

BULGARIAN FAMILY CODE

(Promulgated State Gazette 41/1985, amended State Gazette
11/1992)

EXTRACT

Divorce through breakdown of the marriage

Article 99

- (1) Each of the spouses is entitled to seek a divorce where the marriage has deeply and irretrievably been broken down.
- (2) Together with the decision granting the divorce the court pronounces ex officio as to the fault for the breakdown of the marriage unless it is caused by objective reasons which cannot be ascribed as fault to any one of the spouses.
- (3) The court does not pronounce itself as to the fault for the breakdown of the marriage where the spouses request this and submit to the court their agreement regarding the custody of child/ren, the contact and the support of the children, and also about their property relations, the use of the matrimonial home, the maintenance between them and the family name.
- (4) A divorce is not allowed where the breakdown of the marriage is caused by the misbehaviour of the plaintiff only, and the other spouse insists on the preservation of the marriage, unless important considerations call for the divorce action to be recovered.

Divorce by mutual consent

Article 100

- (1) Where there is a serious and firm mutual consent between the spouses for divorce, the court allows it without investigating their motives for the termination of the marriage.
- (2) The petition for a divorce by mutual consent cannot be presented before three years have elapsed from the contraction of the marriage.

Settlement of the spouses in a divorce by mutual consent

Article 101

(1) In a divorce by mutual consent the spouses have to set forth their settlement as to the discharge of parental rights, the personal relations, and the support of the children, and also their property relations, the use of the matrimonial home, the alimony between them, and the family name. The settlement is ratified by the court after it is satisfied that the interests of the children have been protected.

(2) Where the settlement is not complete or the interests of the children are not well protected the court sets a term during which these defects should be eliminated. Where in the set term the defects have not been eliminated the divorce petition is dismissed. Actions for the discharge of parental rights and the support of the children after the termination of the marriage by mutual consent are admissible where a change in the circumstances has occurred.

BULGARIAN CIVIL PROCEDURE CODE

(Promulgated, *Izvestiya.*, No. 12/1952, last amendments State Gazette/2001)

EXTRACT

Special claims procedure
xxv. Procedure in matrimonial cases

Article 258

(1) According to the procedure provided for in the present chapter are reviewed claims for divorce, annulment of marriage and for establishing the existence or non-existence of marriage between the parties (matrimonial claims).

(2) Persons who have not attained full majority or been placed under limited incapacity may put forward matrimonial claims and be respondents in them on their own.

Article 259

(1) Proceedings in applications for divorce begin with a conciliatory session, in which the spouses are obliged to appear in person. In the case of non-appearance of the petitioner without valid reasons proceedings are terminated. The non-appearance of the respondent does not hinder the review of the petition, but the court may rule that he or she appears in person.

(2) The conciliatory hearing is held in closed session. The court shall hear the views of the parties, require explanations for the reasons on the basis of which the action for divorce is founded, and elucidate the unfavourable consequences of divorce to them with regard to the children and society and invite them to reconcile their differences.

(3) (Amended: State Gazette 124/1997) A new conciliatory session is scheduled when:

- a) the court rules that the respondent appears in person;
- b) the spouses or one of them desires to continue their efforts for reconciliation and repairing of the marriage;
- c) the court feels that reconciliation is possible.

(4) (Repealed, State Gazette, 124/1997).

(5) (Repealed, State Gazette, 124/1997).

(6) Measures for reconciliation are not undertaken when due to full incapacity, absence or any other insurmountable circumstance, reconciliation is not possible.

(7) (Repealed, State Gazette, 124/1997).

Article 259a.

(1) In the case of an action for divorce on mutual agreement the chairman of the court summons the spouses to a conciliatory hearing at which they have to appear in person.

(2) If the spouses maintain their request the chairman of the court prepares a protocol with regard to this and presents the petition for review in court session.

(3) In the case where one of the spouses does not appear in person with valid reasons to the conciliation hearing or the court session, the action shall be terminated.

259b.

After it becomes convinced that the consent of the spouses to proceed with the divorce is serious and irrefutable and when it finds that the agreement under Article 101 of the Family Code does not contravene the law and is in the interest of the children the court allows the divorce and certifies the agreement by a decision.

Article 259c

The decision which allows the divorce on the grounds of mutual consent may not be appealed.

Article 260.

(1) In the case of divorce the petitioner must present all grounds for the deep and irreparable breakdown of the marriage. Circumstances not stated, which have occurred before the preclusion of oral hearings and which have become known to the spouse, may not serve as grounds for the institution of a fresh application for divorce.

(2) (Amended, State Gazette, 64/1999) (2) All matrimonial claims may compete amongst themselves. Along with them obligatorily are presented and reviewed claims for exercising parental rights, personal relations, financial support for the children, use of the family home, alimony and the family name.

(3) The stipulations of the preceding paragraph also apply with regard to the respondent as to claims which he might put forward.

(4) Action may not be brought for annulment of marriage for reasons of breach of the stipulations as to age under Article 12 or for duress under Article 96, paragraph 1, Subsection 2 of the Family Code when the claim for divorce has not been honoured.

Article 261

(1) At the request of the parties the court, before which the claim for divorce or annulment of marriage has been presented, sets out the interim measures with regard to alimony and the family home, the use of the property accumulated in the course of the marriage as well as the care for the children and their support.

(2) The above-mentioned ruling is not liable to appeal but it may be altered by the same court.

(3) The husband may not put forward an application for divorce without the consent of his wife when the latter is pregnant and up to attainment of the age of twelve months of the child.

(4) The proceedings in matrimonial claims are stopped at the request of the wife when the latter is pregnant and up to the attainment of the age of twelve months of the child.

Article 264

The decision for divorce shall enter into force even though it was appealed only in the part regarding guilt.

In the decision, which allows the divorce, the court at the request of the parties resolves the question as to the name which the spouses may bear in future.

Article 267

When the spouse - petitioner dies and the claim for divorce is based on the guilt of the surviving spouse the court shall give the successors a two-week period to declare whether they wish to continue the action; the same is valid with regard to annulment of marriage where the surviving spouse has not acted in good faith. If within the prescribed period none of the successors states that they wish to continue the action it is terminated. The action shall be terminated in cases where the claim for divorce was not based on the guilt of the surviving spouse or if the latter - in claims for annulment of marriage - had acted in good faith.

Article 268

In the case of death of the respondent the continuation of the action by his successors is possible only if the claim staked is in

connection with Articles 13 and 131, Section 2 of FK and the plaintiff was the one who had acted in bad faith at the time of marriage.

Article 270

(1) Court costs in matrimonial cases are awarded against the guilty spouse or the one that had acted in bad faith. When there is no guilt or an act of bad faith or when both spouses were guilty or acted in bad faith costs remain to their detriment in manner in which they were incurred.

(2) In the case of non-acceptance of the claim for divorce costs are settled in accordance with Article 64. The same procedure applies with regard to costs in the case of appeals.

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(Promulgated State Gazette 41/1985, amended State Gazette 11/1992)

EXTRACT

Chapter eight - Support- Right to support

Article 79

Only a person who is disabled and cannot support himself from his property has a right to support.

Sequence of the persons who are liable to support

Article 80

(1) The persons entitled to support may claim it in the following order:

1. From a spouse or a former spouse;
2. From children;
3. From parents;
4. From grand-children and great-grand-children;
5. From brothers and sisters;
6. From grand-father and grand-mother and ancestors of a higher degree.

(2) Where the persons of a preceding sequence are unable to furnish support it is furnished by the persons of the next sequence.

(3) Where several persons of the same sequence are liable to furnish support the obligations among them are apportioned according to their resources. Where the support is furnished only by one of them he or she is entitled to claim from the rest of them their share which they have been obliged to furnish with the accrued interest.

Sequence of the persons entitled to support

Article 81

The person who is liable to furnish support to several persons entitled to support is obliged to furnish it in the following sequence:

1. To children, to spouse or a former spouse;
2. To parents;
3. To grandchildren and great-grandchildren;
4. To brothers and sisters;
5. To grand-father and grand-mother, and to ancestors of a higher degree.

Maintenance to a former spouse

Article 83

(1) Only the spouse who has not been guilty for the divorce has a right to maintenance.

(2) Maintenance is due up to three years maximum from the date of the dissolution of the marriage, unless the parties have agreed upon a longer term. The court may extend these terms where the former spouse, recipient of the maintenance is in financial troubles exceptionally unconditioned and the other spouse is able to furnish it without particular inconvenience.

(3) The right to maintenance of the former spouse discontinues when he or she contracts another marriage.

Amount of support

Article 84

The amount of support is determined according to the needs of the person who has the right to support and the means of the person who is liable to furnish it.

Alteration and discontinuance of the support

Article 86

With a change of circumstances the adjudged support may be altered or discontinued altogether.

Support for past periods of time

Article 87

Overdue support may be claimed up to a maximum of a year preceding the bringing of the action.

Relinquishment of support

Article 88

The relinquishment of support for future periods is null and void.

Payment of cash support

Article 89

The support in cash is paid monthly. By default an interest of one per cent per month is due.

Prohibition for compensation

Article 90

A compensation between taking and an obligation for support is prohibited.

Forfeiture of the right to support

Article 91

(1) A person who has committed a grave offence against a person who is liable to furnish him with support, against his spouse, descendant or ancestor is not entitled to claim support.

(2) The foregoing provision is not applied to the support of children who have not completed sixteen years of age.

(3) A person deprived of parental rights is not exempted from the obligation to support his or her children. The person deprived of parental rights through his or her misbehaviour is not entitled to claim support from his or her children.

Payment of an adjudged support by the state

Article 92

Where the indebted person does not furnish the adjudged support the latter is paid by the State on his or her account according to the conditions and ways determined by a regulation issued by the Council of Ministers.

Taking over of the support by the state

Article 93

Under the system of public relief the State takes over the care for the destituted where there are no persons under the rules set out in Article 80 who are obliged to furnish the support or where these are unable to furnish it.