



Religare Database

First part: General provisions

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Art. 18

Maintenance

(1) The substantive provisions of the law of the place where the person entitled to maintenance has at a given time his or her habitual residence shall apply to the duty of providing maintenance. If the person entitled cannot obtain maintenance from the obligee under that law, the substantive provisions of the law of the country of common nationality shall apply.

(2) If the person entitled is unable to obtain maintenance from the obligee under either of the laws applicable pursuant to subarticle 1 sentence 1 or 2, German law shall be applied.

(3) In case of maintenance obligation between persons related in the collateral line or by marriage, the debtor may plead against the claim of the person entitled that under the substantive provisions of the law of the country of their shared nationality or, in the absence of a shared nationality, under the law applicable at the place of habitual residence of the obligee, there is no such duty.

(4) If a divorce is decreed or recognized here, the law applied to the divorce is applicable to the obligation to provide maintenance between the spouses and for modifications concerning these obligations. This is also valid in cases of separation or annulment of the marriage and in the case of a marriage declared void or invalid.

(5) German law shall be applied if the person entitled as well as the debtor have their habitual residence within the country.

(6) A law applicable to an obligation to provide maintenance determines, particularly:

1. whether, to what extent and from whom a person entitled may demand maintenance;
2. who is entitled to file a maintenance action and what the deadlines for filing are;
3. the extent the obligee's obligations, to reimburse an institution taking care of official duties, that seeks, according to the law governing it, restitution for payments which it made to the person entitled.

(7) In assessing the amount of maintenance, the needs of the person entitled and the economic circumstances of the obligee shall be considered, even when the applicable law otherwise directs.