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come modificata dalla legge 31 dicembre 1998, n. 476**

Disciplina dell' adozione e dell' affidamento dei minori

TRADUZIONE NON UFFICIALE

Law 184 of 4 May 1983 as amended by

Law 476 of 31 December 1998

UNOFFICIAL TRANSLATION

Provisions Regarding the Adoption and Foster Placement of Children

TITLE I

Foster Placement of Children

ARTICLE 1

The child has the right to be raised and educated in his or her own family.
This right is regulated by the provisions of the present law and by other special laws.

ARTICLE 2

In cases where the child's family is temporarily unable to provide the child with a suitable family environment the child may be placed in another family, if possible one with minor children, with a single person or with a family-based centre, who shall ensure his/her maintenance, upbringing and education.

In cases where no suitable foster family is available, the child may be placed in a public or private child care institution, preferably located in his/her region of residence.

ARTICLE 3

Until a guardian is appointed and in all cases where the exercise of parental authority or guardianship is impeded, the public or private child care institution shall exercise custodial powers over the child in accordance with Chapter I of Title X of Book I of the Italian Civil Code. The child care institution shall assume the powers and duties of the foster parent referred to in Article 5. If the parents resume the exercise of their parental authority, the care institution shall if necessary ask the magistrate responsible for guardianship matters (*giudice tutelare* – hereinafter the “magistrate”) to set limits or conditions on the exercise of such rights.

ARTICLE 4

Foster placement shall be arranged by the appropriate local service, subject to the consent of the

parents or of the parent exercising his/her parental authority, or of the guardian. If the child is twelve years old or, where appropriate, younger, his/her opinion and wishes shall also be taken into consideration. The magistrate in the child's place of abode shall make the measure executive by means of a decree.

In cases where the parents exercising their parental authority or the guardian have not given their consent, the juvenile court shall decide. Articles 330 et seq. of the Civil Code shall apply.

The foster care measure shall specifically state the reasons it has been taken, together with the timing and conditions for the exercise of the rights assigned to the foster parent. The expected duration of the placement shall be also stated, together with the local service entrusted with supervisory duties during the placement. These duties shall include providing the magistrate or the juvenile court with up-dated information on the foster care situation, depending on whether the measure was issued in accordance with the first or the second paragraph. The foster care placement shall be terminated by a measure issued by the same prescribing authority, with due consideration for the child's best interest, if the situation of temporary difficulty of the family of origin has come to an end or if the continuation of the placement would be prejudicial to the child.

After the period set for the placement has expired, or if the circumstances referred to in the preceding paragraph have arisen, the magistrate shall, if necessary, ask the competent juvenile court to adopt further measures in the child's best interest.

The juvenile court, at the request of the magistrate or *ex officio* in the case referred to in the second paragraph, shall act in accordance with said paragraph.

ARTICLE 5

The foster parent shall take the child into his/her home and provide for his/her maintenance, upbringing and education. He/she shall take into account the wishes of the parents – as long as no decision has been issued in their regard under articles 330 and 333 of the Civil Code – or of the guardian, and shall observe any conditions laid down by the foster care authority.

The provisions of Article 316 of the Civil Code shall apply to the extent they are compatible.

The foster parent shall facilitate the relationship between the child and his/her parents and shall encourage his/her return to his/her family of origin.

The norms referred to in the preceding paragraphs shall apply, to the extent they are compatible, in cases of children living in a family centre or care institution.

TITLE II

Adoption

CHAPTER I – General Provisions

ARTICLE 6

Eligibility to adopt shall be restricted to spouses who have been married for a minimum of three years, who have not undergone any form of separation, including *de facto* separation, and are suited to raise, educate and maintain the child(ren) they wish to adopt.

The prospective adoptive parents must be at least eighteen years and no more than forty years older than the child. The prospective adoptive parents shall be allowed to adopt more than one child, either at

the same time or with subsequent acts.

ARTICLE 7

Adoption shall be allowed for minors declared to be adoptable pursuant to the following articles. Minors who have reached the age of fourteen may not be adopted unless they personally express their consent. This consent must also be expressed if the minor reaches the age of 14 during the proceeding. Such consent may in any case be revoked at any time until the adoption is definitive.

If the child has reached the age of twelve, his/her personal opinion shall be sought. If the child is younger, his/her opinion may, if appropriate, be sought, unless this is prejudicial to his/her interest.

CHAPTER II – Declaration of Adoptability

ARTICLE 8

Children in a state of abandonment because they lack the moral and material care their parents or relatives are bound to provide shall, as long as the lack of care is not due to temporary *force majeure*, be declared *ex officio* to be adoptable by the juvenile court of the district where they reside.

The state of abandonment shall also be deemed to exist - where the conditions referred to in the preceding paragraph obtain - when the children are living in a care institution or are placed in a foster family.

Force majeure shall not be deemed to exist when the parents or relatives referred to in the first paragraph refuse the support services provided by the local services and when this refusal is considered by the judge to be unjustified.

ARTICLE 9

All members of the public may inform the relevant public authority of situations of abandonment of minors. Public officials, officers of a public service and those providing essential public services shall report as soon as possible to the juvenile court on the conditions of any child in a state of abandonment they learn about in the performance of their duties.

The state of abandonment may also be ascertained *ex officio* by the judge.

Every six months the public and private care institutions shall transmit to the magistrate of the place in which they are established the list of all the children in their care, specifying for each child their parents' place of residence, their relations with their family and their psychological and physical condition. After gathering the necessary information the magistrate shall report to the juvenile court on the condition of any children in care who result as being in a state of abandonment, specifying the reasons. Every six months the magistrate shall inspect the care institutions for the purpose referred to in the preceding paragraph. The magistrate may carry out special inspections at any time.

Anyone who is not a relative within the fourth degree of kin and takes a child to live in his/her home for a period of more than six months shall, after this period has expired, inform the magistrate, who shall transmit the relevant documentation to the juvenile court together with a report. Failure to inform the magistrate may result in ineligibility to accept foster children or adopt or to assume the status of guardian.

Any parent who permanently leaves his/her child in the care of a person who is not a relative within the

fourth degree of kin for a period of six months or more shall give notice of this within the same period referred to in the preceding paragraph.

Failure to give such notice may result in withdrawal of parental authority for his/her child pursuant to Article 330 of the Civil Code and the initiation of the procedure for the declaration of adoptability.

ARTICLE 10

Having received the information referred to in the preceding article, the chief justice of the juvenile court, or a judge delegated by the chief justice, shall take urgent steps to arrange for the local services and law enforcement authorities to conduct detailed enquiries into the legal and *de facto* conditions of the child and the environment where he/she has been living, in order to ascertain whether the state of abandonment exists.

At any time until the preadoptive placement measure has been issued the court may prescribe any appropriate temporary measure in the interest of the child, including, where appropriate, the suspension of the parents' rights over their child or of the exercise of the functions of guardian, and the appointment of a temporary guardian.

In cases of urgent need, the measures referred to in the preceding paragraph may be adopted by the chief justice of the juvenile court or by a judge delegated by the chief justice.

The juvenile court shall confirm, modify or revoke said urgent measures within thirty days.

Once it has heard the public prosecutor, the parents, the guardian, the person representing the care institution or the foster parent of the child, and taking any other relevant information into account, the juvenile court shall decide in chambers. If the child is twelve years or older, his/her opinion and wishes shall also be taken into consideration. Where appropriate, younger children shall also be heard. The public prosecutor and parents shall be notified of the measures adopted.

The provisions of Articles 330 et seq. of the Civil Code shall apply.

ARTICLE 11

When the enquiries provided for in the preceding article reveal that the parents of the child are dead and that there are no relatives within the fourth degree of kin, the juvenile court shall declare the child to be adoptable, unless applications for adoption are pending under the terms of Article 44. In this case the juvenile court shall decide solely according to the child's best interest.

In cases where the existence of biological parents who have recognised the child cannot be determined or whose maternity or paternity was declared judicially, the juvenile court, without further enquiry, shall immediately declare the child to be adoptable, unless someone who claims to be one of the biological parents requests that the procedure be suspended and for time to be made available to recognise the child. The court may suspend the procedure for up to two months, provided that the child is cared for during this period by his/her biological parent, by his/her relatives within the fourth degree of kin or in another suitable manner, and if the relationship between the child and his/her biological parent continues to exist.

In cases where a child cannot be recognised by the parent because the latter is too young, the procedure shall be postponed, if necessary *ex officio*, until the biological parent is sixteen, provided that the conditions set out in the preceding paragraph exist. When the parent is sixteen, he/she may ask for a further two-month postponement.

If the juvenile court suspends or postpones the procedure under the terms of the preceding paragraphs, it shall if necessary appoint a temporary guardian for the child.

If the child is recognised within the aforementioned time limits the procedure shall be declared closed where no moral or material state of abandonment exists. If the child is not recognised within the set time limit, he/she shall be declared to be adoptable without further formalities.

The court shall in any case inform both the presumed parents, or if this is not possible the parent who can be found, through the local services if appropriate. The parent(s) may exercise the rights provided for in paragraphs two and three above.

Once the child has been declared adoptable and preadoptive placement has been arranged, recognition shall have no effect. The decision for the judicial declaration of paternity or maternity shall be suspended and closed if the definitive declaration of adoption follows.

ARTICLE 12

When enquiries lead to the discovery of parents or relatives within the fourth degree of kin, as referred to in the preceding article, who have maintained a significant relationship with the child and whose place of residence is known, the chief justice of the juvenile court shall issue a motivated decree for them to appear within a suitable period before him or before a judge delegated by the chief justice.

If the parents or relatives reside outside the jurisdiction of the juvenile court, the hearing may be delegated to the juvenile court of their place of residence.

If they reside abroad the competent consular authority shall be delegated.

After hearing the declarations of the parents or relatives, the chief justice of the juvenile court or the delegated judge shall, if appropriate, issue a motivated decree to the parents or relatives setting out the measures required to guarantee the child's moral care, maintenance, education and upbringing. The judge shall arrange for periodic checks to be carried out directly by the magistrate or the local services, which may be appointed to intervene in order to improve the relationship between the child and his/her family.

The chief justice or the delegated judge may also ask the public prosecutor to bring an action to oblige those legally bound to do so to pay maintenance. Where appropriate, the judge may also take provisional measures in accordance with the second paragraph of Article 10.

ARTICLE 13

In cases where the parents and relatives referred to in the preceding article cannot be traced or their residence, abode or domicile are not known, the juvenile court shall provide for them to be summoned in accordance with articles 140 and 143 of the Code of Civil Procedure, subject to further enquiries by law enforcement authorities.

ARTICLE 14

Before the declaration of adoptability is issued, the juvenile court may order the suspension of the proceeding when special circumstances have emerged from the enquiries which suggest that suspension might be in the child's best interest. In such cases the suspension shall be ordered by means of a motivated decree, for a period not longer than one year. The suspension may be extended.

The suspension shall be communicated to the competent local services so that they can adopt the appropriate measures.

ARTICLE 15

If at the end of the enquiries and checks provided for in the preceding articles the state of abandonment referred to in Article 8 proves to exist, the juvenile court shall declare the child to be adoptable when:

- 1) the parents and relatives summoned pursuant to articles 12 and 13 did not appear, without any justified reason;
- 2) the hearing showed that their failure to provide moral and material care persisted and that they were not willing to remedy this situation;
- 3) the measures prescribed under Article 12 were not complied with, under the parents' responsibility.

The juvenile court shall declare the child adoptable by means of a motivated decree, having consulted the public prosecutor and the representative of the care institution where the child lives, or the person who has him/her in foster care. If the child has a guardian, he/she shall also be heard. The wishes and opinion of children of twelve years or over, and where appropriate of children under twelve, shall also be taken into consideration.

The public prosecutor, the parents, the relatives referred to in the first paragraph of Article 12 and the guardian shall be given notice of the entire decree. They shall also be advised of their right to file an appeal in the form and within the time limit set out in Article 17.

The juvenile court shall appoint, if necessary, a temporary guardian and shall take the appropriate measures in the child's best interest.

ARTICLE 16

When the procedure referred to in the preceding articles is closed, and if it deems that the conditions for adoptability do not exist, the juvenile court shall declare that there are no grounds to proceed.

The last two paragraphs of Article 15 shall apply. Articles 330 et seq. of the Civil Code shall apply.

ARTICLE 17

The public prosecutor, the parents, the relatives referred to in paragraph 1 of Article 12 or the guardian may file an appeal against the measure on the state of adoptability with the same juvenile court that issued the verdict, within thirty days of notification.

Once the appeal has been filed, the chief justice of the juvenile court shall appoint a special custodian for the child and shall issue a decree setting the hearing before the juvenile court, which shall take place no more than thirty days from the filing of the appeal. The judge shall also notify the decree to the appellant and to the child's special custodian and issue a summons to attend the hearing to the persons referred to in the penultimate paragraph of Article 15.

During the hearing the juvenile court shall hear the appellant, the persons summoned and the persons indicated by the parties. On the basis of their conclusions and those of the public prosecutor, and if there is no need for a further preliminary examination, the court shall decide immediately and read the decision. This shall be deposited with the clerk of the court within fifteen days and notified *ex officio* in its unabridged form to the public prosecutor, the appellant and the child's special custodian.

The public prosecutor, the appellant, or the special custodian may appeal the decision, within thirty days of its notification, before the juvenile section of the Court of Appeal. Having heard the appellant, the public prosecutor, and, if necessary, the persons referred to in the penultimate paragraph of Article

15, and having carried out the appropriate checks and enquiries, the juvenile section of the Court of Appeal shall decide in the manner set out in the preceding paragraph.

The decision of the Court of Appeal may be appealed on the grounds of violation of the law to the Supreme Court of Appeal (*Corte di Cassazione*) within thirty days from the notification.

ARTICLE 18

The definitive declaration of the state of adoptability shall be recorded by the clerk of the juvenile court in the special register kept in the clerk's office.

The registration must take place no more than ten days from notification that the decree of adoptability has become definitive. To this effect, the clerk of the judge to which the case has been appealed shall immediately notify the clerk of the juvenile court.

ARTICLE 19

The parents' exercise of their parental authority shall be suspended during the state of adoptability.

The juvenile court shall appoint a guardian, if none already exists, and shall adopt further measures in the child's best interest.

ARTICLE 20

The state of adoptability shall cease in the case of adoption or if the child reaches the age of majority.

ARTICLE 21

The state of adoptability shall also cease by revocation, in the child's interest, where the conditions set out in Article 8 cease to exist, subsequent to the decree referred to in Article 15.

The revocation shall be pronounced by the juvenile court *ex officio* or at the request of the public prosecutor or the parents.

The juvenile court shall decide in chambers, after obtaining the opinion of the public prosecutor.

In cases where preadoptive placement is in progress, the state of adoptability may not be revoked.

Chapter III – Preadoptive Placement

ARTICLE 22

Spouses wishing to adopt a child shall apply to a juvenile court and specify whether they are willing to adopt more than one brothers or sisters. They shall be allowed to present several applications, including subsequent applications, to more than one juvenile court, provided they give notice of this. After receiving their application the juvenile court may ask the other juvenile courts for a copy of the personal and preliminary documentation concerning the spouses. The documents may also be sent *ex officio*. The application shall expire two years after presentation and may be renewed.

After ensuring that the requirements set out in Article 6 have been met the juvenile court shall issue instructions for appropriate enquiries to be carried out in accordance with the following paragraph. The

court shall choose, from the applicant couples, the one that is best able to meet the child's needs.

The enquiries shall focus in particular on the applicants' aptitude to raise the child, their personal and economic circumstances, their health, their family environment and the reasons why they wish to adopt the child.

Having heard the public prosecutor, the applicants' parents or other forebears, if still alive, the child, if aged twelve or over and, where appropriate, even if younger, and omitting any other procedural formalities, the juvenile court in chambers shall provide for and lay down the conditions for preadoptive placement. Children aged fourteen or over shall give their express consent to the placement with the chosen couple.

The juvenile court shall inform the applicants of any relevant facts concerning the child that have emerged during the enquiries.

The placement of only one of several brothers or sisters, all of whom have been declared adoptable, may not be prescribed unless serious reasons exist for such a measure.

The public prosecutor and the guardian will be notified of the decree. Once the preadoptive placement measure has become definitive, it shall be recorded within ten days by the clerk of the court in the register referred to in Article 18.

The juvenile court shall monitor the satisfactory progress of the preadoptive placement directly or through the magistrate and the local services.

ARTICLE 23

In the case of serious cohabitation difficulties, the juvenile court shall revoke the preadoptive placement *ex officio* or at the request of the public prosecutor, or of the guardian or of those carrying out the supervisory role referred to in the last paragraph of the preceding article.

The revocation measure shall be adopted by the juvenile court in chambers by means of a motivated decree.

The public prosecutor and the party applying for revocation, the child if twelve years old or over and, where appropriate, even younger, the family with whom the child has been placed, the guardian, the magistrate and the local services, if appointed in a supervisory capacity, shall be heard. Any appropriate checks and enquiries shall be carried out.

The public prosecutor, the party applying for revocation, the family with whom the child has been placed and the guardian shall be notified of the decree.

Once the decree ordering the revocation of the preadoptive placement becomes definitive, it shall be recorded by the clerk of the court within ten days in the register referred to in Article 18.

In the case of revocation, the juvenile court shall adopt the appropriate provisional measures in the child's interest in accordance with Article 10.

Articles 330 et seq. of the Civil Code shall apply.

ARTICLE 24

The public prosecutor and the guardian may appeal the decree of the juvenile court regarding the preadoptive placement or its revocation to the juvenile section of the Court of Appeal within ten days of notification.

The Court of Appeal, having heard the appellant, the public prosecutor, and, where necessary, the persons referred to in Article 23, and having carried out any other appropriate checks and enquiries, shall decide in chambers by means of a motivated decree.

Chapter IV – Adoption Declaration

ARTICLE 25

One year from the placement, the juvenile court which issued the declaration of adoptability, having heard the prospective adoptive spouses, the child aged twelve or over and, if appropriate, even younger, the public prosecutor, the guardian, the magistrate and the local services, if appointed in a supervisory capacity, shall ascertain that all the conditions referred to in the present chapter exist. If this is the case the court shall, without further procedural formalities, decide in chambers by means of a motivated decree on whether the adoption shall or shall not take place. If the child is aged fourteen or more he/she must give his/her express consent to being adopted by the chosen couple.

The legitimate or legitimised descendants of the prospective adoptive spouses shall be heard if they are aged fourteen or more.

The period referred to in the first paragraph may be extended by one year in the child's best interest, *ex officio* or at the request of the spouses with whom the child has been placed, by means of a motivated order.

If, during the preadoptive placement, one of the spouses dies or becomes disable, the adoption may, in the child's best interest, be authorised at the request of the other spouse on behalf of both, with effect, for the dead spouse, from his/her date of death.

If, during the preadoptive placement, the spouses separate, the adoption may be authorised for one or both spouses, in the sole interest of the child, at the request of one or both spouses.

The decree deciding on the adoption shall be communicated to the public prosecutor, the prospective adoptive spouses and the guardian.

In the case of a negative decision, the preadoptive placement shall cease and the juvenile court shall take the appropriate temporary measures in the interest of the child in accordance with Article 10.

Articles 330 et seq. of the Civil Code shall apply.

ARTICLE 26

The public prosecutor, the prospective adoptive spouses and the guardian may appeal the adoption decree issued by the juvenile court within thirty days of notification by filing an appeal with the juvenile section of the Court of Appeal.

The Court of Appeal, having heard the appellant, the public prosecutor, and, where necessary, the persons referred to in paragraph 1 of Article 25, and having carried out all the appropriate checks and enquiries, shall decide in chambers by means of a motivated decree. An appeal against the decision by the Court of Appeal on the grounds of violation of the law may be filed with the Supreme Court of Appeal within thirty days of notification. Once it becomes definitive, the adoption measure shall be recorded by the clerk of the juvenile court within ten days of being communicated in the register referred to in Article 18 and shall be communicated to the registrar for annotation in the margin of the child's birth certificate. To this effect the clerk of the judge to which the case has been appealed shall immediately notify the clerk of the juvenile court.

ARTICLE 27

As a consequence of the adoption, the adopted child shall assume the status of legitimate son/daughter of the adoptive parents and shall take and transmit their surname.

If the adoption is granted to the separated wife, the adopted child shall take her family's surname pursuant to paragraph 5 of Article 25.

The adopted child's relationships with his/her family of origin shall cease after his/her adoption, with the exception of matrimonial prohibitions.

ARTICLE 28

Any certificate of civil status referring to the adopted child shall bear his/her new surname only and shall make no reference to either his/her paternity or maternity or to the annotation referred to in the last paragraph of Article 26.

Registrars of civil status shall not give news, information, certificates, extracts or copies demonstrating the adoption relationship unless expressly authorised to do so by the judicial authorities.

TITLE III **Intercountry Adoption** *Chapter I – Adoption of Foreign Children*

ARTICLE 29

1. The adoption of foreign children shall take place in conformity with the principles and in accordance with the provisions of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, done at The Hague on 29 May 1993 (hereinafter the "Convention"), in accordance with the provisions of the present law.

ARTICLE 29- bis

1. Persons resident in Italy who meet the conditions set out in Article 6 and wish to adopt a foreign child residing abroad shall present a declaration of availability to the juvenile court of the district in which they are resident and shall ask the juvenile court to declare that they are eligible to adopt.

2. In the case of Italian citizens residing abroad, with the exception of the provisions set out in paragraph 4 of Article 36, the competent juvenile court shall be considered the court of their last place of residence or, failing this, the juvenile court of Rome.

3. Unless the juvenile court feels it necessary to issue an immediate decree of ineligibility because of evident failure to meet the requirements, it shall transmit, within fifteen days of presentation, a copy of the declaration of availability to the appropriate services of the local authorities.

4. The social services of the local authorities, operating individually or jointly, and where appropriate with the help of the local health and hospital authorities, shall perform the following activities:

a) provide information on intercountry adoption and related procedures, on authorised bodies and on other forms of solidarity with children in difficult circumstances, in co-operation where appropriate with the authorised bodies referred to in Article 39-ter;

b) preparation of prospective adoptive parents, also in co-operation with the aforementioned bodies;

c) gathering of information about the personal, family and health circumstances of prospective adoptive parents, about their social environment, the reasons they wish to adopt, their aptitude to cope with an

intercountry adoption, their ability to meet the needs of one or more children in a satisfactory manner, any particular characteristics the children they would be willing to adopt might have, and any other relevant information to enable the juvenile court to assess their eligibility to adopt.

5. The services shall transmit to the juvenile court a report on the activity carried out, including all the points referred to in paragraph 4, within the four months following the transmission of the declaration of availability.

ARTICLE 30

1. Once the juvenile court has received the report referred to in paragraph 5 of Article 29-*bis*, through a delegated judge if appropriate, it shall hear prospective adoptive parents, arrange any enquiries that might be necessary and issue within the following two months a motivated decree certifying the existence or otherwise of the requirements for adoption.

2. The decree of eligibility for adoption shall have effect for the entire duration of the procedure, which shall be initiated by the interested persons within one year of receiving notification of the measure. The decree shall also contain indications to ensure that the prospective adoptive parents and the child are brought together in the best possible manner.

3. The decree, a copy of the report and of any documents in the files shall be transmitted immediately to the Commission referred to in Article 38 and to the accredited body, if already specified by the prospective adoptive parents, referred to in Article 39-*ter*.

4. If the decree of eligibility is revoked, after having heard the interested parties, because of new circumstances that have a significant effect on the eligibility decision, the juvenile court shall immediately notify the Commission and the accredited body of the measure as referred to in paragraph 3.

5. Appeals against the decree of eligibility or unsuitability and against the decree of revocation can be filed by the public prosecutor and the interested persons with the Court of Appeal, in accordance with articles 739 and 740 of the Code of Civil Procedure.

ARTICLE 31

1. Having obtained the decree of eligibility, prospective adoptive parents shall appoint one of the accredited bodies referred to in Article 39-*ter* to carry out the adoption procedure.

2. As for the situations considered under paragraph 1a) of Article 44, the juvenile court may, once their personalities have been assessed, authorise prospective adoptive parents to carry out directly the activities referred to in sub-paragraphs b), d), e), f) and h) of paragraph 3 of this article.

3. The body appointed to carry out the adoption procedure shall:

a) inform the prospective adoptive parents of the procedures it will initiate and of their real adoption prospects;

b) carry out the adoption formalities with the competent authorities in the country selected by the prospective adoptive parents from among those with which it maintains relations, and send them the adoption application along with the decree of eligibility and the annexed report, so that the foreign authorities may formulate the proposals for a meeting between the prospective adoptive parents and the child;

c) obtain from the foreign authority the proposal for the meeting between the prospective adoptive parents and the child, ensuring that the proposal is accompanied by all available information pertaining to the child's health, family of origin and background;

- d) transmit all information regarding the child to the prospective adoptive parents, inform them of the proposal for the meeting with the child and assist them with all the procedures to be followed in the foreign country;
- e) receive the prospective adoptive parents' written consent to the meeting between them and the child, as proposed by the foreign authority, certify their signatures and transmit the deed of consent to the foreign authority, and carry out any other procedures it requires. The prospective adoptive parents' signatures may also be certified by the municipal official delegated to perform this task, by a notary or by a clerk of any court office;
- f) receive from the foreign authority a statement to the effect that the conditions set out in Article 4 of the Convention exist and agree with the same authority, where the requirements have been met, on whether it is appropriate to proceed with the adoption. If it is decided that the adoption should not proceed, the authority shall record this decision and shall immediately inform the Commission referred to in Article 38 and convey its reasons to the same Commission. When so requested by the country of origin, the authority shall approve the decision to place the child or the children with the prospective adoptive parents;
- g) immediately inform the Commission, the juvenile court and the local services of the decision taken by the foreign authority to place the child. The authority shall also ask the Commission to authorise the child or children to enter and reside permanently in Italy and submit the necessary documentation;
- h) certify the date of placement of the child with the foster spouses or adoptive parents;
- i) receive from the foreign authority a copy of the acts and documentation regarding the child and send them immediately to the juvenile court and the Commission;
- l) supervise the arrangements for the transfer of the child to Italy and arrange for him/her to be accompanied by his/her adoptive or prospective adoptive parents;
- m) provide, in co-operation with the local authority services, any support requested by the adoptive family from the time of the child's arrival in Italy;
- n) certify the duration of any parental leave that might be required in accordance with sub-paragraphs a) and b) of paragraph 1 of Article 39-*quater*, where this leave is not related to the child's health. The body shall also certify the duration of the prospective adoptive parents' stay abroad, in cases of unpaid leave pursuant to paragraph 1c) of Article 39-*quater*;
- o) certify the total amount of any expenses sustained by the adoptive parents in carrying out the adoption procedures for the purposes envisaged in Article 10, paragraph 1, sub-paragraph *l-bis* of the Consolidated Law on Income Tax, approved with Presidential Decree 917 of 22 December 1986.

ARTICLE 32

1. Once it has received the acts referred to in Article 31 and evaluated the conclusions expressed by the appointed body, the Commission referred to in Article 38 shall declare that the adoption is in the child's best interest and shall authorise the child to enter and reside permanently in Italy.
2. The declaration referred to in paragraph 1 shall not be permitted:
 - a) when the documentation transmitted by the authority of the foreign country does not demonstrate a state of abandonment of the child and a statement attesting to the impossibility of placement or adoption in the child's country of origin;
 - b) if in the foreign country the adoption does not result in the acquisition of the status of legitimate child and the termination of the legal relationship between the child and his/her family of origin, unless his/her biological parents have given their express consent to these effects;
3. Even when the adoption declared in the foreign country does not result in the termination of the legal relationship with the family of origin, it may be converted into an adoption producing such effects if

the juvenile court recognises it as being in conformity with the Convention. Only in the case of recognition of such conformity shall the registration be authorised.

4. Italian consular offices abroad shall co-operate with the accredited body, insofar as they are competent to do so, to ensure the positive outcome of the adoption procedure. After receiving the formal communication from the Commission pursuant to Article 39, paragraph 1 *h*), they shall issue the child with an adoption entry visa.

ARTICLE 33

1. Without prejudice to ordinary provisions regarding the entry into Italy for family, tourism, study or health reasons, children without an entry visa issued pursuant to Article 32 or children who are not accompanied by at least one parent or by relatives within the fourth degree of kin shall not be permitted to enter Italian territory.

2. The Italian consular authorities may not issue entry visas to foreign children coming to Italy for adoption in cases other than those envisaged by the present Chapter and without prior authorisation by the Commission referred to in Article 38.

3. Those persons who have accompanied to the frontier any child who has been refused entry to Italy shall pay for his/her immediate return to his/her country of origin. The frontier offices shall immediately notify the Commission of such cases. The Commission shall then contact the authorities of the child's country of origin to ensure that a placement can be arranged in his/her best interest.

4. The prohibition under paragraph 1 shall not apply when, as a result of war, natural calamities or exceptional events in accordance with Article 18 of Law 40 of 6 March 1998, or any other serious objective impediment, it is not possible to carry out the procedures set out in the present Chapter, provided that entry to Italy is in the child's sole interest. In such cases the frontier offices shall notify the Commission and the competent juvenile court of the place of residence of the accompanying persons of the child's entry.

5. In cases where the public official or the accredited body discovers that a child has entered Italian territory in circumstances other than those permitted, said public official or accredited body shall notify the competent juvenile court of the place in which the child is to be found. The juvenile court shall take all appropriate temporary measures in the child's best interest and shall take action under Article 37-*bis*, where the necessary conditions exist, or shall notify the Commission so that it can contact the child's country of origin so that the case can proceed in accordance with Article 34.

ARTICLE 34

1. Any child who has entered Italy on the basis of a foreign adoption or preadoptive placement measure shall from the time of entry enjoy all the rights to which Italian children placed in foster families are entitled.

2. From the time of the child's entry to Italy and for at least one year, the social services of the local authorities and the accredited bodies shall, at the request of the interested persons, assist the foster family, the adoptive parents and the child in order to facilitate the child's integration into the family and society. They shall report to the juvenile court on the progress of the integration process and on any difficulties that arise so that appropriate measures may be arranged.

3. The adopted child shall acquire Italian citizenship as an effect of the registration of the adoption measure in the register of civil status.

ARTICLE 35

1. Adoptions declared abroad shall produce the effects referred to in Article 27 in the Italian legal system.
2. If the adoption was declared in the foreign country before the child's arrival in Italy, the court shall verify that the provision issued by the declaring authority shows that the conditions for intercountry adoption under the terms of Article 4 of the Convention exist.
3. The court shall also verify that the adoption does not run counter to the fundamental principles underlying Italian family and children's law, having regard to the child's best interest. If the certificate of conformity with the Convention referred to in sub-paragraph *i*) and the authorisation referred to in sub-paragraph *h*) of paragraph 1 of Article 39 exist, it shall also prescribe the registration of the adoption measure in the register of civil status.
4. If the adoption procedure is to be completed after the child's arrival in Italy, the juvenile court shall recognise the provision issued by the foreign authority as a preadoptive placement, unless it runs counter to the fundamental principles underlying Italian family and children's law, having regard to the child's best interest. It shall set a term of one year for the placement, starting from the date of the child's entry into his/her new family. At the end of this period, if the juvenile court believes that it is still in the child's best interest to stay with the family, it shall declare his/her adoption to be effective and prescribe its registration in the register of civil status. If the court does not believe the placement is still in the child's best interest, it shall revoke the placement even before the end of the preadoptive period and shall take the measures envisaged in Article 21 of the Convention. In such cases, minors aged fourteen or over shall be required to give their express consent to the measures to be taken; minors aged twelve or over shall be consulted in person; and younger children may be consulted if appropriate and if in the opinion of the psychologist appointed by the juvenile court this is not prejudicial to their psychological and emotional well-being.
5. The juvenile court competent to issue the measures shall be the court of the district where the prospective adoptive parents are resident at the time of the child's entry in Italy.
6. Without prejudice to the provisions of Article 36, the registration may not be ordered when:
 - a) the adoptive measure concerns prospective adoptive parents who do not possess the requirements envisaged by the Italian law on adoption;
 - b) the requirements set out in the declaration of eligibility have not been met;
 - c) the conversion into an adoption producing the effects referred to in Article 27 is not possible;
 - d) the foreign adoption or placement procedures were not performed through the offices of the central authorities and an accredited body;
 - e) the child's entry into the adoptive family has proved to be prejudicial to his/her best interest.

ARTICLE 36

1. Intercountry adoption of children from countries ratifying the Convention or which have concluded bilateral agreements in the spirit of the Convention, may only take place following the procedures and with the effects provided for in the present law.
2. Adoption or preadoptive placement, declared in a country that has neither ratified the Convention nor signed any bilateral agreement, may be declared valid in Italy if:
 - a) the foreign child's state of abandonment or the biological parents' consent to an adoption that will result in the child acquiring the status of legitimate son or daughter of the adoptive parents and the termination of any legal relationship between the child and his/her family of origin can be ascertained;

b) the prospective adoptive parents have been declared eligible to adopt under Article 30 and adoption procedures have been carried out through the offices of the Commission referred to in Article 38 and of an accredited body;

c) the requirements set out in the decree of eligibility have been respected;

d) the authorisation provided for in Article 39, paragraph 1 *h)* has been granted.

3. The provision in question shall be issued by the juvenile court which issued the decree of eligibility for adoption. The Commission shall be notified of this and shall take the appropriate measures provided for in Article 39, paragraph 1 *e)*.

4. The adoption declared by the competent authority of a foreign country at the request of Italian citizens who are able to demonstrate at the time of the declaration that they have been residing continuously in that country and have been officially domiciled there for two years, shall be recognised in Italy for all legal purposes through a measure of the juvenile court, provided it complies with the principles of the Convention.

ARTICLE 37

1. After the adoption, the Commission referred to in Article 38 may convey to the adoptive parents, through the juvenile court if appropriate, only that information which is relevant to the adopted child's health.

2. The Commission and the juvenile court that has issued the measures referred to in articles 35 and 36 shall keep any information they have acquired concerning the origins of the child, the identity of his/her biological parents and his/her medical history, together with that of his/her biological parents.

3. As far as access to other information is concerned, the provisions for the adoption of Italian children shall apply.

ARTICLE 37-bis

1. The Italian legislation on adoption, foster placement and the measures to be taken in urgent cases shall apply to any foreign child finding him/herself in a state of abandonment in Italy.

ARTICLE 38

1. A Commission for Intercountry Adoption shall be set up within the Presidency of the Council of Ministers for the purposes set out in Article 6 of the Convention.

2. The Commission shall consist of:

a) a chairman appointed by the Prime Minister, who shall be a magistrate with experience in matters relating to children or a senior state official with similar specific experience;

b) two representatives of the Social Affairs Department of the Presidency of the Council of Ministers;

c) a representative of the Ministry for Foreign Affairs;

d) a representative of the Ministry of the Interior;

e) two representatives of the Ministry of Justice;

f) a representative of the Ministry of Health;

g) three representatives of the joint Conference referred to in Article 8 of Legislative Decree 281 of 28 August 1997.

3. The chairman's term of office shall be two years and the appointment may be renewed only once.

4. Members of the Commission shall hold office for four years. The regulations adopted by the Commission shall be drawn up in such a way as to ensure the gradual turnover of its members on the expiry of their term. In order to meet this requirement the regulations may extend the term of office of the members of the Commission for periods of no more than one year.

5. The Commission shall call on the services of the permanent staff of the Prime Minister's Office and other government departments.

ARTICLE 39

1. The Commission for Intercountry Adoption shall:

a) co-operate with the central authorities for intercountry adoption in the other countries and gather any necessary information in order to implement the international conventions on adoption;

b) propose the drawing up of bilateral agreements on intercountry adoption;

c) authorise the activity of the bodies referred to in Article 39-*ter*, ensure that the register of said bodies is properly kept, supervise their activity and carry out inspections at least every three years, and revoke their accreditation in the case of serious non-performance of their duties, incapacity or violations of the provisions of the present law. The Commission shall carry out the same functions with respect to the activity performed by the intercountry adoption services referred to in Article 39-*bis*;

d) take appropriate action to ensure that the accredited bodies are distributed evenly throughout Italy and their representative offices are evenly distributed in foreign countries;

e) keep all the documentation and information concerning intercountry adoption procedures;

f) promote co-operation amongst the various operators in the field of intercountry adoption and the protection of children;

g) promote training schemes for persons operating or intending to operate in the adoption field;

h) authorise the entry and permanent residence of the foreign child adopted or placed with a view to adoption;

i) certify that the adoption complies with the provisions of the Convention, as envisaged in Article 23, paragraph 1, of the Convention;

l) also co-operate with bodies other than those referred to in Article 39-*ter* on initiatives relating to information and training. Any decision by the accredited body not to agree with the foreign authority that the adoption should proceed shall be examined by the Commission at the request of the spouses concerned. If the Commission does not confirm the decision, it may proceed directly or by delegating another body or office to carry out the procedures provided for in Article 31.

3. The Commission shall meet periodically with the representatives of the accredited bodies in order to examine any problems that have emerged and co-ordinate the planning of the actions implementing the principles of the Convention.

4. The Commission shall present a biannual report to the Prime Minister, who shall transmit it to the Parliament, on the state of intercountry adoption, on the implementation of the Convention and on the conclusion of bilateral agreements, including with non-signatory countries.

ARTICLE 39-*bis*

1. The regional governments and the autonomous provinces of Trento and Bolzano shall, insofar as they are competent to do so:

a) co-operate to develop a network of services to carry out the tasks provided for in the present law;

b) supervise the functioning of the intercountry structures and services operating at the local level in

order to ensure adequate levels of service;

c) promote the drawing up of operational protocols and conventions between the accredited bodies and the services, and regular contacts between these and the judicial bodies with responsibility for children.

2. The regional governments and the autonomous provinces of Trento and Bolzano may set up an intercountry adoption service that meets the requirements envisaged in Article 39-ter and carries out the tasks referred to in Article 31, paragraph 3, on behalf of those couples who so request, on presentation of their application for intercountry adoption.

3. The intercountry adoption services referred to in paragraph 2 shall be established and regulated by a regional or provincial law implementing the principles provided for in the present law. The administrative functions for the intercountry adoption service shall be delegated to the regional governments and to the autonomous provinces of Trento and Bolzano.

ARTICLE 39-ter

1. In order to obtain and maintain the accreditation envisaged in Article 39, paragraph 1 c), the bodies shall:

a) be directed and staffed by persons who are suitably trained and skilled in the field of intercountry adoption and meet suitable ethical standards;

b) make use of the services provided by social, legal and psychology professionals entered in their professional register who are capable of assisting the spouses before, during and after the adoption;

c) have a suitable organisational structure in at least one Italian region or autonomous province, and the necessary staff to function adequately in the foreign countries in which they wish to operate;

d) operate on a non-profit basis and implement fully transparent accounting procedures, including transparent indication of the costs entailed in carrying out intercountry adoption procedures, and follow a correct and verifiable operating methodology;

e) be free of and not exercise any prejudicial discrimination against prospective adoptive parents, including any forms of ideological or religious discrimination;

f) undertake to participate in activities promoting the rights of children, preferably through development aid projects, including co-operation with non-governmental organisations, and activities implementing the principle of subsidiarity in intercountry adoption in the children's countries of origin;

g) have their registered office in Italy.

ARTICLE 39-quater

1. Without prejudice to the provisions of other legislative measures, adoptive parents and families with a child in preadoptive placement shall be entitled to the following benefits:

a) leave from work, as provided for in Article 6, paragraph 1, of Law 903 of 9 December 1977, even if the adopted child is over six;

b) absence from work, as provided for in Article 6, paragraph 2, and Article 7 of Law 903/1977, until the adopted child is six;

c) leave from work for the duration of any visit to the foreign country that may be necessary for the adoption.

CHAPTER II – Expatriation of Children with a View to Adoption

ARTICLE 40

Persons resident abroad, whether Italian citizens or otherwise, who wish to adopt an Italian child, shall present their application to the competent Italian consul for their area, who shall forward it to the juvenile court of the district where the child lives or where the child was last domiciled. Failing this, the juvenile court of Rome shall be competent.

2. Foreigners permanently residing in countries that have ratified the Convention shall be subject to the procedures laid down by the Convention with regard to the actions and duties of the central authorities and accredited bodies, rather than the procedure laid down in the first paragraph. For all other cases the provisions of the present law shall apply.

ARTICLE 41

1. The consul of the place of residence of the adoptive parents shall supervise the progress of the preadoptive placement with the help, if necessary, of the appropriate Italian or foreign social assistance organisations.

If it should emerge that the child is having difficulty adapting to the family or if circumstances that are not compatible with the preadoptive placement emerge, the consul shall immediately notify in writing the juvenile court which authorised the placement.

The consul of the child's place of residence shall ensure, insofar as he is competent to do so, that the measures issued by the Italian authority with respect to the child become effective and, if necessary, provide for the child's repatriation.

2. In the case of adoption of a child permanently residing in Italy by foreign citizens permanently residing in countries that have ratified the Convention, the functions assigned to the consul by this article shall be performed by the central authority of the other country and the accredited body.

ARTICLE 42

If an adoption proceeding for a child placed with foreigners or with Italian citizens resident abroad is in progress in Italy, any adoption measure authorised by a foreign authority for the same child shall not be enforceable.

ARTICLE 43

The provisions set out in paragraphs 6, 7 and 8 of Article 9 shall also apply to Italian citizens resident abroad.

With regard to the performance of consular functions, articles 34, 35 and 36 of Presidential Decree 200 of 5 January 1967 shall apply, where compatible.

The competent juvenile court of the child's last place of domicile shall be competent to verify the state of abandonment of the child abroad and to provide for any temporary measures in his/her interest in accordance with Article 10, including, if necessary, his/her repatriation. If the child's previous domicile was not in Italy, the juvenile court of Rome shall be competent.

TITLE IV
Adoption in Special Cases

Chapter I – Adoption in Special Cases and Its Effects

ARTICLE 44

Even in cases where the conditions set out in the first paragraph of Article 7 have not been met children may be adopted:

- a) by persons linked to the fatherless and motherless child by blood ties within the sixth degree of kin or by a steady and lasting relationship dating from before the death of his/her parents;
- b) by the spouse, where the child is the son/daughter, natural or adoptive, of the other spouse;
- c) where preadoptive placement proves to be impossible.

In the cases indicated in the preceding paragraph, the adoption shall be permitted even if there are legitimate children.

In the cases mentioned in sub-paragraphs a) and c), non-married persons shall also be allowed to adopt. If the prospective adoptive parent is married and not separated the child must be adopted by both the spouses.

The prospective adoptive parent must in all cases be at least eighteen years older than the child(ren) he/she wishes to adopt.

ARTICLE 45

The consent of the adoptive parent and of the child shall be required for the adoption.

If the child is under fourteen consent shall be given by his/her legal representative.

If the child is twelve or over his/her wishes and opinion shall be sought in person; younger children may also be heard when appropriate.

ARTICLE 46

The consent of the child's parents and, if married, of the child's spouse is required for his/her adoption. When consent under the first paragraph is denied, the court, having heard the interested persons, may, at the request of the adoptive parent and if it thinks the denial is unjustified or contrary to the child's interest, authorise the adoption. Exceptions to this are cases where the consent was refused by the parents of the child exercising their parental authority or by the spouse of the child, if living with him/her. Similarly, the court may authorise the adoption even when the persons called to express their consent cannot do so due to disability or because they cannot be traced.

ARTICLE 47

The adoption shall be effective from the date of the authorisation decree.

Until the decree is issued, both the adoptive parent and the child may withdraw their consent.

If one of the spouses dies after giving his/her consent and before the decree has been issued, the procedures required for the adoption may still be carried out at the request of the other spouse.

If the adoption is authorised, it shall be effective from the time of the adoptive parent's death.

ARTICLE 48

If the child is adopted by two spouses, or by the spouse of one of his/her parents, both spouses shall have parental authority over the adopted child.

It is the adoptive parent's duty to maintain, educate and raise the adopted child in accordance with the provisions of Article 147 of the Civil Code.

If the adopted child owns property, the adoptive parent shall manage it until the child reaches the age of majority. The adoptive parent shall not hold it in legal usufruct, but he/she may spend any income to maintain, raise and educate the child and shall be obliged to invest the remainder in an income-bearing or profitable manner. The provisions of Article 382 of the Civil Code shall apply.

ARTICLE 49

The adoptive parent shall draw up an inventory of the adopted child's property and send it to the magistrate no more than one month from the date of the adoption decree. The provisions contained in Section III of Chapter I of Title X of Book I of the Civil Code shall be observed, where applicable.

If the adoptive parent fails to draw up the inventory within the set time or draws up a false inventory, the magistrate may deny him/her the right to manage the property, without prejudice to any obligation to pay damages.

ARTICLE 50

If the adoptive parent(s) cease to exercise their parental authority, the juvenile court, at the request of the adopted child, his/her relatives or relatives in law, or the public prosecutor, or also *ex officio*, may issue the appropriate provisions for the care of the adopted child, his/her representation and the administration of his/her property, even if it deems that the parents should resume the exercise of their parental authority. The provisions of Article 330 et seq. of the Civil Code shall apply.

ARTICLE 51

The court may revoke the adoption at the request of the adoptive parent in cases where an adopted child aged fourteen years or over has made an attempt on the life of the adoptive parent, or his/her spouse, descendants or ascendants, or in cases where the adopted child has committed a crime against any of these persons that is punishable by a custodial sentence of no less than three years.

If the adoptive parent dies as a consequence of the attack, the revocation of the adoption may be requested by those persons who would be entitled to the inheritance in the absence of the child and his/her descendants.

Once it has gathered the necessary information and carried out the necessary enquiries, and once it has heard the public prosecutor, the adoptive parent and the child, the court shall deliver its decision.

After hearing the public prosecutor and the child the court may also issue the appropriate provisions for the child's care, his/her representation and the administration of his/her property by means of a decree issued in chambers.

Article 330 et seq. of the Civil Code shall apply. In cases where the measures provided for in paragraph 4 are adopted, the court shall inform the magistrate so that a guardian may be appointed.

ARTICLE 52

If the acts described in the preceding article were committed by the adoptive parent against the child, or against his/her spouse, descendants or ascendants, the adoption may be revoked at the request of the adopted child or of the public prosecutor.

Once it has gathered the necessary information and carried out the necessary enquiries, and once it has heard the public prosecutor, the adoptive parent, the adopted child if aged twelve or over and, if necessary, also younger, the court shall deliver the verdict.

Once it has heard the public prosecutor and the child, if aged twelve or more and, if appropriate, also younger, the court may issue the appropriate measures for the child's care, his/her representation and the administration of his/her property by means of a decree issued in chambers, even if it deems that the parents should resume the exercise of their parental authority.

Article 330 et seq. of the Civil Code shall apply.

In cases where the provisions under paragraph 3 are adopted, the court shall inform the magistrate so that a guardian may be appointed.

ARTICLE 53

The public prosecutor may file for the revocation of the adoption as a consequence of the violation of the adoptive parents' duties.

The provisions laid down in the preceding articles shall apply.

ARTICLE 54

The adoption shall cease to have legal effect when the sentence of revocation becomes final.

However, if the revocation is declared after the adoptive parent's death due to an act attributable to the child, the child and his/her descendants shall be excluded from the adoptive parent's succession.

ARTICLE 55

The provisions laid down in articles 293, 294, 295, 299, 300 and 304 of the Civil Code shall apply to the present chapter.

Chapter II – Forms of Adoption in Special Cases

ARTICLE 56

The juvenile court of the district of the child's abode shall be competent for any decision on his/her adoption.

The consent of the adoptive parent, of the child if aged fourteen or over and of his/her legal representative shall be expressed in person to the chief justice of the court or to a judge delegated by the chief justice.

The consent of the persons referred to in Article 46 may be given by a person with special power of

attorney conferred by means of a public deed or a certified private deed.

Articles 313 and 314 of the Civil Code shall apply, without prejudice to the competence of the juvenile court and the juvenile section of the Court of Appeal.

ARTICLE 57

The juvenile court shall ascertain:

1) whether the circumstances under Article 44 exist;

2) whether the adoption is in the child's best interest. For this purpose the juvenile court, having heard the child's parents, shall arrange for the appropriate enquiries regarding the adoptive parent, the child and his/her family to be carried out by the local services and law enforcement authorities.

These enquiries shall concern in particular:

a) the adoptive parents' aptitude to raise the child, their personal and economic circumstances, their health, and their family environment;

b) the reasons why the adoptive parent wishes to adopt the child;

c) the child's personality;

d) the compatibility, in terms of living in the same household, of the adoptive parent and the child, taking the personalities of both into due consideration.

TITLE V

Amendments to Title VIII of Book I of the Civil Code

ARTICLE 58

The title of Title VIII of Book I of the Civil Code shall be replaced as follows: "The adoption of adults".

ARTICLE 59

The title of Chapter I of Title VIII of Book I of the Civil Code shall be replaced as follows: "The adoption of adults and its effects".

ARTICLE 60

The provisions under Chapter I of Title VIII of Book I of the Civil Code shall not apply to children.

ARTICLE 61

Article 299 of the Civil Code shall be replaced as follows:

"Art. 299. – *Surname of the adopted person* – The adopted person shall take the adoptive parent's surname and shall put it before his/hers.

If the adopted person has not been recognised by his/her biological parents, he/she shall only take

his/her adoptive parent's surname. Recognition after the adoption shall not result in the adopted person taking the surname of the parent who has recognised him/her, unless the adoption is subsequently revoked. Any biological son/daughter who has been recognised by his/her parents and subsequently adopted shall take the adoptive parent's surname.

If the adoption is done by a married couple, the adopted person shall take the husband's surname.

If the adoption is done by a married woman, the adopted person, not being her husband's son/daughter, shall take the surname of the woman's family".

ARTICLE 62

Article 307 of the Civil Code shall be replaced as follows:

"Art. 307. – *Revocation due to unworthy conduct by the adoptive parent.* – Where the acts referred to in the preceding article were performed by the adoptive parent against the adopted person, or against his/her spouse, descendants or ascendants, the adoption may be revoked at the request of the adopted person".

ARTICLE 63

The title of Chapter II of Title VIII of Book I of the Civil Code shall be replaced as follows: "The Forms of Adoption of Adults".

ARTICLE 64

Article 312 of the Civil Code shall be replaced as follows:

"Article 312. – *Enquiries by the court.* – The court, after gathering the necessary information, shall ascertain:

- 1) whether all the terms of the law have been complied with;
- 2) whether the adoption is in the adopted person's best interest".

ARTICLE 65

Article 313 of the Civil Code shall be replaced as follows:

"Art. 313. – *Provisions of the court.* – The court, having heard the public prosecutor and omitting any other procedural formality, shall decide in chambers by means of a motivated decree whether the adoption shall take place or not.

Within thirty days of notification the adoptive parent, the public prosecutor and/or the adopted person may appeal the decree to the Court of Appeal, which shall decide in chambers, having heard the public prosecutor".

ARTICLE 66

The two first paragraphs of Article 314 of the Civil Code shall be replaced as follows:

"Once it becomes definitive the adoption decree shall be recorded by the clerk of the competent court

in the special register no more than ten days after notification, which shall take place no more than five days after registration by the clerk of the judge to which the case has been appealed. It shall then be communicated to the registrar for annotation in the margin of the adopted person's birth certificate. The procedure referred to in the preceding paragraph shall also be followed for the registration and annotation of the revocation of the adoption, once it becomes final".

ARTICLE 67

Paragraphs 2 and 3 of Article 293, paragraphs 2 and 3 of Article 296, and articles 301, 302, 303, 308 and 310 of the Civil Code are repealed.
Chapter III of Title VIII of Book I of the Civil Code is also repealed.

TITLE VI **Final, Penal and Transitional Provisions**

ARTICLE 68

The first paragraph of Article 38 of the implementing provisions of the Civil Code shall be replaced as follows:

“The provisions under articles 84, 90, 171, 194, paragraph 2, 250, 252, 262, 264, 316, 317-*bis*, 330, 332, 333, 334, 335 and 371, last paragraph, and in the case of children the provisions of Article 269, paragraph 1, of the Civil Code shall fall within the competence of the juvenile court”.

ARTICLE 69

In addition to the provisions of Article 51 of the implementing provisions of the Civil Code, any provisions issued by the juvenile court pursuant to Article 10 of the present law shall be recorded in the register of guardianships.

ARTICLE 70

Public officials or persons appointed to carry out a public service who fail to report to the juvenile court on the conditions of any child in a state of abandonment they come to know about in the performance of their duties, shall be punished pursuant to Article 328 of the Penal Code. Persons carrying out an essential public service shall be punishable by imprisonment of up to one year or by a fine of up to 400,000 lire.

Persons representing public or private care institutions who fail to send the magistrate a list every six months of all the children living or cared for in their institution, or who provide incorrect information about the family relationships of the children in their care, shall be punishable by imprisonment of up to one year or by a fine of up to 2,000,000 lire.

ARTICLE 71

Anyone who, in violation of the legislation in respect of adoption, places a child permanently with a third party or sends him/her abroad for permanent placement shall be punishable by imprisonment of between one and three years.

If the act is committed by the guardian or by any other person with whom the child has been placed for his/her upbringing, education, supervision or custody, the penalty shall be increased by half.

If the act is committed by a parent, his/her conviction shall result in the loss of his/her parental authority and the initiation of the adoptability procedure; if it is committed by the guardian, the latter shall be removed from this role; if it is committed by the foster parent, the latter shall be declared ineligible for foster care or preadoptive placements and disable for guardianship. If the act is committed by public officials, by persons appointed by a public service, by persons practising medicine or law, or by persons belonging to public or private social assistance institutions in the cases referred to in Article 61, numbers 9 and 11, of the Penal Code, the penalty shall be doubled.

The penalty laid down in the first paragraph of the present article shall also apply to persons who, giving or promising money or other benefits to a third party, illegally take children into permanent placement. The conviction shall result in their being declared ineligible for providing foster care or preadoptive placements and disable for guardianship.

Anyone who acts as an intermediary in bringing about a placement as referred to in paragraph 1 shall be punishable by imprisonment of up to one year or a fine of up to 2,000,000 lire.

ARTICLE 72

Anyone who, in violation of the provisions of the present law, brings a foreign child into Italy for definitive placement with Italian citizens in exchange for money or any other benefit, shall be punishable by imprisonment of between one and three years.

The penalty laid down in paragraph 1 shall also apply to those who, giving or promising money or any other benefit to a third party, receive foreign children in a permanent illegal placement. Conviction shall result in their being declared ineligible for providing foster care or preadoptive placements and disable for guardianship.

ARTICLE 72-bis

1. Anyone who, on behalf of a third party, carries out any activity concerning the adoption of foreign children without having previously obtained accreditation in accordance with Article 39, paragraph 1 c) shall be punishable by imprisonment of up to one year or by a fine of between one and ten million lire.

2. The legal representatives and directors of associations or agencies dealing with the activities under paragraph 1 shall be punishable by imprisonment of between six months and three years or by a fine of between two and six million lire.

3. Without prejudice to the cases referred to in paragraph 4 of Article 36, any persons who, in order to adopt a foreign child, avail themselves of the services of associations, organisations, bodies or persons that are not authorised in the forms laid down by the law shall be punishable by the penalties established in paragraph 1, reduced by one third.

ARTICLE 73

Anyone who comes into possession of information concerning adopted children through the performance of his/her duties and divulges any such information that might make it possible trace a child whose adoption has already been authorised or reveals in any way information concerning his/her status of legitimate child through adoption, shall be punishable by imprisonment of up to six months or by a fine of up to 900,000 lire.

If the act is committed by a public official or a person appointed to a public service, a penalty of imprisonment of between six months and three years shall apply.

The provisions under the preceding paragraphs shall also apply to persons who divulge this information after the preadoptive placement has taken place, without the authorisation of the juvenile court.

ARTICLE 74

Registrars of civil status shall immediately transmit to the competent juvenile court the notification, signed by the declaring person, that a married person has recognised his/her biological son/daughter who has not been recognised by the other parent. The court shall provide for the appropriate enquiries to be carried out in order to ascertain the veracity of the recognition.

In cases where there are well-founded reasons to consider that there are sufficient grounds to contest the recognition, the juvenile court shall take, *ex officio* if appropriate, the measures provided for in paragraph 2 of Article 264 of the Civil Code.

ARTICLE 75

Persons granted legal aid at the State's expense shall be given legal assistance for the procedures under the present law.

Settlement of the expenses and fees shall be arranged by the judge, who shall issue a specific order, at the request of the defending counsel, once his/her assistance can be considered to be completed.

The provisions of paragraph 2 of Article 14 of Law 533 of 11 August 1973 shall apply.

ARTICLE 76

The provisions already in force when the present law comes into force shall continue to apply to any procedures regarding the adoption of foreign children that are in progress or already completed at that time.

ARTICLE 77

Articles 404 and 413 of the Civil Code are repealed. Prohibitions and authorisations under Article 87 of the Civil Code shall apply to affiliations already authorised on the date of the entry into force of the present law.

ARTICLE 78

The fourth paragraph of Article 87 of the Civil Code shall be replaced as follows:

“At the request of the interested persons the court, by means of a decree issued in chambers, may, once it has heard the public prosecutor, authorise marriage to take place in the cases referred to in numbers 3 and 5, even in cases of affiliation or natural filiation. The authorisation may also be granted in the case referred to in number 4, when the relationship derives from a marriage that has subsequently been annulled.”

ARTICLE 79

Within three years from the entry into force of the present law spouses meeting the requirements laid down in Article 6 may, as long as the measure coincides with the interests of the child and of the affiliated person, ask the juvenile court to issue a motivated decree declaring that the effects of the adoption are extended to the affiliated or adopted persons in accordance with Article 291 of the Civil Code, previously in force, if the parties were children at the time of the provision in question.

The court shall arrange for the appropriate enquiries regarding the adoptive parents and the adopted or affiliated person to be carried out as laid down in Article 57.

The wishes and opinion of adopted or affiliated persons aged twelve or over and, where appropriate, even younger, shall be sought. Children aged fourteen or over must give their express consent.

The spouse of the adopted or affiliated person, if living with him/her and not legally separated, must give his/her consent.

The opinion of any descendants aged fourteen or over of the adopted or affiliating persons shall be sought.

If the adopted or affiliated persons are legitimate or recognised sons/daughters, their parents' consent shall be required. In cases where the parents cannot be traced or in the event of their unjustified refusal the court, at the request of the adoptive parents or the affiliating persons and having heard the public prosecutor, the parents of the adopted or affiliated person and the adopted or affiliated person, if aged twelve or more, shall decide with a sentence which, if the application is accepted, shall substitute for the parents' consent.

The provisions of articles 25, 27 and 28, insofar as they are compatible, shall apply to the decree extending the effects of the adoption.

Any decree of the juvenile court denying the extension of the effects of the adoption may also be appealed by the adopted or affiliated person if he/she has already reached the age of majority.

ARTICLE 80

The judge, where appropriate and with due consideration for the duration of the placement, may provide for any family allowance and social security benefits to which the child is entitled to be paid temporarily to the foster parent.

The provisions of Article 15 of Presidential Decree 597 of 29 September 1973 and subsequent amendments, and articles 6 and 7 of Law 903 of 9 December 1977 shall also apply to the foster parents referred to in the preceding paragraph.

The regional governments shall lay down the conditions and procedures for providing support to the families, individuals and family-based centres with which children are placed so that the placement may be based on their willingness and suitability to accept any child regardless of economic circumstances.

ARTICLE 81

The last paragraph of Article 244 of the Civil Code shall be replaced as follows:

“The action may be also brought by a special custodian appointed by the judge, after summary information has been gathered, at the request of the son/daughter aged sixteen or over but still a minor or of the public prosecutor in cases where the child is younger”.

ARTICLE 82

The acts, documents and provisions relating to the procedures envisaged by the present law as they affect minors shall be exempt from stamp duty and registration tax and any charge, tax and fees due to the public administration. The acts and documents regarding the implementation of the provisions issued by the judge during the above proceedings shall be similarly exempt.

The costs deriving from the implementation of the present law, which have been estimated at 100,000,000 lire per year, will be met through a corresponding reduction of chapter 1589 of the budget of the Ministry of Justice for the 1983 fiscal year and corresponding chapters for subsequent years.

The Ministry of the Treasury shall be authorised to issue its own decrees to make any necessary variations to the budget.