BULGARIA

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A. New Developments in the Field of Divorce (since September 2002)

A new Family Code was enacted in Bulgaria in 2009. The relevant provisions of substantive divorce law are now contained in articles 49 to 59 where the grounds and consequences of divorce are regulated. A new Civil Procedure Code (CPC) was enacted in 2008. Its articles 318 to 330 provide for special procedures for matrimonial cases. The new Family Code introduced new regulations in line with some of the CEFL Principles on the Grounds for divorce.

The new Family Code (FC) preserves the two types of divorce: contested divorce based on deep and irretrievable marriage breakdown and consensual divorce based on the mutual consent of spouses to terminate their marriage. Several changes in the substantive divorce law were made with the aim to improve the access to divorce as well as to encourage the autonomy of spouses in arranging the consequences of divorce.

The law now provides for more incentives for consensual divorce. The three-years waiting period after contracting the marriage has been abolished and the scope of the mandatory agreement on divorce consequences has been narrowed with regard to its contents. It should cover not *all* but *some* of the divorce consequences: the residence of children, exercise of parental rights and contact, child support, the use of the matrimonial home, spousal maintenance and the family name (art. 51(1) FC). The spouses may also agree on other consequences of the divorce, i.e. on their property relations.

For the contested divorce many changes were introduced with regards to procedure. The significance of fault in granting the divorce was diminished. A ruling on fault can now be given only at the express request of the claimant (or the respondent) (art. 49(3) FC). The fault of the claimant no longer constitutes an obligatory ground for dismissing his/her divorce claim in the case of the respondent insisting in preserving the marriage. The importance of fault for the effects of divorce has also declined, but the guilty spouse does not have a right to maintenance from his/her former spouse (art. 145(1) FC).

The Civil Procedure Code of 2008 abolished the reconciliation stage in divorce proceedings. In order to enhance the negotiation capacity of spouses, the law imposes

on the court a duty to refer the parties to mediation (art. 49(2) FC and art. 321(2) CPC). Mediation can also commence upon the initiative of one or both spouses following the procedure set out in the Mediation Act of 2004 (MA, last amended in 2018). Mediation is *optional* with regard to any disputes between partners/spouses or parents arising from domestic relationships – art. 3 MA. The referral to mediation comes with some incentives for the parties: refunding of half of the court fees (art. 78(9) CPC) and conversion of contested divorce to a consensual one (art. 321(5) CPC). The CPC legalised the opportunity for conversion conditional to the commencement of mediation. In such a case the case shall be stayed. Each of the parties may move for a resumption of the proceeding within six months. Unless such a motion is not made, the case shall be dismissed. Where agreement is reached, depending on the content of the agreement, the case can either be dismissed or converted to a proceeding for divorce by mutual consent (art. 321(2)–(6) CPC).

Mediation in Bulgaria is organised as a private service monitored by the Minister of Justice via regulations setting out the minimum standards for the profession (mandatory training and curriculum; procedural and ethical rules for mediators) and entry into the public registry.[1]

The new Family Code increased the opportunities for spouses to settle by agreement regarding all or some effects of the contested divorce at any stage of the proceedings (art. 49(4) FC). The law particularly encourages the spouses to agree on the consequences related to children (art. 59(1) FC). The agreement should be lawful and guided by the principles as laid down by art. 2 of the Family Code as well as by the best interests of the child as a primary consideration. In this respect the court may request an expert opinion from the Social Assistance Directorate (SAD) (articles 49(5) and 51(2) FC).[2] The court shall scrutinise the agreement and approve it if satisfied by the arrangements. If the agreement reached in the frame of contested divorce only concerns some of the effects of divorce, the court will arrange the other aspects thus providing an *ex officio* judgment on all the effects of divorce (articles 49(5) and 59(2) FC). To secure that all consequences of the divorce have been arranged, the Civil Procedure Code instructs the court to provide a judgement *ex officio* on certain issues: the exercise of parental rights, contact with children, child maintenance, use of the matrimonial home, spousal maintenance and the family name (art. 322(2) CPC).

B. New Developments in the field of Maintenance between former spouses (since September 2002)

1 At: https://mediation.mjs.bg/ see also articles 8-8a of the Mediation Act.

2 The Social Assistance Directorates and their Child Protection Departments (CPD) are structures, part of the state administration established at the level of municipalities for the first time in Bulgaria after the adoption of Child Protection Act in 2000 (Art.20 CPA). In every lawsuit the court shall notify the CPD and the it shall either appear in court or present a report (Art.15, para 6 of CPA).

The new Family Code (2009) introduced few changes to the former regulation on the maintenance of spouses after divorce, now in articles 139 to142 and 145 to 151. The restrictive approach firmly promoting the self-sufficiency principle remains, although the new regulation was adopted in an entirely new socio-economic situation.

The general right to maintenance arises from the inability of the person to be gainfully employed or to support him/herself by his/her property (art. 139 FC). The concept of unemployability has been borrowed from the Code on Social Security (1999). Another change is the position of the former spouse within the circle of claimants and respondents of maintenance. The former spouse now owes maintenance only if there are no children or parents able to provide it – the ex-spouse comes as a debtor after these relatives (art. 140(1), point 3 FC). The former spouse may claim a maintenance from his/her ex-spouse only if he or she does not have children able to provide maintenance nor parents (art. 141(3) FC).

C. New Developments in the Field of Parental responsibilities (since December 2004)

The Bulgarian Family Code of 2009 introduced important changes in the law on the parental responsibilities, now in articles 122 to 138a. Most of them are in line with the CEFL Principles on Parental responsibilities.

Definition

The new Family Code provides a definition of parental responsibilities – in Bulgaria the legal term still is parental rights and duties. The law now stipulates that the parent shall have the right and obligation to take care of physical, mental, moral and social development of the child, for his/her education and his/her personal property (art. 125(1) FC). The concept of "care" comprises all the everyday regular activities of the parents to supervise and raise the child but also their long term as well as urgent decisions. The law guides the parents to raise the child, provide for his/her education, and allow them to form their own views in accordance with the child's own capacities and in reference to the child's needs and talents and in view to the child growing up as an independent and responsible person (art. 125, para 2 of FC). The evolving capacities of children determine the scope of parental supervision. To a child (below the age of 14) the parent shall provide permanent supervision but to an adolescent child (aged between 14 and 18 years), only appropriate control (art. 125(3) FC).

There are no changes regarding the attribution of parental responsibilities. The legal attribution of the parental rights and duties is an *ex lege* consequence of the established legal filiation. The adoption order rendered by the court (in full or in partial adoption) also attributes parental responsibilities to adoptive parent(s). The spouse of the parent (art. 122(3) FC), the foster parent or any person who has been assigned with a child's

care, shall not acquire parental rights and duties (art. 137(1) FC). The spouse of the parent should assist him/her in exercising the parental responsibilities. Parents cannot delegate their parental rights and duties to other persons. The divorce or the separation of unmarried parents does not affect the legal attribution of the parental rights and duties but rather their exercise. Bulgarian law does not regulate the attribution of parental rights to same-sex parents.

Rights of the child

The Family Code of 2009 provides for certain 'family' rights of the child. The child has a right to be raised and educated in a way which should secure his/her physical, mental, moral and social development (art. 124(1) FC) and the right to personal relations (contact) with his/her parents, unless the court has otherwise decided (art. 124(2) FC).

Although there is no explicit duty of parents to consult their children in making decisions affecting their lives, the law implies such a duty. For example, in case of disagreement with their parent(s), a child may approach the SAD for assistance. A child at 14 years of age and above who disagrees with his/her parents on significant issues, may approach the District court, through SAD (art. 124(3) FC). In general, the child can address the child protection authorities, which are the State Agency for Child Protection and the SAD at the municipalities, in any case. The latter can provide consultancy to resolve the dispute or could instigate court proceedings if the child is at risk, or for the purpose of restricting parental rights and duties (art. 21(1), item 14 of Child Protection Act, CPA).

The child has a right to be heard in all court procedures under the conditions of Art. 15 CPA (art. 138 FC). The principle of the best interests of the child as a primary consideration in any decision affecting the child is incorporated in the relevant provisions of the Family Code (articles 59(4); 123(1); 128(1); and 129 to 131).

The Family Code of 2009 stipulates that parents are not allowed to use violent methods of discipline or any methods which amount to degrading treatment or punishment of the child (art. 125(2) in fine FC). The sanction for infringement of this stipulation could be: restriction or termination of parental rights and duties (articles 131 to 132 FC), restraint orders under the Protection against Domestic Violence Act (2005), or penalties under the Criminal Code in case the violence constitutes a crime (infliction of severe or medium bodily injury or a health impairment – articles 128 to130 Penal Code). The child should receive protection under the CPA including placement outside family by the court if he/she it at risk (art. 25(1), item 4 and articles 26 to 28 CPA). A child at risk is a child: "b) who has become victim of abuse, violence, exploitation or any other inhuman or degrading treatment or punishment either in or out of his or her family" (Additional provision, para. 5 CPA).

Exercise of parental responsibilities

The parental rights and duties shall be exercised in the best interests of the child by both parents jointly upon their mutual consent (art. 123 FC). It is assumed however, that the daily matters could be decided by either parent. The law stipulates that certain important and urgent decisions could be taken be each parent separately but does not specify which decisions these are. This is a matter left to other legislation i.e. on health, education and personal documents. In such a case the parent acting alone shall be obliged to inform the other parent (art. 123(1)-(2) FC). If parents cannot agree on an issue, the dispute should be resolved either by mediation or by the court (art. 123(2) in fine FC). Disputing parents can also seek assistance to resolve the conflict from the Child Protection Department (art. 23(4) CPA).

The exercise of parental rights should be attributed to one of the parents – *sole exercise (sole custody*) – in case of divorce or separation of unmarried parents. In case of sole exercise of parental rights the entrusted parent should take all the decisions of daily nature and some of the important decisions (e.g. consent for medical treatment, the choice of school and education of the child, the child's representation). The law does not explicitly regulate *shared parental rights* (*custody*) following the divorce or separation of parents but the Code allows for such an option if parents are able to reach an agreement. Agreement is possible in both types of divorce. In contested divorce (based on marriage breakdown) it is an option at the disposal of parents: article 59(1) read in conjunction with article 49(4) and (5) FC. In the consensual divorce the agreement is mandatory but it depends on parents what type – sole or shared exercise – is agreed upon (art. 51(2) FC). In both cases the best interests of the child is a standard for the scrutiny of the agreement by the court. The Supreme Court of Cassation has recently confirmed, that if agreed by parents, a *shared exercise* of parental rights (shared custody) is an option (Interpretative decision No 1/2016 of 3.07.2017, para. 2). The Court also concludes that in case parents cannot agree on shared exercise, the law (art. 59(2) FC) does not allow for the court to decide such. It is possible though, within the regime of sole exercise (custody), for the court to allocate certain rights to both parents or to the non-custodial parent (art. 59(2) FC). The same applies in case of separation of unmarried parents (art. 127 of FC).

Exercise by third parties

Persons assigned with the care of the child by the parents can exercise certain parental rights and duties – the so called 'special cases of care' (art. 137 of FC). The carers should provide the care and may, without the agreement of the parents, take decisions to protect the life and the health of the child (art. 137(1) and (2) FC). The persons with whom the child has been placed by a court order, shall have the duties of the parents (art. 137(3) FC). The carers also should perform the necessary legal protection of the

child's personal rights, related to his/her health, education and civil status, as well as for issuing personal identification documents under the Law on the Bulgarian Personal Documents, after a positive opinion by the SAD. The carers should deposit the personal money of the child in bank accounts (art. 137(4) in conjunction with art. 165(3) FC). Legal actions concerning the child should be performed by the Social Assistance Directorate in case of an ongoing procedure for placement of the child into public care (art. 137(4) FC). This is a new concept in the Bulgarian family legislation.

Residence and relocation

The parents and the under aged children shall live together, unless important reasons impose living separately (art. 126(1) FC). The Bulgarian law does not govern shared or alternate residence of the child with parents following their separation or divorce. In such cases the child's residence should be either determined with one of the parents by the court (art. 59(2); art. 127(2) FC) or agreed by the parents (art. 59(1) in conjunction with art. 49(4) and (5); art. 51(1); art. 127(1) FC). Usually the child resides with the parent that is entrusted with the exercise of parental responsibilities. In case parents are able to arrange the child's residence in a more flexible way – shared or alternate – the court could approve the agreement only if it is in the best interests of the child (articles 51(2) and 59(1) FC). A parent alone cannot change the residence of the child as envisaged in the court decision or in the agreement. It is possible by a new agreement or by a court decision (articles 51(4) and 59(9) FC).[3]

The Family Code does not apply the concept and the term 'child relocation'. A new provision, article 127a, was added to the Code in 2010 to provide explicit regulation on dispute resolution between parents related the travel of the child abroad (art. 127a FC). Parents should jointly apply for a passport for the child (art. 45 of Identity Documents Act, IDA) and parents should jointly agree in writing for the child to leave the jurisdiction (art. 76, item 9 IDA). In case of dispute, a parent should bring the matter before the court and the decision will replace the missing consent of the other parent. An interpretative decision of the Supreme Court of Cassation No 1/2016 of 3.07.2017, para 1 established that the court may grant permission for the travel of a underage child abroad without the consent of the one parent only in the best interest of the child, in respect of concrete destinations and for a determined period of time.[4]

In cross border cases of wrongful removal or retention of a child, procedures can be commenced under the Hague Convention on the Civil Aspects of International Child Abduction[5] or Brussels II bis Regulation (EU Regulation 2019/1111 recast). The

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[3] See more in: Tsankova, Ts., M. Markov, A. Staneva, V. Todorova, V. Petrov, E. Balevska, B. Decheva, V. Micheva. Family Code. Applied Commentary. Sofia, 2015, pp. 375-376.

[4] See: European Court on Human Rights, *Penchevi v. Bulgaria*, Judgment of 10.02.2015, Application no. 77818/12.

[5] The Convention is in force for Bulgaria from 2003.

Bulgarian Central authority is the Ministry of Justice and the competent court is the Sofia City Court (art. 22a(1) CPA). The claim for the return of a child or for the exercise of rights of access under the Hague Convention shall be examined by the Sofia City Court with the participation of: (1)the Ministry of Justice or the applicant; (2) the interested parties; and (3) a prosecutor. The Social Assistance Directorate with the municipality wherein the child has its current address shall submit an opinion in the proceedings and the court shall hear the child in accordance with article 15 of CPA (article 22a(2) CPA).

Maintenance of personal relations

The child's right to personal relations with his/her parents, unless the court has otherwise decided (art. 124(2) FC) is a new stipulation provided with certain new safeguards in cases of: divorce or separation (articles 51(2); 59(2) and 127(2) FC), placement of the child in care (art. 59(7) FC) and deprivation of parental rights (art. 134, item 2 FC).[6] The regime of personal relations between the child and the non-custodial parent, as a consequence of the divorce or separation, can be part of the parents' agreement[7] or can be ordered by the court.[8] The law specifies that the best interests of the child should guide the decision in establishing contacts between parents and children (art. 59(4) FC). The contact regime shall include determination of a period or specific days, in which the parent may see and take the children, including the school holidays, official holidays and personal holidays of the child, as well as during some other time (art. 59(3) FC). If needed, the court shall determine appropriate protection measures to provide implementation of the contact regime such as: (1) supervised contact; (2) contact to take place at a certain place (e.g. at contact centres organized by social services providers) and (3) bearing the costs for the child's trip, if this is necessary, and of the person accompanying him/her (art. 59(8) FC). The contact may have different forms – direct and indirect (via telephone, letters and e-mails, or via Skype).[9]

The fulfilment of the contact regime is often a point of conflict between parents. The parent obstructing the contact bears criminal liability and also risks the enforcement of measures for the restriction or termination of parental rights (articles 131 and 132 FC), or revision of the custody decision (art. 59(9) of FC). The Civil Procedure Code of 2008 created a regime for the enforcement of the contact order by the bailiff (art. 528 CPC): where the bailiff initiates the execution of a transfer of a child, as well as of the

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6 More in: Tsankova, Ts., et all. Family Code. Applied Commentary. pp. 409-433.

7 In cases of consensual divorce (Art.51, para 2 FC), divorce based on irretrievable breakdown of the marriage (Art.59, para 1 in conjunction with Art.49, para 4-5 FC) or in case of separation of unmarried parents (art.127, para 1 FC).

8 In cases of divorce based on irretrievable breakdown of the marriage (Art.59, para 2 FC) or in case of separation of unmarried parents (art.127, para 2 FC).

9 See Interpretative decision of the Supreme Court 1/1974, point 4; Decision of Supreme Court of Cassation on case 1445/2009, IV civil division.

following return of the child, he/she shall invite the debtor to perform voluntarily at the appointed place and time. The debtor (custodial parent) shall notify the bailiff about: (1) if he/she is ready to transfer the child at the appointed time and place; (2) what obstacles exist for the timely performance of the obligation; (3) where and when he/she is ready to transfer the child. For failure to secure the contact voluntarily, the bailiff shall impose a fine to the debtor (art. 528(3) CPC), and if needed shall pronounce the compulsory bringing of the child. In a compulsory transfer of the child the bailiff may require assistance or the undertaking pf appropriate measures under article 23 of the Child Protection Act from the Social Assistance Directorate. In case it is necessary, the police authorities should assist in the enforcement of contact according to article 65 of the Law on the Ministry of Interior. In case of a lack of voluntary performance, the bailiff with the assistance of the police authorities and the mayor of the municipality, of the region or of the mayoralty, shall compulsorily take away the child and transfer him/her to the creditor. The child has the right to claim a contact regime with his/her grandparents (art. 128(1) FC). The same right is provided to the grandparents. On this matter and upon a Request for a preliminary ruling under Article 267 TFEU from the Supreme Court of Cassation, Bulgaria (Case C-335/17) the ECJ decided that 'the concept of 'rights of access' referred to in Article 1(2)(a) and in Article 2.7 and 2.10 of 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, must be interpreted as including rights of access of grandparents to their grandchildren.'

Administration of child's property

Some changes were made in the rights of parents to administer the property of the child. As a general new rule the parents are under the duty to manage the child's property in their best interests and with the care of a good owner (art. 130(1) FC). The principle of family solidarity now applies to the child's property: the profits from the child's property, which are not needed for his/her needs, may be used for the family needs (*usufruct*) (art. 130(2) FC). The general rule remains that any disposal of child's immovable property, bank deposits and valuable moveable is conditional on the permission of the court if the disposal is not against the child's interests (art. 129(3) of FC). The assessment of the child's best interests could be assisted by an expert opinion from the Child Protection Department (art. 15(6) of CPA). Certain dispositions of property are forbidden by the law: donation, refusal, lending money and securing someone else's obligation by the child shall be null (art. 129(4) FC). By exception, securing someone else's obligation through pledge or mortgage may be done with the court's permission in cases of: need or evident profit for the child or outstanding needs of the family (art. 129(4) second sentence FC).

D. New Developments regarding Property Relations Between Spouses (since August 2008)

The Family Code of 2009 introduced a new regulation of the property relations between spouses. In place of the single imperative regime of the community of property acquired during the marriage, the new law lays down three matrimonial property regimes in articles 18 - 43 of the Family Code.

The matrimonial property regimes are: (a) community of property (a default regime); (b) complete separation of property, and (c) contractual regime (marital contract) (art. 18(1) FC). Spouses are free to choose a regime either before contracting or during the marriage. There are no limits for the spouses to opt for or opt out of the regime during the marriage (art. 18(4) FC). The rights of third parties should be protected by the mandatory registration of the regime into the public central electronic Register on Matrimonial Property Regimes at the Registry Agency (art. 19(1) FC).[10] The registration consists of a two-stage procedure. First comes the notification of the Civil Registrar of the matrimonial property regime, if chosen by the (future) spouses. In case a statutory regime has been chosen, they should submit their declaration, in case of marital agreement, they should submit the certificate issued by the notary. The Civil Registrar enters the regime on the Marriage Certificate and notifies *ex officio* the Registry Agency that enters the regime/agreement into the registry of matrimonial property regimes as a second stage of the procedure (articles 9(2); 10(2) and 19(2) FC). The registered regime is the valid one for the third parties and if no regime is entered for the respective marriage, the statutory regime of community of property should be applied.

Community of property regime

The community of property regime is the former single regime of community of property. It is a statutory regime and is the default matrimonial property regime in Bulgaria. It combines limited community of property – only of real assets acquired during the marriage (art. 21(1) FC) with personal property of assets. It shall be applied to the marriage if the spouses have chosen it prior or during the marriage (art. 9(2) and art. 18(4) FC); or *ex lege* as a default regime in the following cases: (a) the spouses have not declared any choice of matrimonial property regime (art. 8(2) FC); (b) both or one of the spouses is below 18 years of age or under partial guardianship (art. 18(2) FC); or (c) the matrimonial property agreement, when concluded, does not settle the whole range of matters and for the unsettled ones the community of property shall be applied (art. 38(4) FC). The regime (art. 18(2) FC) also applies to marriages that have been concluded before the entry into force of the Family Code on 1.10.2009. The agreement

[10] See also a Regulation No 11/2009 of the Minister of Justice on the Register on Matrimonial Property Regimes.

of spouses to choose this regime shall be declared in writing and certified by a notary. The new matrimonial property regime applies also to all assets acquired before or after the new law being enforced. Arguments for the retroactive application of the new regime are contained in para. 4 of the Transitional Provisions, FC 2009.

The community of property comprises only property rights on real assets (real property and movables, occupation right etc.) acquired during the marriage (art. 21(1) FC). Acquisition of other kinds, e.g. bank accounts, investments, saving accounts, shares and stocks, copyrights, insurance and pension rights are personal. The bank accounts are excluded *ex lege* from the community since 1.10.2009. The spouse's earnings are personal. Earnings however, if invested in an asset of the category that is community of property, become community of property (e.g. purchase of a house, a car, furniture etc.). The title at acquisition is not relevant: acquisition by either spouse creates property rights for the other spouse (art. 21(1) FC). Both spouses become title holders of the respective asset. The regulations of the regime remains the same as under the Family code of 1985, abolished in 2009.

Separation of property

The complete separation of property is the second statutory matrimonial property regime in Bulgaria after 2009. It applies to the marriage only if selected by the spouses upon marriage or during the marriage in a form of declaration certified by a notary (art. 9(2) FC). Under this regime, each spouse retains the ownership of the property acquired on his or her name, whether before or during the marriage (art. 33(1) FC). The same applies to debts of spouses. In contrast with the default regime of community, both spouses are jointly liable for the 'expenses necessary to meet the family needs' (art. 33(2) FC). By 'expenses' the law means the direct payments for everyday household needs. Spouses can acquire assets separately or jointly but their property rights will be regulated by the common civil and property legislation. Upon divorce, each spouse is entitled to financial compensation in terms of part of the value of all acquisitions of the other spouse during the marriage. The applicant ought to prove contribution to the acquisitions in any form (art. 33(2) FC). The claim for part of the value of all acquisitions of the other spouse during the marriage is based on the assumption of unjust enrichment.[11] The restriction imposed on the private property right to dispose the family home also applies within the complete separation of property regime (art. 34 FC). The owner of the family home may dispose it only with the consent of the other spouse unless both spouses have another such property – either common or personal property.

Marital agreements

[11] See: Nenova, L. Family Law of Republic of Bulgaria. Sofia, 1994, p. 220.

Since 1.10.2009 spouses in Bulgaria may enter into marital agreements before or during the marriage (articles 18(4) and 37(1) and (3) FC). The marital agreement comes into effect at the date of its signature or at another date, indicated in it, if concluded during the marriage, or from the moment of contracting the marriage in case it has been concluded prior to the marriage (art. 40(1) FC). The agreement may only govern property relations between spouses (art. 38(1) FC).[12] Spouses may choose to create their own set of regulations or equally they may refer to any of the two statutory regimes in combination with other clauses or to modify the statutory regimes (art. 38(2) FC). The referral only to a statutory regime, either the default community of property or the separation of property, does not make the agreement invalid but it is rather considered as a choice of statutory regime by non-appropriate form of consent.[13]

The marital agreement could cover a whole range of property and financial clauses governing relations during the marriage as well as following the divorce. The law offers a non-exhaustive list of possible clauses in the agreement (art. 38(1) FC). These are, for instance, the rights over the pre-marital and marital acquisitions (art. 38(1), p. 1-2 FC). The law does not permit a stipulation to turn the premarital property of spouses into a community of property (art. 38(2) FC). The spouses may stipulate their single or joint administration and/or disposition of properties, including the family home (art. 38(1), p. 3 FC), their participation in the expenses and obligations (art. 38(1), p. 4 FC), and their mutual maintenance obligations and child maintenance both during the marriage and after the divorce (art. 38(1), p. 3 FC). The agreement shall not contain provisions in case of death (art. 38(3) FC). The existence of a marital agreement does not prevent spouses to settle the property and financial consequences of the divorce otherwise in case of divorce.

The marital agreement is a formal deed. It shall be concluded in person by the parties in writing with a notary certification of the contents and of the signatures of spouses (art. 39(1) FC). The spouses shall be of legal age and of full legal capacity (art. 37(2) and art. 18(2) FC).

The marital agreement could be terminated by mutual consent of the parties. In this case they may choose a statutory regime, or conclude a new agreement. If they fail to do so, the matrimonial regime of community of property shall be applied (art. 42(1), p. 1 FC). The agreement may be terminated by the court in case of considerable changes in the circumstances, if the agreement seriously harms the interests of the spouse or the children (art. 42(1), p.2 of FC). The matrimonial contract may be overturned by the court in case of faulty behaviour of either spouse who does not follow his/her

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12 For the discussion on other clauses see: Tsankova, Ts. et all, Family Code. Applied Commentary. p.120 and Topusov, D. Nullity of the marital contract. Sofia, 2016, p.46-50.

13 The law requires a simpler form – declaration signed by the spouses and by a notary, whilst the agreement needs a signature of the notary for the contents of the agreement. See more on this in: Tsankova, Ts. et all, op. cit., p. 121.

obligations, if this does not contradict the principles of the law and of the good morals (art. 42(2) FC). The rules of contract and obligations law shall apply regarding invalid marital agreements. Voidability shall be in force for the future. In this case the spouses may choose a legal regime or sign a new agreement. If they fail to do so, the legal matrimonial community of property regime shall be applied (art. 43 FC).

The marital agreement governs the internal relations between spouses. It can not infringe the rights of third parties acquired before signing of the agreement (art. 40(2) FC). The binding effect of the marital agreement vis-a-vis third parties is based on its registration into the Registry of matrimonial property regimes. The third parties have to respect only the regime registered in the Registry. In case there is no regime of property relations entered into the register, the (subsidiary) legal regime of common ownership shall be applied (art. 20 FC).

E. **New Developments in the field of De Facto Partnerships (since February 2015)**

There have been no new developments in the field of de facto partnerships since February 2015.