article 75 of this Law. Such a choice of law may not, however, have the result of depriving the employee of the protection afforded to him/her by provisions that cannot be derogated from by agreement under the law that, in the absence of choice, would have been applicable pursuant to paragraphs 2 and 3 of this Article.

2. To the extent that the law applicable to the individual employment contract has not been chosen by the parties, the contract shall be governed by the law of the state in which or, failing that, from which the employee habitually carries out his/her work in performance of the contract. The state where the work is habitually carried out shall not be deemed to have changed if he/she is temporarily employed in another state.

3. Where the law applicable cannot be determined pursuant to paragraph 2 of this Article, the contract shall be governed by the law of the state where the place of business through which the employee was engaged is situated.

#### **Article 82**

##### **Consent and material validity**

1. The existence and material validity of a contract, or of any term of a contract, shall be determined by the law which would govern it under this Law if the contract or term were valid.

2. Nevertheless, a party, in order to establish that he/she did not consent, may rely upon the law of the state in which he/she has his/her habitual residence if it appears from the circumstances that it would not be reasonable to determine the effect of his/her conduct in accordance with the law specified in paragraph 1 of this Article.

### **Article 83** **Formal validity**

1. A contract concluded between persons who, or whose agents, are in the same state at the time of its conclusion is formally valid if it satisfies the formal requirements of:

1.1. the law which governs the substance of the contract according to the provisions of this Article; or

1.2. the law of the state where it is concluded.

2. A contract concluded between persons who, or whose agents, are not in the same state at the time of its conclusion is formally valid if it satisfies the formal requirements of:

2.1. the law which governs the substance of the contract according to the provisions of this Article; or

2.2. the law of either of the states where either of the parties or their agent is present at the time of conclusion; or

2.3. the law of the state where either of the parties had his/her habitual residence at the time of the conclusion of the contract.

3. A unilateral act intended to have legal effect relating to an existing or contemplated contract is formally valid if it satisfies the formal requirements of:

3.1. the law which governs or would govern the contract in substance under this Law; or

3.2. the law of the state where the unilateral act was done;

3.3. the law of the state where the party by whom the unilateral act was done had his/her habitual residence at that time when the act was done.

4. Notwithstanding the provisions of paragraphs 1, 2 and 3 of this Article the form of consumer contracts shall be governed by the law of the state where the consumer has his/her habitual residence.

5. Notwithstanding the provisions of paragraphs 1, 2, 3 and 4 of this Article, a contract the subject matter of which is a real right in immovable property or a tenancy of immovable property shall be subject to the requirements of form of the law of the state where the property is situated if by that law, those requirements:

5.1. are imposed irrespective of the state where the contract is concluded and irrespective of the law governing the contract; and

5.2. cannot be derogated from by agreement.

### **Article 84** **Assignment of claim**

1. The relationship between the creditor (assignor) who has assigned his claim to another person (the debtor), and the new creditor (assignee), shall be governed by the law that applies to the contract of the assignment of claim under this Law.

2. The law governing the assigned claim shall determine its assignability, the relationship between the assignee and the debtor, the conditions under which the assignment can be invoked against the debtor and whether the debtor's obligations have been discharged.

3. The concept of assignment in this Article includes outright transfers of claims, transfers of claims by way of security and pledges or other security rights over claims.

#### **Article 85** **Set-off**

Where the right to set-off is not agreed by the parties, set-off shall be governed by the law applicable to the claim against which the right to set-off is asserted.

#### **Article 86** **Scope of the applicable law**

1. The law applicable to a contract shall govern in particular:

1.1. interpretation of the contract;

1.2. performance of the contract;

1.3. within the limits of the powers conferred on the court by its procedural law, the consequences of a total or partial breach of obligations, including the assessment of damages in so far as it is governed by rules of law;

1.4. the various ways of extinguishing obligations;

1.5. prescription;

1.6. termination of rights due to the expiration of time limits; and

1.7. the consequences of nullity of the contract.

2. In relation to the manner of performance and the steps to be taken in the event of defective performance, regard shall be had to the law of the state in which performance takes place.

#### **Article 87** **Interpretation and application of provisions of this sub-chapter**

The provisions contained in this sub-chapter shall be interpreted and applied in accordance with Regulation (EC) 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I).

### **Sub-chapter XII- Non-contractual obligations**

#### **Article 88** **Non-contractual obligations**

1. According to the provisions of this sub-chapter, damage shall cover any consequence arising out of a harmful act, unjust enrichment, actions performed without due authority in connection with affairs of another (negotiorum gestio) or pre-contractual liability (culpa in contrahendo).

2. Provisions from this sub-chapter shall apply also to non-contractual obligations that are likely to arise.



3. Any reference in this sub-chapter to an event giving rise to damage shall include events giving rise to damage that are likely to occur.

4. Any reference in this sub-chapter to damage shall include damage that is likely to occur.

#### **Article 89** **Habitual residence**

1. For the purposes of this sub-chapter, the habitual residence of companies, foundations and associations, regardless of whether they are legal persons or do not have legal personality, shall be the place of central administration. Where the event giving rise to the damage occurs, or the damage arises, in the course of operation of a branch, agency or any other establishment, the place where the branch, agency or any other establishment is located shall be treated as the place of habitual residence.

2. For the purposes of this sub-chapter, the habitual residence of a natural person acting in the course of his/her business activity shall be his/her principal place of business

#### **Sub-chapter XIII- Non-contractual obligations - Non-contractual obligations caused by a harmful act**

#### **Article 90** **General rule**

1. Unless otherwise provided for in this Law, the law applicable to a non-contractual obligation arising out of a harmful act shall be the law of the state in which the damage occurs irrespective of the state in which the event giving rise to the damage occurred and irrespective of the state or states in which the indirect consequences of that event occur.

2. Notwithstanding paragraph 1 of this Article, where the person claimed to be liable and the person sustaining damage both have their habitual residence in the same state at the time when the damage occurs, the law of that state shall apply.

3. Where it is clear from all the circumstances of the case that the harmful act is manifestly more closely connected with a state other than that indicated in paragraphs 1 and 2 of this Article, the law of that other state shall apply. A manifestly closer connection with another state might be based in particular on a pre-existing relationship between the parties, such as a contract, that is closely connected with the harmful act in question.

#### **Article 91** **Liability for damage caused by products**

1. Without prejudice to Article 90 paragraph 2 of this Law, the law applicable to a non-contractual obligation arising out of damage caused by a product shall be:

1.1. the law of the state in which the person sustaining the damage had his/her habitual residence when the damage occurred, if the product was marketed in that state; or, failing that;

1.2. the law of the state in which the product was acquired, if the product was marketed in that state; or, failing that;

1.3. the law of the state in which the damage occurred, if the product was marketed in that state.

2. Notwithstanding paragraph 1 of this Article, the law applicable shall be the law of the state in which the person claimed to be liable is habitually resident if he/she could not reasonably

foresee the marketing of the product, or a product of the same type, in the state the law of which is applicable under sub-paragraphs 1.1, 1.2 or 1.3 of this Article.

3. Where it is clear from all the circumstances of the case that the harmful act is manifestly more closely connected with a state other than that indicated in paragraph 1 of this Article, the law of that other state shall apply. A manifestly closer connection with another state might be based in particular on a pre-existing relationship between the parties, such as a contract, that is closely connected with the harmful act in question.

#### **Article 92**

##### **Unfair competition and acts restricting free competition**

1. The law applicable to a non-contractual obligation arising out of an act of unfair competition shall be the law of the state where competitive relations or the collective interests of consumers are, or are likely to be, affected.

2. Where an act of unfair competition affects exclusively the interests of a specific competitor, the provision of Article 90 of this Law shall apply.

3. The law applicable to a non-contractual obligation arising out of a restriction of competition shall be the law of the state where the market is, or is likely to be, affected.

4. The law applicable under paragraphs 1, 2 and 3 of this Article may not be derogated from by an agreement pursuant to Article 100 of this Law.

#### **Article 93**

##### **Environmental damage**

The law applicable to a non-contractual obligation arising out of environmental damage or damage sustained by persons or property as a result of such damage shall be the law determined pursuant to Article 90, paragraph 1 of this Law, unless the person seeking compensation for damage chooses to base his/her claim on the law of the state in which the event giving rise to the damage occurred.

#### **Article 94**

##### **Liability for protest actions in employment relations (industrial action)**

Without prejudice to the provision of Article 88 paragraph 2 of this Law, the law applicable to a non-contractual obligation in respect of the liability of a person in the capacity of a worker or an employer or the organisations representing their professional interests for damages caused by a protest action of the workers or employers such as a strike or a lock out which are pending or carried out, shall be the law of the state where the action is to be, or has been, taken.

#### **Article 95**

##### **Violation of personality rights**

1. The law applicable to a non-contractual liability for damages arising from violations of personality rights through mass media, particularly through press, internet, radio, television or means of public information, shall be, by the choice of the person sustaining damage:

1.1. the law of the state where the person claimed to be liable has his/her habitual residence;

1.2. the law of the state where the person sustaining damage has his/her habitual residence, provided that the person claimed to be liable could reasonably foresee that the damage will occur in the territory of that state;

1.3. the law of the state in which the damage occurs or is likely to occur, provided the

person claimed to be liable could reasonably foresee that the damage will or could occur in that state.

2. The law applicable to the right to publish a correction when the violation of personality rights has been done through the media, shall be the law of the state in which the personality right has been violated.

3. Provision of paragraph 1 of this Article shall also apply to obligations arising from violation of rights relating to personal data.

#### **Article 96** **Damage occurring on a ship or aircraft**

The applicable law for the damage that has occurred on a ship on the high seas or on an airplane, shall be the law of the state in which the ship or the airplane was registered.

#### **Sub-chapter XIV-Non-contractual relations - Unjust enrichment, actions performed without due authority in connection with affairs of another (negotiorum gestio) and pre-contractual liability (culpa in contrahendo)**

#### **Article 97** **Unjust enrichment**

1. If a non-contractual obligation arising out of unjust enrichment, including payment of amounts wrongly received, concerns a relationship existing between the parties, such as one arising out of a contract or a harmful act, that is closely connected with that unjust enrichment, it shall be governed by the law that governs that relationship.

2. Where the law applicable cannot be determined on the basis of paragraph 1 of this Article and the parties have their habitual residence in the same state when the event giving rise to unjust enrichment occurs, the law of that state shall apply.

3. Where the law applicable cannot be determined on the basis of paragraphs 1 and 2 of this Article, it shall be the law of the state in which the unjust enrichment took place.

#### **Article 98** **Actions performed without due authority in connection with affairs of another (negotiorum gestio)**

1. If a non-contractual obligation arising out of an act performed without due authority in connection with the affairs of another person concerns a relationship existing between the parties, such as one arising out of a contract or a harmful act, that is closely connected with that non-contractual obligation, it shall be governed by the law that governs that relationship.

2. Where the law applicable cannot be determined on the basis of paragraph 1 of this Article, and the parties have their habitual residence in the same state when the event giving rise to the damage occurs, the law of that state shall apply.

3. Where the law applicable cannot be determined on the basis of paragraphs 1 and 2 of this Article, it shall be the law of the state in which the act was performed.

#### **Article 99** **Pre-contractual liability** **(Culpa in contrahendo)**

1. The law applicable to a non-contractual obligation arising out of dealings prior to the conclusion of a contract, regardless of whether the contract was actually concluded or not, shall be the law

that applies to the contract or that would have been applicable to it had it been entered into.

2. Where the law applicable cannot be determined on the basis of paragraph 1 of this Article, it shall be:

2.1. the law of the state in which the damage occurs, irrespective of the state in which the event giving rise to the damage occurred and irrespective of the state or states in which the indirect consequences of that event occurred; or

2.2. where the parties have their habitual residence in the same state at the time when the event giving rise to the damage occurs, the law of that state.

#### **Sub-chapter XV- Common provisions for non-contractual obligations**

##### **Article 100**

##### **Choice of the applicable law**

1. The parties may agree to submit non-contractual obligations to the law of their choice:

1.1. by an agreement entered into after the event giving rise to the damage occurred;

1.2. where all the parties are pursuing a commercial activity, also by an agreement freely negotiated before the event giving rise to the damage occurred.

2. The choice of the applicable law from paragraph 1 of this Article shall be expressed or demonstrated with reasonable certainty by the circumstances of the case and shall not prejudice the rights of third parties.

3. Where all the elements relevant to the situation at the time when the event giving rise to the damage occurs are located in a state other than the state whose law has been chosen, the choice of the parties shall not prejudice the application of provisions of the law of that other state which cannot be derogated from by agreement.

##### **Article 101**

##### **Scope of the applicable law**

1. The law applicable to non-contractual obligations under this Law shall govern in particular:

1.1. the basis and extent of liability, including the determination of persons who may be held liable for acts performed by them;

1.2. the grounds for exemption from liability, any limitation of liability and any division of liability;

1.3. the existence, the nature and the assessment of damage or the remedy claimed;

1.4. within the limits of powers conferred on the court by its procedural law, the measures which a court may take to prevent or terminate injury or damage or to ensure the provision of compensation;

1.5. the question whether a right to claim damages or a remedy may be transferred, including by inheritance;

1.6. persons entitled to compensation for damage sustained personally;

1.7. liability for the acts of another person;

1.8.the manner in which an obligation may be extinguished and rules of prescription and limitation, including rules relating to the commencement of the expiration of the deadline for filing a indictment or taking concrete actions under the threat of losing such right and the commencement, interruption and suspension of a period of prescription or limitation.

**Article 102**  
**Rules of safety and conduct**

In assessing the conduct of the person claimed to be liable, account shall be taken, as a matter of fact and in so far as is appropriate, of the rules of safety and conduct which were in force at the place and time of the event giving rise to the liability.

**Article 103**  
**Direct action against the insurer of the person liable**

The person having suffered damage may bring his/her claim for compensation directly against the insurer of the person liable to provide compensation of such damage if the law applicable to the non-contractual obligation or the law applicable to the insurance contract so provides.

**Article 104**  
**Interpretation and application of provisions of this sub-chapter**

1. The provisions contained in this sub-chapter shall be interpreted and applied in accordance with Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II).

2. Paragraph 1 of this Article shall not apply to the provisions of Articles 95 and 96 of this Law.

**Sub-chapter XVI- Common provisions for contractual and non-contractual obligations**

**Article 105**  
**Legal subrogation**

Where the creditor has a claim upon the debtor, and a third person has a duty to satisfy the creditor, or has in fact satisfied the creditor in discharge of that duty, the law which governs the third person's duty to satisfy the creditor shall determine whether, and the extent to which, the third person is entitled to exercise against the debtor the rights which the creditor had against the debtor under the law governing their relationship.

**Article 106**  
**Multiple liability**

1. If a creditor has a claim against several persons who are liable for the same claim, and one of the debtors has already satisfied the claim in whole or in part, the applicable law governing the debtor's obligation towards the creditor also governs the debtor's right to claim recourse from the other debtors.

2. The other debtors may rely on the defences they had against the creditor to the extent allowed by the applicable law governing their obligations towards the creditor.

**Article 107**  
**Burden of proof**

1. The law governing a contractual or non-contractual obligation shall apply to the extent that, in matters of contractual or non-contractual obligations, it contains rules which raise presumptions of law or determine the burden of proof.

2. A contract or an act intended to have legal effect may be proved by any mode of proof recognized by the law of the Republic of Kosovo or by any of the laws referred to in Article 83 of this Law under which that contract or act is formally valid, provided that such mode of proof can be administered by the court of the Republic of Kosovo.

**Sub-chapter XVII- Form of legal transactions and of legal acts, contractual representation and statutory limitation**

**Article 108**

**Form of legal transactions and of legal acts**

Unless otherwise provided for by this Law, a legal transaction or a legal act shall be deemed valid as to form if they are valid either according to the law of the place where the legal transaction was entered into or where the legal act was undertaken, or according to the law which is applicable to the content of the legal transaction or the legal act.

**Article 109**

**Contractual representation**

1. The existence and the extent of authorizations of the agent, and the effects created by the use or exceedance of such authorizations, shall be governed by the law chosen by the principal and the third person, provided that the agent was aware or could not have been unaware of such a choice.

2. In the absence of a choice of law, the matters referred to in paragraph 1 of this Article shall be governed by the law of the state in which the agent has his/her habitual residence at the time of acting in the exercise of his/her authority.

3. Notwithstanding paragraph 2 of this Article, where a third person was not aware nor ought to have been aware of the agent's habitual residence, or where the agency agreement was concluded with an agent who is not performing agency activities within his/her profession, or where the agent performed the agency activities on a stock exchange or at an auction, the law applicable to the matters referred to in paragraph 1 of this Article shall be the law of the state in which the agency activity is performed.

4. The law determined by paragraphs 1, 2 and 3 of this Article shall apply also to the relationship between the agent and the third person arising out of the fact that the agent acted in accordance with his/her authority, exceeded his/her authority, or acted without authority.

5. Notwithstanding the provisions of paragraphs 1, 2 and 3 of this Article, where the subject matter of the representation is a right to immovable property, the matters from paragraph 1 of this Article shall be governed by the law of the state where the immovable property is located.

**Article 110**

**Statutory limitation**

The statute of limitations shall be governed by the law applicable to the content of the legal matter or of the legal transaction.

## **SECTION THREE INTERNATIONAL JURISDICTION AND PROCEDURE**

### **CHAPTER III**

#### **Sub-chapter I- General provisions**

#### **Article 111 General jurisdiction in contentious procedure**

1. The court of the Republic of Kosovo shall have jurisdiction if the defendant is:
  - 1.1. a natural person who has his/her domicile or habitual residence in the Republic of Kosovo;
  - 1.2. a legal person who has its seat in the Republic of Kosovo.
2. Paragraph 1 of this Article shall not apply to jurisdiction of the court of the Republic of Kosovo in matters of succession.

#### **Article 112 Jurisdiction over co-defendants**

If the case involves multiple defendants in the capacity of material co-defendants, the courts of the Republic of Kosovo shall also have jurisdiction over such co-defendants when general jurisdiction can be exercised over one of the defendants in accordance with this Law.

#### **Article 113 Jurisdiction for related actions**

1. If the court of the Republic of Kosovo has jurisdiction to hear one of several actions, it shall also have jurisdiction to hear other actions if they are related to the action that the court of the Republic of Kosovo has jurisdiction for.
2. The actions shall be deemed related if the connections among them are so close that it is justified to hear and decide them together to avoid the risk of irreconcilable judgments if the actions were heard separately.

#### **Article 114 Jurisdiction on counterclaims**

The court of the Republic of Kosovo shall also have jurisdiction on counterclaims, if the counterclaim relates to the claim from the original action.

#### **Article 115 Jurisdiction based on the defendant's property**

1. If any property of the defendant is located in the territory of the Republic of Kosovo, the courts of the Republic of Kosovo shall also have jurisdiction if the plaintiff has his/her domicile or seat in the Republic of Kosovo, provided that:
  - 1.1. the value of the property is not disproportionate to the value of the claim;
  - 1.2. the dispute has a sufficient connection with the Republic of Kosovo.

**Article 116**  
**General jurisdiction in non-contentious procedure**

1. When a legal relationship is decided in a non-contentious procedure, the court of the Republic of Kosovo shall have jurisdiction if the person against whom the claim is filed is:

1.1. a natural person who has his/her domicile or habitual residence in the Republic of Kosovo;

1.2. a legal person who has its seat in the Republic of Kosovo.

2. When the procedure involves only one person, the court of the Republic of Kosovo shall have jurisdiction if that person meets the requirements of paragraph 1 of this Article.

3. The provisions of paragraphs 1 and 2 of this Article shall not apply to matters of succession.

**Article 117**  
**Jurisdiction on provisional and protective measures**

The court of the Republic of Kosovo shall have jurisdiction for granting provisional or security measures against persons or property which at the moment of the action are located in the Republic of Kosovo, even in cases when, according to the provisions of this Law, the court does not have jurisdiction to decide of the main matter.

**Article 118**  
**Determining jurisdiction**

1. Jurisdiction of a judicial or other authority of the Republic of Kosovo in matters with an international element shall be established ex officio on the basis of the facts and circumstances present at the time when the procedure is initiated.

2. Jurisdiction of a judicial or other authority of the Republic of Kosovo shall also exist when the facts that it is based on change during the procedure.

**Article 119**  
**Exceptional jurisdiction**

In exceptional circumstances, if this Law does not provide for jurisdiction of a court or other authority of the Republic of Kosovo, the court or other authority of the Republic of Kosovo may hear the case if the proceedings cannot be initiated abroad or when it would be unreasonable to demand that the action be brought abroad, provided that the dispute is sufficiently connected with the Republic of Kosovo.

**Article 120**  
**Exclusive international jurisdiction**

The courts of the Republic of Kosovo shall have exclusive jurisdiction when that is expressly provided by this or another Law.

**Article 121**  
**International lis pendens**

1. The court of the Republic of Kosovo shall, at the request of a party, stay its proceeding if proceedings involving the same cause of action and between the same parties are pending before a foreign court, and if:

1.1. the proceedings were first instituted before a foreign court;



1.2. the court of the Republic of Kosovo does not have exclusive jurisdiction on the contest for which the trial is being held; and

1.3. it is to be expected that the foreign court will, within a reasonable time, render a judgment that is eligible for recognition in the Republic of Kosovo.

#### **Article 122**

##### **Exclusive international jurisdiction in enforcement proceedings**

The court or the persons with public authorization in accordance with the law, shall have exclusive jurisdiction in proceedings concerning the enforcement of a foreign judgment in the territory of the Republic of Kosovo.

#### **Sub-chapter II- Prorogation of jurisdiction**

#### **Article 123**

##### **Prorogation of jurisdiction of the court of the Republic of Kosovo**

1. In matters with an international element in which, according to the law of the Republic of Kosovo, the parties may freely dispose of their rights, they may agree upon the jurisdiction of the courts of the Republic of Kosovo to settle a dispute that has arisen or may arise out of a particular legal relationship.

2. The jurisdiction of the court of the Republic of Kosovo under paragraph 1 of this Article shall be exclusive, unless the parties have agreed otherwise.

3. The material validity of the agreement on jurisdiction of the court of the Republic of Kosovo shall be governed by the law of the Republic of Kosovo.

#### **Article 124**

##### **Prorogation of jurisdiction of a foreign court**

1. In matters with an international element where the parties, according to the law of the Republic of Kosovo, are allowed to freely dispose of their rights, the parties may agree upon the jurisdiction of the court or courts of a foreign state to settle a dispute that has arisen or may arise out of a particular legal relationship.

2. The jurisdiction of the foreign court under the paragraph 1 of this Article shall be exclusive, unless the parties have agreed otherwise.

3. If a claim in respect of which the jurisdiction of a foreign court was agreed is brought before a court of the Republic of Kosovo, the court of the Republic of Kosovo shall declare itself to have no jurisdiction and shall dismiss the claim, upon the objection of a party, unless the agreement is null and void.

4. The objection from paragraph 3 of this Article shall be stated before the party pleads to the merits in the main hearing.

5. The material and formal validity of the agreement on the prorogation of a foreign court shall be governed by the law of the state of the chosen court, whereas the admissibility of the agreement is concurrently governed by the law of the Republic of Kosovo.

#### **Article 125**

##### **Form of the prorogation agreement**

1. The prorogation agreement shall be concluded:

- 1.1. in writing or evidenced in writing;
  - 1.2. in a form which accords with practices which the parties have established between themselves; or
  - 1.3. in international trade or commerce, in a form which accords with a usage of which the parties are or ought to have been aware and which in such trade or commerce is widely known to, and regularly observed by, parties to contracts of the type involved in the particular trade or commerce concerned.
2. Any communication by electronic means which provides a durable record of the agreement shall be equivalent to 'writing'.
  3. An agreement conferring jurisdiction which forms part of a contract shall be treated as an agreement independent of the other terms of the contract.
  4. The validity of the agreement conferring jurisdiction cannot be contested solely on the ground that the contract is not valid.

#### **Article 126**

#### **Tacit consent of the defendant to the jurisdiction of the court of the Republic of Kosovo**

1. When the jurisdiction of a court of the Republic of Kosovo depends on the defendant's consent to its jurisdiction, it is considered that the defendant has given the consent if:
  - 1.1. the defendant has filed a written response to the claim or he/she has filed an objection to the payment order, without contesting the jurisdiction of the Court of the Republic of Kosovo; or
  - 1.2. the defendant has pleaded to the merits at the preparatory hearing or, if the preparatory hearing has not been held, at the first hearing on the merits, without contesting jurisdiction of the court in the preparatory hearing; or
  - 1.3. the defendant has filed a counterclaim.
2. Notwithstanding the provisions of paragraph 1 of this Article, in disputes related to insurance contracts, consumer contracts and individual employment contracts where the policy holder, the insured, a beneficiary of the insurance contract, the injured party, the consumer or the employee is the defendant, the court shall ensure that the defendant is informed of his right to contest the jurisdiction of the court and of the consequences of entering or not entering an appearance.

#### **Sub-chapter III- Special provisions: Jurisdiction regarding the status of persons**

#### **Article 127 Guardianship**

1. The court or other authority of the Republic of Kosovo shall also have jurisdiction in matters of guardianship involving persons who are nationals of the Republic of Kosovo or have habitual residence in the Republic of Kosovo.
2. A court or other authority of the Republic of Kosovo shall have jurisdiction to take necessary provisional measures in order to protect a foreign national or his/her rights and interests if he/she is present or has property in the Republic of Kosovo.

**Article 128**  
**Personal name**

The court or other authority of the Republic of Kosovo shall also have jurisdiction to determine, change or protect the personal name of a national of the Republic of Kosovo.

**Article 129**  
**Declaration of death of a missing person**

The court of the Republic of Kosovo shall also have jurisdiction to declare a missing national of the Republic of Kosovo as dead.

**Article 130**  
**Exclusive international jurisdiction in disputes on establishment, termination and status changes of legal entities**

The court of the Republic of Kosovo shall have exclusive jurisdiction in proceedings which have as their object the validity of the constitution, the nullity or the dissolution of companies or other legal persons or associations of natural or legal persons, or the validity of the decisions of their organs, if the company, legal person or association has its seat in the Republic of Kosovo.

**Article 131**  
**Exclusive international jurisdiction over validity of entries in public registers**

The court of the Republic of Kosovo shall have exclusive jurisdiction over proceedings which have as their object the validity of entries in public registers which are kept in the Republic of Kosovo.

**Sub-chapter IV- Special provisions: Jurisdiction regarding family relations**

**Article 132**  
**Matrimonial and related disputes**

1. The courts of the Republic of Kosovo shall have jurisdiction over disputes for determining the existence or non-existence of a marriage, annulment of a marriage or divorce, also if:

1.1. one of the spouses is a national of the Republic of Kosovo at the moment of initiating the proceedings, or was a national of the Republic of Kosovo at the time when the marriage was entered into; or

1.2. the spouses have their habitual residence in the Republic of Kosovo at the moment of initiating the proceedings; or

1.3. one of the spouses is a stateless person and has a habitual residence in the Republic of Kosovo at the moment of initiating the proceedings; or

1.4. one of the spouses had their last habitual residence in the Republic of Kosovo, while one of them still has habitual residence in the Republic of Kosovo at the moment of initiating the proceeding; or

1.5. the plaintiff has his/her habitual residence in the Republic of Kosovo for at least a year before the initiation of the proceedings.

2. The provisions of paragraph 1 of this Article shall also apply to jurisdiction of the court of the Republic of Kosovo for disputes concerning matrimonial property relations.

**Article 133**  
**Establishment of paternity and maternity**

1. The court of the Republic of Kosovo shall also have jurisdiction to hear disputes relating to the establishment or contestation of paternity or maternity, provided that the child, mother, father, or a person claiming to be the father or mother of the child:

- 1.1. is a national of the Republic of Kosovo; or
- 1.2. has his/her habitual residence in the Republic of Kosovo.

**Article 134**  
**Disputes on parental custody**

1. The court or other authority of the Republic of Kosovo shall also have jurisdiction over disputes relating to the disputes, raising and education of the children that are under parental custody, if:

- 1.1. the child is a national of the Republic of Kosovo; or
- 1.2. the child has his/her habitual residence in the Republic of Kosovo; or
- 1.3. the child, whose habitual residence cannot be determined, or who is a refugee, or an internationally displaced person due to events in his/her state of habitual residence, is located in the territory of the Republic of Kosovo.

**Article 135**  
**International competence on issuing of a marriage permit to a minor**

On issuing a marriage permit to a minor, the court of the Republic of Kosovo shall also have jurisdiction if the applicant is a national of the Republic of Kosovo, or if one of the applicants is a national of the Republic of Kosovo, regardless of the domicile or habitual residence of persons who wish to enter into marriage.

**Article 136**  
**Maintenance**

1. In disputes relating to maintenance, the court of the Republic of Kosovo shall have jurisdiction also when:

- 1.1. the person claiming maintenance has his/her habitual residence in the Republic of Kosovo; or
- 1.2. the maintenance is decided in the matrimonial dispute, dispute on establishment of paternity or maternity, or dispute on parent-child relationship, which is heard in a court of the Republic of Kosovo.

**Article 137**  
**Adoption**

1. The court of the Republic of Kosovo shall have jurisdiction to decide on the adoption and termination of adoption if one of the adopters or the adopted person is a national of the Republic of Kosovo or has his/her habitual residence in the Republic of Kosovo at the moment of initiation of the adoption procedure.

2. If the adopted person is a national of the Republic of Kosovo and has habitual residence in the Republic of Kosovo at the moment of initiation of the adoption procedure, the jurisdiction of the court of the Republic of Kosovo on the matters referred to in paragraph 1 of this Article shall be exclusive.

**Sub-chapter V- Special provisions:**  
**Jurisdiction regarding matters of succession**

**Article 138**  
**General rule**

The court of the Republic of Kosovo shall have jurisdiction to rule on the succession as a whole, if the deceased had his/her habitual residence in the Republic of Kosovo at the time of death.

**Article 139**  
**Jurisdiction based on the location of the estate**

1. The court of the Republic of Kosovo shall also have jurisdiction to decide on the succession when the deceased did not have habitual residence in the Republic of Kosovo at the time of death, provided that assets of the estate or the entire estate are/is located in the Republic of Kosovo, and if:

- 1.1. the law of the Republic of Kosovo has been chosen as the applicable law to the succession by the deceased in accordance with Article 54 of this Law; or
- 1.2. the deceased had the nationality of the Republic of Kosovo at the time of death; or
- 1.3. the application of this Article is only intended for that estate.

**Article 140**  
**Disputes arising from succession relations and disputes concerning the disposition of the estate inter vivos**

The provisions of Articles 138 and 139 of this Law shall also apply to jurisdiction in disputes arising from succession relations and in disputes concerning the disposition of the estate inter vivos.

**Article 141**  
**Choice of forum**

The court of the Republic of Kosovo shall also have jurisdiction for deciding on the inheritance of the estate which is not located in the Republic of Kosovo, provided that the deceased has chosen the law of the Republic of Kosovo as the applicable law to his/her inheritance in his/her testament or other forms of disposal of his/her inheritance rights.

**Sub-chapter VI- Special provisions:**  
**Jurisdiction regarding real rights**

**Article 142**  
**Real rights in immovable property**

1. The court of the Republic of Kosovo shall have exclusive jurisdiction in proceedings which have as their object real rights in immovable property or tenancies of immovable property, provided that the immovable property is situated in the Republic of Kosovo.
2. Notwithstanding paragraph 1 of this Article, the court of the Republic of Kosovo shall not have exclusive jurisdiction in proceedings which have as their object tenancies of immovable property concluded for temporary private use for a maximum period of six (6) consecutive months, provided that the tenant is a natural person and the landlord and the tenant are domiciled in the same state.

**Article 143**  
**Real rights in movable property**

The court of the Republic of Kosovo shall have jurisdiction regarding proceedings concerning real rights in movable property, provided that the movable property is located in the Republic of Kosovo at the moment of initiation of the procedure.

**Article 144**  
**Disputes related to aircrafts or ships**

1. The court of the Republic of Kosovo shall have jurisdiction in disputes regarding real rights on aircrafts or ships and disputes on rental of an aircraft or a ship, provided that the register, in which the aircraft or the ship is registered, is kept in the territory of the Republic of Kosovo.

2. The court of the Republic of Kosovo shall have jurisdiction regarding disputes on obstruction to possession of an aircraft or a ship referred to in paragraph 1 of this Article, provided that the register, in which the aircraft or the ship is registered, is held in the territory of the Republic of Kosovo, or the obstruction has occurred in the territory of the Republic of Kosovo.

**Sub-chapter VII- Special provisions:**  
**Jurisdiction regarding intellectual property rights**

**Article 145**  
**Exclusive international jurisdiction in proceedings concerned with the filing and validity of industrial property rights**

1. The court of the Republic of Kosovo shall have exclusive jurisdiction in proceedings concerned with the registration or validity of patents, trademarks, design or other similar rights required to be deposited or registered, irrespective of whether the issue is raised by way of an action or as a defence, provided that in the Republic of Kosovo:

- 1.1. the deposit or registration has been applied for;
- 1.2. the deposit or registration has taken place;
- 1.3. under the terms of an international instrument, the deposit or registration is deemed to have taken place.

**Sub-chapter VIII-Special provisions:**  
**Jurisdiction regarding contractual and non-contractual obligations**

**Article 146**  
**Contractual obligations**

1. The court of the Republic of Kosovo shall also have jurisdiction in matters relating to a contract, where the ground for the claim is an obligation that was performed or should have been performed in the Republic of Kosovo.

2. Unless otherwise agreed, the place of performance of the obligation referred to in paragraph 1 of this Article is located in the Republic of Kosovo:

- 2.1. in the case of the sale of goods - if, under the contract, the goods were delivered or should have been delivered in the Republic of Kosovo;
- 2.2. in the case of the provision of services - if, under the contract, services were provided or should have been provided in the Republic of Kosovo.

### **Article 147**

#### **Consumer contracts**

1. The court of the Republic of Kosovo shall also have jurisdiction for the proceedings brought by a consumer against an entrepreneur, provided that the consumer is domiciled in the Republic of Kosovo.
2. The court of the Republic of Kosovo shall have exclusive jurisdiction in proceedings brought by the entrepreneur against the consumer if the consumer is domiciled in the Republic of Kosovo.
3. The provisions of paragraph 2 of this Article may be departed from only by an agreement on jurisdiction, which:
  - 3.1. is entered into after the dispute has arisen;
  - 3.2. allows the consumer who does not have his/her domicile in the Republic of Kosovo to bring proceedings in courts of the Republic of Kosovo; or
  - 3.3. is entered into by the consumer and the entrepreneur, both of whom are at the time of conclusion of the contract domiciled or habitually resident in the same state, and which confers jurisdiction on the courts of that state, provided that such an agreement is not contrary to the law of that state.
4. The provisions of paragraphs 1, 2 and 3 of this Article shall only apply:
  - 4.1. to contracts for the sale of goods on instalment credit terms; or
  - 4.2. to contracts for a loan repayable by instalments, or for any other form of credit, made to finance the sale of goods; or
  - 4.3. in all other cases, if the contract has been concluded with a person who pursues commercial or professional activities in the Republic of Kosovo or, by any means, directs such activities to the Republic of Kosovo or to several states including the Republic of Kosovo and the contract falls within the scope of such activities.
5. The provisions of paragraphs 1, 2, 3 and 4 of this Article shall not apply to a contract of transport other than a contract which, for an inclusive price, provides for a combination of travel and accommodation.

### **Article 148**

#### **Individual employment contracts**

1. For proceedings brought by an employee against the employer which arise from an individual employment contract, the court of the Republic of Kosovo shall also have jurisdiction if:
  - 1.1. the employee habitually carries out his/her work, or last carried out his/her work in the Republic of Kosovo; or
  - 1.2. the employee habitually carries out or carried out his/her work in several countries and the business which engaged the employee is or was situated in the Republic of Kosovo.
2. For proceedings arising from an individual employment contract which are brought by the employer against the employee, the court of the Republic of Kosovo shall have exclusive jurisdiction if the employee has his/her domicile in the Republic of Kosovo.
3. The provisions of paragraph 2 of this Article may be departed from only by an agreement which:

- 3.1. is entered into after the dispute has arisen; or
- 3.2. allows the employee who does not have his/her domicile in the Republic of Kosovo, to bring proceedings in courts of the Republic of Kosovo.

**Article 149**  
**Non-contractual obligations**

1. The court of the Republic of Kosovo shall also have jurisdiction to rule on the disputes relating to tort, delict or quasi-delict if:

- 1.1. the event giving rise to damage or the damage has occurred in the territory of the Republic of Kosovo; or
- 1.2. it is likely that the event giving rise to damage will take place or the damage will occur on the territory of the Republic of Kosovo.

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

**Article 150**  
**Jurisdiction based on the operation of a branch, agency or other establishment**

The court of the Republic of Kosovo shall also have jurisdiction over disputes arising out of the operations of a branch, agency or other establishment of the defendant located in the Republic of Kosovo when the defendant has no seat in the Republic of Kosovo.

**CHAPTER IV**  
**OTHER PROVISIONS ON PROCEEDINGS WITH AN INTERNATIONAL ELEMENT**

**Article 151**  
**Law applicable to proceedings**

The law of the Republic of Kosovo shall apply on proceedings with an international element which are heard before a court or other authority of the Republic of Kosovo.

**Article 152**  
**Capacity to be a party and procedural capacity**

1. Capacity of a natural person to be a party and to act independently in proceedings shall be governed by the law of the state of which the person is a national.
2. If a foreign national would have no capacity to act in the proceedings according to the provisions from paragraph 1 of this Article, but would have capacity to act pursuant to the law of the Republic of Kosovo, that person may act independently in the proceedings.
3. The statutory representative of a foreign national referred to in paragraph 2 of this Article may carry on proceedings himself/herself as long as that foreign national does not declare that he/she takes over the further conduct of the proceedings himself/herself.
4. The capacity of the foreign legal person to be a party shall be governed by the law referred to in Articles 23 of this Law.



**Article 153**  
**Security for costs**  
**(cautio iudicatum solvi)**

1. If a stateless person who is not habitually resident in the Republic of Kosovo, or a foreign national or a legal person who is not registered in the registry of the Republic of Kosovo, initiates proceedings before a court in the Republic of Kosovo he/she shall at the defendant's request be obliged to deposit security for costs in favour of the defendant.
2. The defendant is obliged to make the request referred to in paragraph 1 of this Article not later than in the preparatory hearing and, if the preparatory hearing has not been held, at the first hearing on the merits before he/she pleads to the merits, or as soon as he/she has learned that there are conditions for requesting the security.
3. The security for costs shall be provided in money, but the court may approve the provision of security also in another suitable form.

**Article 154**  
**Exemption from the obligation to provide security for costs**

1. A defendant shall not be entitled to security for costs if:
  - 1.1. in the state of which the plaintiff is a national the nationals of the Republic of Kosovo are not obliged to provide security for costs;
  - 1.2. the plaintiff enjoys the right of asylum or has the status of a refugee in the Republic of Kosovo;
  - 1.3. the proceedings relate to a claim of the plaintiff arising from his/her contract of employment in the Republic of Kosovo;
  - 1.4. matrimonial disputes or disputes about establishing or contesting paternity or maternity, or a statutory obligation of maintenance are concerned;
  - 1.5. proceedings in respect of bills of exchange or cheques, counterclaims or the issuance of a payment order are concerned.
2. In case of doubt whether the nationals of the Republic of Kosovo in the sense of paragraph 1 of this Article are obliged to provide security for costs in the state of which the plaintiff is a national, the court may request the information from the authority in charge of the administration of justice.

**Article 155**  
**Decision on security for costs**

1. The court shall determine the amount of the security for costs and the period within which the security must be deposited, in the ruling by which the request for the security for costs is granted, and it shall warn the plaintiff of the consequences that are provided by law should it not be proven that the security for costs was deposited within the specified period.
2. If the plaintiff fails to prove within the specified period that he/she has deposited security for costs, the claim shall be considered withdrawn.
3. The defendant who made a timely request for the plaintiff to deposit the security for costs in his/her favour is not obliged to continue the proceedings on the merits until a final decision upon his/her request has been made, and if his/her request is granted – until the plaintiff has deposited the security for costs.

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

**Article 156**  
**Exemption from the payment of process costs**

Foreign nationals shall be entitled to request relief from payment of process costs under the same conditions as the citizens of the Republic of Kosovo.

**SECTION FOUR**  
**RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGEMENTS**

**CHAPTER V**  
**CONCEPT**

**Article 157**  
**Foreign judgment**

1. A foreign judgment shall mean any decision rendered by the court of a foreign state.
2. A foreign judgment referred to in paragraph 1 of this Article shall also be deemed to be a settlement made before a court (court settlement).
3. A foreign judgment shall also be deemed to be a decision of another authority which in the state in which it was given is considered equivalent to a court judgment, or a court settlement, if such a decision regulates the relations referred to in Article 1 of this Law.

**Article 158**  
**Recognition**

A foreign judgment shall be equivalent to a judgment of a court of the Republic of Kosovo and shall produce legal effects in the Republic of Kosovo only if recognized by the court of the Republic of Kosovo.

**Article 159**  
**Conditions and principles for enforcement of foreign court decisions**

1. The conditions for the recognition and enforcement of foreign court decisions by the Competent Court of the Republic of Kosovo are the same, with the exception of the principle of reciprocity, which applies as a condition only for the enforcement of foreign court decisions.
2. The condition of the principle of reciprocity according to paragraph 1 of this Article shall be excluded in those cases when one of the parties is a citizen of the Republic of Kosovo or has a residence or habitual residence in the Republic of Kosovo.

**CHAPTER VI**  
**CONDITIONS FOR RECOGNITION AND ENFORCEMENT**

**Sub-chapter I-**  
**Conditions addressed ex-officio by the court**

**Article 160**  
**Certificate of legal force and of enforceability**

1. An applicant seeking recognition of a foreign judgment shall be obliged to attach to the application the original foreign judgment, or a certified copy thereof, and to submit a certificate

by the competent foreign court, or other authority, regarding the finality of the decision according to the law of the state where it was rendered.

2. If together with the application for the recognition of a foreign judgment application is made for the declaration of enforceability thereof, the applicant shall, in addition to the certificate from the paragraph 1 of this Article, also submit a certificate of enforceability of the decision under the law of the state in which it was rendered.

3. If the original foreign judgment, or the certified copy, is not in a language which is in official use before the court where the procedure for recognition of that decision is being held, the party requesting the recognition of the decision must also submit a certified translation of the foreign judgment into the official language of that court.

#### **Article 161**

##### **Exclusive jurisdiction of the court of the Republic of Kosovo**

A foreign judgment shall not be recognized if the court or other authority of the Republic of Kosovo has exclusive jurisdiction over the specific matter, unless this Law allows the parties to initiate proceedings before a foreign court for a specific dispute for which the court of the Republic of Kosovo has exclusive jurisdiction.

#### **Article 162**

##### **Excessive jurisdiction of a foreign court**

A foreign judgment shall not be recognized if the foreign court based its jurisdiction on facts which are not by this Law or another law of the Republic of Kosovo deemed as grounds for the establishment of jurisdiction of a court of the Republic of Kosovo for deciding on a matter with an international element of the same type.

#### **Article 163**

##### **Final decision on the same matter between the same parties**

1. A foreign judgment shall not be recognized if on the same matter the court or other authority of the Republic of Kosovo has rendered a final decision or if another foreign judgment has been recognized in the Republic of Kosovo that was rendered for the same matter and between the same parties.

2. If a proceeding is pending before the court of the Republic of Kosovo, initiated earlier, on the same matter and between the same parties, the court shall stay the recognition procedure of the foreign judgment until the final conclusion of those proceedings.

#### **Article 164**

##### **Non-enforcement of foreign court decisions**

The decision of the foreign court shall not be recognized and enforced if it does not derive from the legal-private relations with a foreign element.

#### **Article 165**

##### **Violation of public order**

A foreign judgment shall not be recognized if the effect of its recognition would be manifestly contrary to the public order of the Republic of Kosovo.

#### **Sub-chapter II-**

##### **Conditions addressed by the court based on objections by the parties**

#### **Article 166**

##### **Violation of the right to defense**

1. The court of the Republic of Kosovo shall refuse the recognition of a foreign judgment, if one

of the parties proves that:

- 1.1. due to irregularities in proceedings, he/she could not state his/her defense in the proceedings; or
- 1.2. the summons, the statement of claim or the decision which initiated the proceedings, had not been served upon the party personally, or that no personal service had been attempted, unless he/she has pleaded to the merits of the principal case in first instance proceedings; or
- 1.3. the defendant was not allowed sufficient time to arrange for his/her defense from the time the claim was served to the time the hearing was scheduled.

## **CHAPTER VII PROCEDURE FOR THE RECOGNITION OF FOREIGN JUDGMENTS**

### **Article 167 Initiation of proceedings**

1. The procedure for recognition of a foreign judgment shall be initiated upon application.
2. The court, to which an application for recognition of a foreign judgment is submitted, shall only consider whether the conditions laid down in Articles 160 to 165 of this Law have been met.
3. Recognition of a foreign judgment on matters relating to personal status may be requested by anyone having a legal interest.

### **Article 168 Competent court**

1. The single judge of the basic court shall decide on the recognition of foreign judgments.
2. Any court having subject-matter jurisdiction shall have territorial jurisdiction for the recognition of a foreign judgment.

### **Article 169 Recognition of the foreign judgment as a preliminary issue in the proceedings**

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

### **Article 170 Course of proceedings**

1. If the court, to which the application for recognition of the foreign judgment is submitted, determines that there are no obstacles for recognition, it will render a decision recognizing the foreign judgment.
2. The court shall serve the decision for recognition of the foreign judgment to the applicant and to the respondent and notify them that an objection against the decision for recognition is allowed within thirty (30) days from the day of receiving the decision.
3. Notwithstanding the provisions of paragraph 2 of this Article, the court shall not serve a decision recognizing a foreign judgment on divorce to the other party if the party seeking recognition is a national of the Republic of Kosovo, and the other party has no domicile or habitual residence in the Republic of Kosovo.

**Article 171****Proceeding on the objection against the decision for recognition of a foreign judgment**

Pursuant to the objection against the decision for recognition of a foreign judgment from Article 170 of this Law, the court that rendered the decision for recognition, consisting of three (3) judges, shall decide on the case. The court shall decide on the objection after a hearing.

**Article 172****Appeal**

The court decision rejecting the application for the recognition of a foreign judgment and the court decision on the objection referred to in Article 171 of this Law may be appealed before the competent court of appeals within fifteen (15) days after the decision was served.

**Article 173****Costs of proceedings**

The court shall decide on the costs of the proceedings for the recognition of a foreign judgment in accordance with the rules applicable if the court or other authority of the Republic of Kosovo would decide on the same matter.

**Article 174****Application of rules on non-contentious procedure**

In the absence of specific provisions in this chapter, the provisions on non-contentious procedure shall apply accordingly to the procedure for the recognition of foreign judgments.

**Article 175****Enforcement of foreign judgments**

A foreign judgment which has been recognized by the court of the Republic of Kosovo in the procedure provided in Articles 167 to 173 of this Law shall be enforced in accordance with the laws of the Republic of Kosovo governing the enforcement.

**SECTION FIVE  
SPECIAL PROVISIONS****Article 176****Marriages concluded at the authorized consular or diplomatic missions of the Republic of Kosovo**

1. Nationals of the Republic of Kosovo may enter into marriage abroad before an authorized consular mission or before a diplomatic mission of the Republic of Kosovo which performs consular legal services, provided that the state in which the diplomatic or consular mission of the Republic of Kosovo is located does not make objection thereto, or where so provided by an international agreement.

2. The Minister who is in charge of the executive body competent for foreign affairs shall determine the representatives of the Republic of Kosovo before which marriages may be entered into abroad between nationals of the Republic of Kosovo.

**Article 177****Acts of guardianship relating to nationals of the Republic of Kosovo abroad**

Acts of guardianship relating to nationals of the Republic of Kosovo who are abroad shall be administered by the consular or diplomatic mission of the Republic of Kosovo, provided that the state in which the diplomatic or consular mission of the Republic of Kosovo is located does not

make objection thereto, or where so provided for by an international agreement.

#### **Article 178**

##### **Making of a will of a national of the Republic of Kosovo abroad**

A national of the Republic of Kosovo may have a will made abroad, in accordance with the provisions governing the making of a judicial will, by a consular mission or by a diplomatic mission of the Republic of Kosovo which performs consular legal services.

#### **Article 179**

##### **Verification of signatures, manuscripts and copies by a consular or diplomatic mission of the Republic of Kosovo**

1. The consular missions of the Republic of Kosovo or the diplomatic missions of the Republic of Kosovo which perform legal consular services may verify signatures, manuscripts and copies in accordance with international agreements and rules of the receiving state.

2. The Minister who is in charge of the executive body competent for foreign affairs shall determine the manner of rendering the services referred to in paragraph 1 of this Article.

#### **Article 180**

##### **Issuance of certificates on the provisions of law which are in force or were in force in the Republic of Kosovo**

1. Certificates on the provisions which are in force or were in force in the Republic of Kosovo are issued for their use before the authorities of a foreign state by the executive body which is in charge of the affairs of justice.

2. The certificate referred to in paragraph 1 of this Article shall contain the name of the act, the date of issuance or when it ceased to be in force and the exact wording of the relevant provisions of that act.

### **SECTION SIX**

#### **TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 181**

##### **Application of the Law**

1. The provisions of this Law for determining the applicable law shall not be applied to relations which came into existence before the entry into force of this Law.

2. If, before the date of entry into force of this Law, a final judgment or a decision of the first instance has been rendered whereby the proceedings before the first instance court are terminated, the further proceeding shall be continued according to the previous provisions on jurisdiction and procedure in relations with an international element and provisions for the recognition of foreign judgments.

3. If, after the date of entry into force of this Law, the first instance judgment or decision from paragraph 2 of this Article is set aside, further proceedings shall be continued in accordance with the provisions on jurisdiction and procedure in relations with an international element and with the provisions on recognition of the foreign judgments of this Law.

#### **Article 182**

##### **Repeal**

Upon the entry into force of this Law, there shall be repealed the Law on resolving the conflict of law with the regulations of other countries in certain relations.

**Article 183**  
**Entry into force**

This Law shall enter into force fifteen (15) days after the publication in the Official Gazette of the Republic of Kosovo.

**Law No. 08/L-028**  
**4 August 2022**

**Promulgated by Decree No. DL-292/2022 dated 22.08.2022 President of the Republic of Kosovo Vjosa Osmani-Sadriu**