

CHAPTER IV

ADOPTION

Section 1598/19. A person who is not less than twenty five years old may adopt another, provided he is at least fifteen years older than the adopted person.

Section 1598/20. If the person to be adopted is not less than fifteen years of age, the adoption can take place only with the consent of the adopted person.

Section 1598/21. If the person to be adopted is the minor, the adoption can take place only with the consent of his parents, but if one of his parents died or has been deprived of his or her parental powers, consent thereto has to be given by his father or mother who has parental power.

If there is no person to give consent under paragraph one or the father or mother, or parents cannot express his or her consent thereto or refuses to give his or her consent, and the refusal has been made unreasonably and has adversely affected the health, progress and welfare of the minor, the mother or father, the person intending to be the adopter or the Public Prosecutor may apply to the Court for an order allowing the adoption in lieu of giving consent thereto under paragraph one.

Section 1598/22. In case the minor to be adopted has been deserted and been under supervision of an institution for child welfare under the law on child welfare and protection, the institution shall give consent on behalf of his parents. If the institution refuses to give such consent, the provisions of paragraph two of Section 1598/21 shall apply, *mutatis mutandis*.

Section 1598/23. In case the minor to be adopted has not been deserted but has been under supervision of an institution for child welfare under the law on child welfare and protection, the parents or one of the parents, in case the other died or whose parental power has been deprived, may make a letter of power entrusting the said institution to give consent to the adoption, and the provisions of Section 1598/22 shall apply, *mutatis mutandis*.

The letter of power under paragraph one cannot be revoked as long as the minor is supported and maintained by that institution.

Section 1598/24. The person who has the power to give consent to the adoption on behalf of the institution under Section 1598/22 or Section 1598/23 may adopt the minor being under supervision and support of the institution as his own adopted child if the Court has granted the application made by the said person in lieu of giving consent thereto by the institution.

Section 1598/25. A married person who is to adopt or is to be adopted, must obtain consent of his or her spouse. If his or her spouse cannot express the consent or has left the domicile or residence and no news of him has ever been received for not less than one year, the application for the Court's permission in lieu of the consent by the spouse must be made.

Section 1598/26. A minor who is an adopted child of any person cannot concurrently be an adopted of another person except an adopted of the spouse of the adopter. If one spouse will adopt the minor who has already been the adopted child of the other as his or her adopted child, the consent thereto must be obtained from the latter, and Section 1598/21 shall not apply.

Section 1598/27. Adoption is valid upon registration being effected according to law. If the person to be adopted is a minor, it has to comply firstly with the law on the adoption of the child.

Section 1598/28. An adopted child acquires the status of a legitimate child of the adopter, but none of his rights and duties in the family to which he belongs by birth are prejudiced thereby. In such , the natural parent lose parental power, if any, from the time when the child is adopted.

The provisions of Title 2 of this book shall apply *mutatis mutandis*.

Section 1598/29. Adoption does not creates to the adopter the right of a statutory heir to the inheritance of the adopted.

Section 1598/30. If the adopted dies without a spouse or descendant before the adopter, the adopter is entitled to claim from the estate of the adopted the properties which were given to the adopted by the adopter and which still exist in kind after the liquidation of the estate.

No action for claiming the right under paragraph one shall be entered later that one year as from the day when the adopter has known or ought to have known the death of the adopted, or later than ten years as from the death of the adopted.

Section 1598/31. If the adopted has become sui juris, the dissolution of adoption may be made at any time by mutual consent of the adopted.

If the adopted is not yet sui juris, the dissolution of adoption shall take place after the consent of the parents has been obtained, and Section 1598/20 and Section 1598/21 shall apply *mutatis mutandis*.

In case where the adoption has been effected under paragraph two of Section 1598/21, Section 1598/22, Section 1598/24 or paragraph two of Section 1598/26, if the adopted is not yet sui juris, the dissolution of adoption shall be effected only by the order of the Court upon application of an interested person or of the Public Prosecutor.

The dissolution is valid only upon registration being effected according to law.

Section 1598/32. The adoption will become dissolved if the marriage is made in contravention of Section 1451.

Section 1598/33. As regards action for dissolution of adoption:

1. if one party is guilty of serious misconduct whether it be a criminal offence or not, which causes the other very much ashamed or being hated, or sustaining excessive injury or trouble, the latter may claim dissolution
2. if one party has seriously insulted or held in serious contempt the other or his ascendants, the latter may claim dissolution, and if the said commission has been done against the spouse of the adopter by the adopted, the adopter may claim dissolution;
3. if one party has committed any act of violence against the other, his ascendants or his spouse which causes grave danger to the body or mind and constitutes offence criminally punishable, the latter may claim dissolution;
4. if one party does not maintain the other, the latter may claim dissolution;
5. if one party has willfully deserted the other for more than one year, the latter may claim dissolution;
6. if one party has been sentenced to imprisonment exceeding three years, except an offence committed through negligence, the other may claim dissolution;
7. if the adopter fails to comply with his parental duties and such failure constitutes a wrongful act or non-compliance with Section 1564, Section 1571, Section 1573, Section 1574 or Section 1575 which caused or would have caused serious injury to the adopted, the adopted may claim dissolution;
8. if the adopter has been deprived partly or wholly of his parental power, and the grounds for such deprivation bears circumstantial evidence showing that the adopter is not the proper person to be adopter further, the adopted may claim dissolution;
9. *(Repealed)*

Section 1598/34. No action for dissolution of adoption shall be entered later than one year from the day when the claimant has known or ought to have known of the fact constituting the ground for dissolution, or later than ten years from the time of the occurrence of such fact.

Section 1598/35. If the adopted is under fifteen years old, the action for dissolution of adoption shall be entered on his or her behalf by the inborn parents. As regards the adopted being more than fifteen years old, he or she can enter the action without having to obtain consent from any person.

The Public Prosecutor may, in case under paragraph one, enter the action on behalf of the adopted.

Section 1598/36. Dissolution pronounced by the Court takes effect on and from the time when the judgment becomes final. However, it may not be set up to the prejudice of the rights of third persons acting in good faith unless it has been registered.

Section 1598/37. Upon death of a child adopter or a dissolution of a child adoption, the natural parents shall, in the case of the adopted child not yet becoming sui juris, recover the parental power from the date of the death of the child adopter or from the date of the child adoption dissolution registration under Section 1598/1 or from the date on which the final judgment affecting such child adoption dissolution has been pronounced by the Court unless the Court has otherwise expediently decided.

In case where a guardian of an adopted child has been appointed prior to the death of a child adopter or prior to the child adoption dissolution, such guardian's existing power and duties shall continue unless the child's natural parents have otherwise petitioned the Court and that the Court has issued an order restoring the parental power upon such petitioners.

A change in the person exercising the parental power under paragraph one or the guardian under paragraph two above shall not prejudice the rights of the third person acquired in good faith prior to the child adoption registration dissolution.

The Public Prosecutor shall be the person empowered to submit a petition to the Court in order to have the Court issue an order otherwise in accordance with paragraph one above.