

Law No 184 of 4 May 1983 ⁽¹⁾

Children's right to a family ⁽²⁾

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⁽²⁾ Title replaced by Article 1 of Law No 149 of 28 March 2001

TITLE I

General principles ⁽³⁾

Article 1

1. Children have the right to be raised and educated in their own family.
2. Poverty of the parents or of the parent having custody should not be a barrier to the child's exercise of the right to a family. To this end, support and assistance shall be provided to families.
3. The State, the regions and the local authorities shall, within their own powers, with regard to their respective autonomy and in view of the financial resources available, support families at risk with appropriate actions so as to prevent abandonment and enabling children to be brought up within their own families. They shall also raise the awareness of the general public on foster care and adoption and shall support family-type communities, organize professional training and refresher courses for social workers as well as training and counselling meetings for families and individuals intending to foster or adopt children. The same authorities may enter into agreements with non-profit institutions or associations operating in the field of child and family care to carry out the activities mentioned in this Paragraph.
4. Where a family is unable to provide for the child's upbringing and education, the legal arrangements provided for by this Law shall apply.
5. The child's right to live, grow up and be educated within a family shall be secured without distinction of sex, ethnicity, age, language or religion and with due regard for the child's cultural identity, and in any case not in contrast with the fundamental principles of the legal system. ⁽⁴⁾

⁽³⁾ Heading replaced by Article 1 of Law No 149 of 28 March 2001.

⁽⁴⁾ Article replaced by Article 1 of Law No 149 of 28 March 2001.

TITLE I-bis

Fostering of children ⁽⁵⁾

Article 2

1. Children temporarily deprived of an appropriate family circle, despite the support and aid activities provided for under Article 1, shall be fostered by a family having preferably children, or by a single person who is able to secure their livelihood, upbringing, education and emotional relationships they need.

2. Where foster placement pursuant to Paragraph 1 is not possible, children may be placed in a family-type community, or in its absence, in a public or private welfare institution, preferably located as close as possible to where the family of origin resides. Children under six may only be placed with a family-type community.

3. In cases of necessity and urgency, placement may be decided even without taking the actions under Article 1 (2) and (3).

4. By December 2006 placements in institutions shall be replaced by fostering through family and, should this not be possible, by placements in a family-type community having an organization and interpersonal relationships similar to those of a family.

5. The Regions shall, within their own powers and on the basis of the criteria laid down by the Standing Conference for relations between State, regions and the autonomous provinces of Trento and Bolzano, define minimum standards of service and care to be provided by family-type communities and institutions, and periodically monitor compliance.⁽⁶⁾

⁽⁵⁾ Title added by Article 2 of Law No 149 of 28 March 2001.

⁽⁶⁾ Article replaced by Article 2 of Law No 149 of 28 March 2001.

Article 3

1. The legal representatives of the family-type communities and of the public or private welfare institutions shall exercise custodial powers over children placed with them pursuant to Chapter I of Title X of Book One of the Italian Civil Code, until a guardian is appointed and in all cases in which exercise of parental authority or guardianship is impeded.

2. In the cases provided for under Paragraph (1) the legal representatives shall, within thirty days of receiving the child, propose the appointment of a guardian. They themselves may not be appointed, nor may those working for the family-type communities or public or private welfare institutions, even if not remunerated.

3. Where the parents resume exercise of parental authority, the family-type community or the public or private welfare institution shall ask the *giudice tutelare* (court having jurisdiction in guardianship or custody matters, hereinafter: «the Court»), if necessary, to set limits or conditions on the exercise of such exercise.⁽⁷⁾

⁽⁷⁾ Article replaced by Article 3 of Law No 149 of 28 March 2001.

Article 4

1. Foster placement shall be ordered by the local social service, subject to the consent of the parent(s) exercising parental authority, or of the guardian, and after hearing the child, if older than twelve, or even younger, in consideration of his or her judgment. The Court of the child's place of abode shall enforce the measure by means of a decree.

2. In the absence of consent by the parents exercising parental authority or by the guardian, the Juvenile Court shall decide. Articles 330 ff. of the Civil Code shall apply.

3. The foster-care measure shall explicitly state the reasons why it has been taken, together with the timing and conditions for the exercise of the rights assigned to the foster parent and the details of how the parents and other family members can maintain relations with the child. It shall also indicate the local social service in charge of the welfare programme, as well as for supervisory duties during fostering, which shall include

providing the Court or the Juvenile Court with updated information throughout the fostering period, according to whether the measure was issued pursuant to Paragraph 1 or 2. The local social service in charge of the welfare programme and of supervision during fostering shall report without delaying to the Court or the Juvenile Court of the child's place of abode, according to whether the measure was issued under Paragraph 1 or 2, any occurrence of particular relevance, and shall be obliged to submit a six-monthly report on the course of the welfare programme, on its likely duration and on the evolution of hardship in the family of origin.

4. In the measure under Paragraph 3 there shall also be an indication of the likely duration of fostering with reference to the overall activities aimed at rehabilitating the family of origin. This period may not exceed twenty-four months and can be extended by the Juvenile Court should suspension of fostering be prejudicial to the child.

5. Foster care placement shall expire with a measure of the same authority that has ordered it after assessing the child's interest, once the situation of temporary difficulty of the family of origin has ended or if continuation of fostering would be prejudicial to the child.

6. Once the set period has expired or the circumstances referred to in Paragraph 5 have occurred, after the local social service concerned and the child over twelve, or even younger in consideration of its judgment have been consulted, the Court shall, if necessary, ask the competent Juvenile Court to take further measures in the child's best interest.

7. The provisions of this Article shall, where compatible, also apply to cases of children placed in a family-type community or public or private welfare institution.⁽⁸⁾

⁽⁸⁾ Title replaced by Article 4 of Law No 149 of 28 March 2001.

Article 5

1. Foster parents shall receive children into their homes and see to their maintenance, upbringing, and education, taking into account the indications of the parents, as long as no decision under Articles 330 and 333 of the Civil Code has been issued against them - or of the guardian, and complying with any conditions laid down by the foster-care authorities. Where compatible, the provisions of Article 316 of the Civil Code shall apply. In any case, foster parents shall exercise the powers associated with parental authority in connection with the ordinary relations with school and health authorities. Foster parents shall be heard in civil proceedings in matters of parental authority, fostering and adoption in relation to the fostered child.

2. Social services shall, within their powers and as ordered by the Court or else according to the needs of the case, provide educational or psychological support work and promote relationships with the family of origin and the child's return to it in the most appropriate fashion, by availing themselves of the professional skills of other local institutions and of the activities of any family associations the foster parents may indicate.

3. The provisions under Paragraphs 1 and 2 shall apply as being compatible to cases of children living in a family-type community or in a public or private welfare institution.

4. The State, the regions and the local authorities shall, within their own powers and according to the resources available in their respective budgets, support and assist financially foster families.⁽⁹⁾

⁽⁹⁾ Article replaced by Article 5 of Law No 149 of 28 March 2001.

TITLE II
Adoption
CHAPTER I
General Provisions

Article 6

1. Adoption shall be permissible for spouses who have been married for at least three years. Spouses must not be, or have been in the previous three years, separated, not even *de facto*.
2. The spouses must be effectively suited and able to raise, educate and maintain the children whom they wish to adopt.
3. The prospective adoptive parents must be at least eighteen and no more than forty-five years older than the adopted child.
4. The requirement of a stable relationship under Paragraph 1 may be deemed to be met also if the spouses have stably and continuously lived together before marriage for a period of three years, in the case the Juvenile Court finds the continuity and stability of their cohabitation, having regard to all the circumstances of the specific case.
5. The limits under Paragraph 3 may be departed from should the Juvenile Court find that failure to adopt would entail serious harm, not otherwise avoidable, for the child.
6. Adoption shall not be precluded where the maximum age limit for the prospective adoptive parents is exceeded by one of them only by not more than ten years, or where they are parents of natural or adoptive children of which at least one is a minor, or where the adoption concerns a sibling of a child already adopted by them.
7. The same couple shall be allowed more adoptions, also by subsequent acts. The fact of having already adopted a sibling of the adoptee, or of having applied to adopt several siblings, or declared the willingness to adopt children in the circumstances indicated in Article 3 (1) of Law 104 of 5 February 1992 on welfare, social integration and rights of handicapped persons shall confer preference for the purposes of adoption.
8. In cases of adoption of children over twelve or with declared impairments pursuant to Article 4 of Law 104 of 5 February 1992, the State, the regions and the local authorities may intervene, within their own powers and in view of the financial resources available on their respective budgets, with specific measures of an economic nature and, where appropriate, also through measures supporting education and social integration, until the adoptees reach the age of eighteen. ⁽¹⁰⁾

⁽¹⁰⁾ Article replaced by Article 6 of Law No 149 of 28 March 2001.

Article 7

1. Adoption shall be allowed for minors declared to be adoptable pursuant to the following Articles.
2. 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 minors reach the age of fourteen during the proceedings. The consent given may in any case be revoked at any time until the adoption is final.
3. If an adoptee has reached the age of twelve, he or she shall be heard personally; if younger he or she shall be heard having regard to his or her capacity of discernment. ⁽¹¹⁾

⁽¹¹⁾ Article replaced by Article 7 of Law No 149 of 28 March 2001.

CHAPTER II

Declaration of Adoptability

Article 8

1. Children found to be in a state of abandonment because they lack the moral and material care parents or relatives who have 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.
2. The state of abandonment shall be also be deemed to exist - where the conditions referred to in the preceding Paragraph occur - where the children are living in a public or private welfare institution or family-type community or in foster care placement.
3. *Force majeure* shall not be deemed to exist where the persons mentioned in Paragraph 1 refuse the support measures offered by the local social services and this refusal is found unjustified by the court.
4. The adoptability proceedings shall from the outset involve legal counselling of the child, the parents or other relatives mentioned in Article 10 (2). ⁽¹²⁾

⁽¹²⁾ Article replaced by Article 8 of Law No 149 of 28 March 2001.

Article 9

1. Anyone may report to the public authorities situations of abandonment of minors. Public officials, officers of a public service and those providing essential public services shall as soon as possible report to the prosecution service of the Juvenile Court of the child's place of residence on the conditions of any child in a state of abandonment they may know of in the course of their duties.
2. Every six months the public or private care institutions and family-type communities shall transmit to the prosecution service of the Juvenile Court of the place where 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 conditions. After obtaining the necessary information, the Public Prosecutor attached to the Juvenile Court shall apply to the court for it to declare the adoptability of those children among the ones reported or placed in family-type communities or public or private care institutions or foster families who are declared to be in a state of abandonment, specifying the reasons.
3. Every six months the Public Prosecutor attached to the Juvenile Court who sends the documents to the same court with an informative report shall carry out or provide for the inspections into the public or private care institutions referred to in Paragraph 2. Special inspections may be carried out at any time.
4. Anyone who is not a relative within the fourth degree and takes a child to live stably in his or her own home, where reception has lasted more than six months, shall report it to the Public Prosecutor attached to the Juvenile Court. Failure to report may entail ineligibility to be assigned children for foster care or adoption or to assume the status of guardian.
5. Within the same period as in Paragraph 4, a similar report shall be made by a parent who entrusts his or her minor child to the stable care of someone who is not a relative within the fourth degree for a period of six months or more. Failure to report may entail withdrawal of parental authority over the child pursuant to Article 330 of the Civil Code and initiation of adoptability proceedings ⁽¹³⁾

⁽¹³⁾ Article replaced by Article 9 of Law No 149 of 28 March 2001.

Article 10

1. The Chief Justice of the Juvenile Court or a judge delegated by him or her shall, on receipt of the application mentioned in Article 9 (2), provide for the immediate opening of proceedings regarding the child's state of abandonment. Where necessary he or she shall order, through the local social services or law enforcement authorities, urgent action to obtain more detailed information on the child's legal and actual conditions and the environment where he or she has been living, in order to ascertain whether the state of abandonment exists.

2. On opening of these proceedings the parents, or failing them, relatives within the fourth degree who have meaningful relations with the child, shall be sent a notice from the Chief Justice of the Juvenile Court informing them to appoint a defence counsel and that a counsel shall be appointed *ex officio* should they fail to do so. These persons, assisted by their counsel, may be present at all investigations ordered by the court, may lodge applications, including for enquiries, have access and take copies of documents in the files, after being authorized by the court.

3. The court may at any moment, until pre-adoptive foster placement, take any appropriate temporary measure in the child's best interest, including temporary placement with a family or family-type community, suspension of the parents' rights over their child or of the exercise of the functions of a guardian, and appointment of a temporary guardian.

4. In cases of urgent need, the measures referred to in Paragraph 3 may be ordered by the Chief Judge of the Juvenile Court or a judge delegated by him or her.

5. Within 30 days the Court shall confirm, modify or revoke urgent measures taken pursuant to Paragraph 4. The Court shall rule in chambers and with the Public Prosecutor's intervention, after having heard all interested parties and taken all necessary information. If twelve or over, or younger having regard to his or her capacity of discernment, the child shall also be heard. The Public Prosecutor and the parents shall be informed of measures adopted. The provisions of Article 330 ff of the Civil Code shall apply.⁽¹⁴⁾

⁽¹⁴⁾ Article replaced by Article 10 of Law No 149 of 28 March 2001.

Article 11

When the investigations provided for in the previous Article reveal that the parents of the child are dead and that there are no relatives having meaningful relationships with the child, the Juvenile Court shall declare the child 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 adoptable, unless someone who claims to be one of the biological parents requests that the procedure be suspended and time be granted 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, 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.

If 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 appoint a temporary guardian for the child, if necessary.

If the child is recognised within the mentioned deadline the procedure shall be declared closed where no moral or material state of abandonment exists. If the child is not recognised within the deadline, he/she shall be declared adoptable without further formalities.

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

Once the child has been declared adoptable and pre-adoptive foster placement has been arranged, recognition shall have no effect. The decision for the judicial declaration of paternity or maternity shall be suspended by law and closed if a final declaration of adoption follows. ⁽¹⁵⁾

⁽¹⁵⁾ Article replaced by Article 11 of Law No 149 of 28 March 2001.

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 him.

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 Court 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 against those having maintenance obligations. Where appropriate, the judge may also take provisional measures in accordance with Article 10(3). ⁽¹⁶⁾

⁽¹⁶⁾ Article replaced by Article 12 of Law No 149 of 28 March 2001.

Article 13

In cases where the parents and relatives referred to in the preceding Article cannot be found or their residence, abode or domicile are not known, the Juvenile Court shall provide for their summons in accordance with Articles 140 and 143 of the Code of Civil Procedure after further enquiries by the law enforcement authorities.

Article 14

1. The Juvenile Court may, before issuing the declaration of adoptability, order suspension of the proceedings where special circumstances emerging from the enquiries suggest that suspension may be in the child's best interest. In such cases the suspension shall be ordered by motivated decree, for a period not exceeding one year.

2. The competent local social services shall be informed of the suspension to take appropriate measures. ⁽¹⁷⁾

⁽¹⁷⁾ Article replaced by Article 13 of Law No 149 of 28 March 2001.

Article 15

1. If at the end of the enquiries and checks provided for by the previous Articles the state of abandonment referred to in Article 8 proves to exist, the Juvenile Court shall declare the child adoptable where:

- a) the parents and relatives summoned pursuant to Articles 12 and 13 failed to appear, without any justified reason;
- b) the hearing of the persons referred to in a) has shown that failure to provide moral and material care and unwillingness to remedy persists;
- c) the measures prescribed pursuant to Article 12 have not been compiled with because of the parents.

2. The declaration of the child's state of adoptability shall be ordered by the Juvenile Court in chambers by judgment, after hearing the Public Prosecutor and a representative of the public or private care institution or family-type community where the child is replaced or the person taking care of him or her. The guardian, where there is one, shall also be heard as shall a child of twelve or over, or younger having regard to his or her capacity of discernment.

3. The judgment shall be notified in full to the Public Prosecutor, the parents, the relatives pursuant to Article 12(1) and the guardian or the special guardian if any, who shall be informed of their right to lodge an appeal in the forms and within the deadline set out in Article 17.⁽¹⁸⁾

⁽¹⁸⁾ Article replaced by Article 14 of Law No 149 of 28 March 2001.

Article 16

1. Once the procedure provided for in the foregoing Articles is concluded and if it deems that the conditions for the state of adoptability are not met, the Juvenile Court declares that there are no grounds to proceed.

2. The judgment shall be notified in full to the Public Prosecutor, the parents, the relatives indicated in Article 12(1) and the guardian or the special guardian if any. The Juvenile Court shall take any appropriate measures in the child's best interest.

3. Articles 330 ff of the Civil Code shall apply.⁽¹⁹⁾

⁽¹⁹⁾ Article replaced by Article 15 of Law No 149 of 28 March 2001.

Article 17

1. The judgment may be appealed by the Public Prosecutor or other parties before the Court of Appeal, Juvenile Section, within thirty days of notification. The Court, after hearing the parties and the Public Prosecutor and making any other appropriate enquiries, shall decide by judgment in chambers and arrange for the judgment to be lodged with the clerk of the court within fifteen days of being issued. The judgment shall be served on the Public Prosecutor and the other parties.

2. The appellate judgment may be appealed against on points of law within thirty days of notification, on the grounds referred to in sub-Paragraphs 3, 4 and 5 of Article 360(1) of the Code of Civil Procedure. Article 360(2) shall also apply.

3. The hearing on the appeal and on the appeal on points of law shall be scheduled within sixty days of their being lodged.⁽²⁰⁾

⁽²⁰⁾ Article replaced by Article 16 of Law No 149 of 28 March 2001.

Article 18

1. The final ruling on the state of adoptability shall be recorded by the clerk of the Juvenile Court in the special register kept at the clerk's office. Registration must take place within ten days following notification that the

ruling on adoptability has become final. To this effect, the clerk of the court of appeal shall immediately notify the clerk of the Juvenile Court thereof. ⁽²¹⁾

⁽²¹⁾ Article replaced by Article 17 of Law No 149 of 28 March 2001.

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 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

1. The state of adoptability shall also cease by revocation, in the child's best interest, if the conditions set out in Article 8 (1) cease to exist, subsequent to the judgment referred to in Article 15(2).

2. The revocation shall be pronounced by the Juvenile Court *ex officio* or at the request of the Public Prosecutor, the parents or the guardian.

3. The Juvenile Court shall decide in chambers, having heard the public prosecutor.

4. The state of adoptability may not be revoked during pre-adoptive fostering. ⁽²²⁾

⁽²²⁾ Article replaced by Article 18 of Law No 149 of 28 March 2001.

Chapter III

Pre-adoptive Fostering

Article 22

1. Those wishing to adopt shall apply to a Juvenile Court, specifying whether they are willing to adopt several siblings, or children meeting the conditions referred to in Article 3 (1) of Law 104 of 5 February 1992 on welfare, social integration and rights of handicapped persons. Several applications, including subsequent applications, may be submitted to more than one Juvenile Court, as long as in every case all courts previously seized are informed. The Courts to which applications have been submitted may ask the other 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 three years after presentation, and may be renewed.

2. Those intending to adopt shall at any time, if requested, be supplied with information as to the state of the proceedings.

3. After having checked the requirements referred to in Article 6, the Juvenile Court shall order the appropriate enquiries referred to in Paragraph 4 to be carried out with the assistance of the social worker services of the individual or associated local authorities, and relying on the expertise of the local healthcare facilities. Preference shall be given to applications for adopting children over five or handicapped children pursuant to Article 4 of Law 104 of 5 February 1992.

4. The investigations, which shall be carried out promptly and completed within one hundred and twenty days, shall concern in particular the applicants' capacity to educate the child, the personal and financial situation, health and family environment and the reasons why the applicants wish to adopt a child. The deadline to complete investigations may be extended once through a grounded order for not more than one hundred and twenty days.

5. The Juvenile Court shall, on the basis of the enquiries made, select among applicant couples the most suitable to meet the child's needs.

6. The Juvenile Court shall, in chambers and after hearing the Public Prosecutor, the applicants' parents if alive, and the child if twelve or over, or younger having regard to his or her capacity of discernment, and omitting any other procedural formalities, without delay order pre-adoptive fostering, providing for the details thereof by decree. Children aged fourteen or over shall give their express consent to being placed with the chosen couple.

7. The Juvenile Court shall in every case inform the applicants of any relevant facts concerning the child that have emerged during the enquiries. Placement of only one of several siblings in a state of adoptability cannot be ordered save where serious reasons exist. The decree shall be communicated to the Public Prosecutor, the applicants and the guardian. The pre-adoptive placement measure shall immediately, and at any rate within ten days, be recorded by the clerk near the entry referred to in Article 18.

8. The Juvenile Court shall monitor the satisfactory progress of pre-adoptive fostering through the court having jurisdiction on guardianship matters also and the local social and counselling services. In the case of proven difficulties it shall, if necessary separately, summon the foster parents and the child, in the presence of a psychologist where appropriate, in order to assess the causes of the difficulties. Where necessary, it shall order psychological and social support actions.⁽²³⁾

⁽²³⁾ Article replaced by Article 19 of Law No 149 of 28 March 2001.

Article 23

1. Pre-adoptive fostering shall be revoked by the Juvenile Court *ex officio* or on application by the Public Prosecutor, the guardian or those carrying out the supervisory role referred to in Article 22 (8) in the case of proven cohabitation issues considered insurmountable. The revocation measure shall be adopted by the Juvenile Court in chambers, by a motivated decree. In addition to the Public Prosecutor and the party applying for revocation, the child if twelve or over, or younger having regard to his or her capacity of discernment, shall be heard, as shall the foster parents, the guardian and those who have been involved in monitoring or support activities.

2. The decree shall be sent to the Public Prosecutor, the person applying for revocation, the foster parents and the guardian. The clerk of Court shall record the decree ordering revocation of pre-adoptive fostering near the entry referred to in Article 18 within ten days.

3. In the event of revocation the Juvenile Court shall take appropriate provisional measures in the child's best interest pursuant to Article 10 (3). Article 330 ff of the Civil Code shall apply.⁽²⁴⁾

⁽²⁴⁾ Article replaced by Article 20 of Law No 149 of 28 March 2001.

Article 24

The Public Prosecutor and the guardian may appeal the decree of the Juvenile Court on pre-adoptive fostering or its revocation before 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

Declaration of Adoption

Article 25

1. The Juvenile Court that pronounced the state of adoptability shall, one year from the placement and having heard the prospective adoptive spouses, the child if twelve or over, or younger having regard to his or her capacity of discernment, the Public Prosecutor, the guardian, and those involved in monitoring or support activities, ascertain that all the conditions provided for in this Chapter are met, and without other procedural formalities rule on the adoption by judgment in chambers, deciding whether or not to proceed therewith. If the child is fourteen or over he or she must indicate express consent to being adopted by the chosen couple.
2. Where the adoption request has been submitted by spouses with legitimate or legitimised descendants, these shall, if over fourteen, be heard.
3. In the child's best interest, the period referred to in Paragraph 1 may be extended by one year, *ex officio* or at the request of the fostering spouses, by motivated order.
4. Should one of the spouses die or become incapacitated during pre-adoptive placement, in the child's best interest adoption may also be authorized at the request of the other spouse on behalf of both, with effect, for the dead spouse, from the date of death.
5. If the spouses split during pre-adoptive placement adoption may be authorized for one or both spouses, in the sole interest of the child, should one or both spouses so request.
6. The judgment deciding on adoption shall be sent to the Public Prosecutor, the prospective adoptive spouses and the guardian.
7. In the case of a negative decision, pre-adoptive placement shall cease and the Juvenile Court shall take the appropriate temporary measures in the interest of the child in accordance with Article 10 (3). Articles 330 ff of the Civil Code shall apply. ⁽²⁵⁾

⁽²⁵⁾ Article replaced by Article 21 of Law No 149 of 28 March 2001.

Article 26

1. The judgment declaring whether or not to proceed with the adoption may be appealed within thirty days of notification to the Juvenile Section of the Court of Appeal by the Public Prosecutor, the prospective adoptive parents or the child's guardian. After hearing the parties and making any enquiries it deems appropriate the Court of Appeal shall render a judgment. The judgment shall be served on the parties in full *ex officio*.
2. The judgement of the Court of Appeal may be appealed to the Court of Cassation within thirty days of its service, solely on the grounds referred to in Article 360(1)(3) of the Code of Civil Procedure.
3. The hearing on the appeal or appeal in cassation shall be scheduled within sixty days of their being lodged.
4. Once it has become final, the judgment ruling on the adoption shall be immediately entered in the registry referred to in Article 18 and sent to the public registry officer, who shall record it on the adoptee's birth certificate. To this end, the clerk of the appeal court shall immediately notify the clerk of the Juvenile Court once the judgment has become final.
5. The effects of adoption shall arise from the time the judgment becomes final. ⁽²⁶⁾

⁽²⁶⁾ Article replaced by Article 22 of Law No 149 of 28 March 2001.

Article 27

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

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

The adopted child's relationships with his/her family of origin shall cease after his/her adoption, with the exception of matrimonial prohibitions. ⁽²⁷⁾

⁽²⁷⁾ Article replaced by Article 23 of Law No 149 of 28 March 2001.

Article 28

1. The adopted child shall be informed of his/her status and the adoptive parents shall so provide in the ways and the times they deem most appropriate.

2. Any certificate of civil status relating to the adoptee shall bear the new surname only and contain no reference whatsoever to the child's paternity or maternity and no notice pursuant to Article 26(4).

3. Registrars, registry officers or any other public or private body, authority or public office shall refuse to give any news, information, certificates, extracts or copies from which the adoption relationship may result in any way, unless explicitly authorized by the judicial authority. No authorization is necessary where the request comes from a registrar in order to verify whether there are any impediments to marriage.

4. Information concerning the identity of the biological parents may be furnished to the adoptive parent as those holding parental authority, on authorization by the Juvenile Court, only if serious, proven reasons exist. The Court shall ascertain that such information has been preceded and accompanied by appropriate preparation of and assistance to the child. The information may also be supplied to the head of a hospital or health institution in cases of necessity and urgency and if the child's health is seriously endangered.

5. On reaching the age of twenty-five, the adoptee may have access to information concerning his/her origin and the identity of his/her biological parents. He/she may do so also on reaching majority, where serious, proven grounds pertaining to his/her mental or physical health exist. The application shall be submitted to the Juvenile Court of the place of residence.

6. The Juvenile Court shall hear whomever it deems appropriate; it shall gather all information of a social and psychological nature for assessing whether access to the information referred to in Paragraph 5 may lead to severe disruption of the applicant's mental or physical balance. After completing enquiries the Juvenile Court shall authorize access to the requested information by decree.

7. Access to information shall not be permitted to a mother who stated at the child's birth she did not want to be named pursuant to Article 30(1) of Presidential Decree No 396 of 3 November 2000.

8. Without prejudice to the foregoing Paragraphs, authorization is not required in the case of adoptees who have reached majority and whose adoptive parents are dead or cannot be traced. ⁽²⁸⁾

⁽²⁸⁾ Article replaced by Article 24 of Law No 149 of 28 March 2001.

TITLE III

Intercountry Adoption

Chapter I

Adoption of Foreign Children ⁽²⁹⁾

Article 29

1. The adoption of foreign children shall take place in compliance 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 this Law.⁽³⁰⁾

⁽²⁹⁾ The entire Chapter I (Articles 29-39) was replaced by Article 3 of Law No 476 of 31 December 1998.

⁽³⁰⁾ The entire Chapter I (Articles 29-39) was replaced by Article 3 of Law No 476 of 31 December 1998.

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 submit a statement 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, without prejudice to the provisions set out in Article 36(4), 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 statement 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 healthcare and hospital authorities, shall perform the following activities:

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

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

c) gathering of data on the personal, family and healthcare situation of the prospective adoptive parents, on their social environment, the reasons why they wish to adopt, their aptitude for taking an intercountry adoption upon themselves, their ability to meet the needs of one or more children in a satisfactory manner, any particular characteristics that the children they wish to adopt might have, and any other relevant information to enable the Juvenile Court to assess their eligibility to adopt.

5. The services shall forward to the Juvenile Court a report on the activity carried out, including all the points referred to in Paragraph 4, within four months following the transmission of the declaration of availability.⁽³¹⁾

⁽³¹⁾ The entire Chapter I (Articles 29-39) was replaced by Article 3 of Law No 476 of 31 December 1998.

Article 30

1. Once the Juvenile Court has received the report referred to in Article 29-bis(5) it shall hear the prospective adoptive parents, also through a delegated judge, arrange any enquiries that might be necessary and issue a motivated decree certifying that the conditions to adopt exist or do not exist within the following two months.

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 inform of the measure the Commission and the accredited body referred to in Paragraph 3.

5. The decree of eligibility or unsuitability and the decree of revocation can be appealed by the Public Prosecutor and the interested persons to the Court of Appeal pursuant to Articles 739 and 740 of the Code of Civil Procedure.⁽³²⁾

⁽³²⁾ The entire Chapter I (Articles 29-39) was replaced by Article 3 of Law No 476 of 31 December 1998.

Article 31

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

2. In the situations pursuant to Article 44(1)(a), 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 accredited 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 make proposals to match the prospective adoptive parents and the child;

c) obtain from the foreign authority the proposal for the matching 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 and data regarding the child to the prospective adoptive parents, inform them of the proposal for the matching 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 matching 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 the latter 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 are met and agree with the same authority, where the requirements have been met, on whether it is appropriate to proceed with the adoption; should this not be the case, it shall acknowledge the lack of a decision and immediately inform the Commission referred to in Article 38

and give grounds. When so requested by the country of origin, it 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 placement decision of the foreign authority. It shall also apply to the Commission for the child's or children's authorisation 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 child's transfer 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, support to the adoptive family since the child's arrival in Italy, if requested by the adoptive parents;

n) [certify the duration of any necessary parental leave that might be required in accordance with Article 39-*quater*(1)(a) e (b), where this leave is not related to the child's health. It shall also certify the duration of the prospective adoptive parents' stay abroad, in cases of unpaid leave pursuant to Article 39-*quater*(1) (c)];⁽³³⁾

o) certify the total costs incurred by the adoptive parents in carrying out the adoption procedures for the purposes envisaged in Article 10(1)(*l-bis*) of the Consolidated Law on Income Tax, approved with Presidential Decree No 917 of 22 December 1986.⁽³⁴⁾

⁽³³⁾ Sub-Paragraph repealed by Article 86 of Legislative Decree No 151 of 26 March 2001. The provisions of this Sub-Paragraph are now contained in Articles 27 and 37 of the Consolidated Text approved with Legislative Decree No 151 of 26 March 2001.

⁽³⁴⁾ The entire Chapter I (Articles 29-39) was replaced by Article 3 of Law No 476 of 31 December 1998.

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 child's state of abandonment and the impossibility to place or adopt the child in the 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. Registration shall be authorised only if conformity is recognised.

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(1) (h), they shall issue the child with an entry visa for adoption. ⁽³⁵⁾

⁽³⁵⁾ The entire Chapter I (Articles 29-39) was replaced by Article 3 of Law No 476 of 31 December 1998.

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 Italy.

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 for it to contact the authorities of the child's country of origin to ensure that a placement 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 this 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 Italy 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 and proceed in accordance with Article 34. ⁽³⁶⁾

⁽³⁶⁾ The entire Chapter I (Articles 29-39) was replaced by Article 3 of Law No 476 of 31 December 1998.

Article 34

1. Any child who has entered Italy on the basis of a foreign adoption or pre-adoptive placement measure shall enjoy since his/her entry all the rights to which Italian children placed in foster families are entitled.

2. Since the child's entry into 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 recording the adoption measure in the register of marital status. ⁽³⁷⁾

⁽³⁷⁾ The entire Chapter I (Articles 29-39) was replaced by Article 3 of Law No 476 of 31 December 1998.

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 measure issued by the declaring authority shows that the conditions for intercountry adoption under the terms of Article 4 of the Convention are met.
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 are submitted, it shall also order that the adoption measure be recorded in the register of marital 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 pre-adoptive 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 order its recording in the register of marital 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 pre-adoptive period and take the measures set out 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 personally; 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.⁽³⁸⁾
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 recording may not be ordered when:
 - a) the adoptive measure concerns prospective adoptive parents who do not possess the requirements envisaged by the Italian adoption law;
 - 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 were not performed through the central authorities and an accredited body;
 - e) the child's placement with the adoptive family has proved to be prejudicial to his/her best interest.⁽³⁹⁾

⁽³⁸⁾ Paragraph replaced by Article 32 of Law No 149 of 28 March 2001.

⁽³⁹⁾ The entire Chapter I (Articles 29-39) was replaced by Article 3 of Law No 476 of 31 December 1998.

Article 36

1. Intercountry adoption of children from countries that have ratified 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 this Law.

2. Adoption or pre-adoptive 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 has been ascertained;

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

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

d) the authorisation provided for in Article 39 (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 take the appropriate measures provided for in Article 39 (1) (e).

4. The adoption declared by the competent authority of a foreign country at the request of Italian citizens who 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 an order of the Juvenile Court if it complies with the principles of the Convention.⁽⁴⁰⁾

⁽⁴⁰⁾ The entire Chapter I (Articles 29-39) was replaced by Article 3 of Law No 476 of 31 December 1998.

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 for access to other information, the provisions on the adoption of Italian children shall apply.⁽⁴¹⁾

⁽⁴¹⁾ The entire Chapter I (Articles 29-39) was replaced by Article 3 of Law No 476 of 31 December 1998.

Article 37-bis

1. The Italian legislation on adoption, foster placement and interim measures in urgent cases shall apply to any foreign child in a state of abandonment in Italy.⁽⁴²⁾

⁽⁴²⁾ The entire Chapter I (Articles 29-39) was replaced by Article 3 of Law No 476 of 31 December 1998.

Article 38

1. An Intercountry Adoption Commission shall be set up at 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) one president appointed by the Prime Minister, who shall be a magistrate with experience in juvenile matters or an executive civil servant with similar specific experience;
- b) two representatives of the Presidency of the Council of Ministers;
- c) one representative of the Ministry for Labour and Social Policies;
- d) one representative of the Ministry of Foreign Affairs
- e) one representative of the Ministry of the Interior;
- f) two representatives of the Ministry of Justice;
- g) one representative of the Ministry of Health;
- h) one representative of the Ministry of Finance;
- i) one representative of the Ministry of Education, University and Research;
- l) three representatives of the Joint Conference pursuant to Article 8 of Legislative Decree No 281 of 28 August 1997;
- m) three representatives appointed, through an ad hoc Decree of the Prime Minister, by family associations having a national character, of which at least one is appointed by the Forum of Family Associations. ⁽⁴³⁾

3. The President shall hold office for a term of four years and his/her term of office shall be renewable once. ⁽⁴⁴⁾

4. Members of the Commission shall hold office for four years. The Rules 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. ⁽⁴⁵⁾ To this end the Rules may extend the Commissioners' term of office for periods of no more than one year.] ^{(46) (47)}

5. The Commission shall recruit permanent staff of the Prime Minister's Office and other government departments. ^{(48) (49)}

⁽⁴³⁾ Paragraph replaced by Article 2 (1)(a) of Law No 3 of 16 January 2003. See also Article 2(2). This Paragraph was then repealed by Article 1(19-*quinquies*) of Decree Law No 181 of 18 May 2006, added by the law converting this decree.

⁽⁴⁴⁾ Paragraph replaced by Article 39-*duodetricies*, Decree Law No 273 of 30 December 2005, in the version integrated by the law converting the decree. This Paragraph was then repealed by Article 1(19-*quinquies*) of Decree Law No 181 of 18 May 2006, added by the law converting the decree.

⁽⁴⁵⁾ Sentence deleted by Article 2(1)(b) of Law No 3 of 16 January 2003.

⁽⁴⁶⁾ Sentence deleted by Article 2(1)(b) of Law No 3 of 16 January 2003.

⁽⁴⁷⁾ This Paragraph was then repealed by Article 1(19-*quinquies*) of Decree Law No 181 of 18 May 2006, added by the law converting this decree.

⁽⁴⁸⁾ The entire Chapter I (Articles 29-39) was replaced by Article 3 of Law No 476 of 31 December 1998. See also Article 3-*quinquies* of Decree Law No 136 of 28 May 2004 in the version integrated by the law converting the Decree.

⁽⁴⁹⁾ For the composition and term of office of the Commission under Paragraph 1 of this Article see now Articles 2-5 of Presidential Decree No 108 of 8 June 2007.

Article 39

1. The Commission for Intercountry Adoption shall:

- a) co-operate with the Central Authorities for intercountry adoption in other countries by also gathering any necessary information in order to implement international Conventions on adoption;
- b) propose the conclusion of bilateral agreements on intercountry adoption;
- c) authorise the activity of the bodies referred to in Article 39-*ter*, see to the keeping of the respective register, supervise their activity, carry out inspections at least every three years, and revoke their accreditation in the case of serious failure to perform their duties, incapacity or infringement of the provisions of this 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 even distribution of accredited bodies throughout Italy and of their representative offices 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 foreign children adopted or in pre-adoptive fostering;
- i) certify that the adoption complies with the provisions of the Convention, as envisaged in its Article 23 (1);
- l) co-operate also with bodies other than those referred to in Article 39-*ter* on information and training initiatives.

2. 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 to examine any emerging issues 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 Parliament, on the state of intercountry adoption, the implementation of the Convention and the conclusion of bilateral agreements, including with non-signatory countries. ⁽⁵⁰⁾ ⁽⁵¹⁾

⁽⁵⁰⁾ The entire Chapter I (Articles 29-39) was replaced by Article 3 of Law No 476 of 31 December 1998.

⁽⁵¹⁾ This Article was repealed by Article 1(19-*quiquies*) of Decree Law No 476 of 18 May 2003, added by the relevant law converting the Decree. For the remit of the Intercountry Adoption Commission see now Article 6 of Presidential Decree No 108.

Article 39-bis

1. The autonomous regions and the provinces of Trento and Bolzano shall, within their remit:
 - a) co-operate to develop a network of services to carry out the tasks provided for in this 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 for juveniles.
2. The regions 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(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 this Law. The administrative functions for the intercountry adoption service shall be delegated to the autonomous regions and provinces of Trento and Bolzano.⁽⁵²⁾

⁽⁵²⁾ The entire Chapter I (Articles 29-39) was replaced by Article 3 of Law No 476 of 31 December 1998.

Article 39-ter

1. In order to obtain and maintain the accreditation envisaged in Article 39(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 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.^{(53) (54)}

⁽⁵³⁾ The entire Chapter I (Articles 29-39) was replaced by Article 3 of Law No 476 of 31 December 1998.

⁽⁵⁴⁾ See also Article 11 of Presidential Decree No 108 of 8 June 2007.

Article 39-quater

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

- a) leave from work, as provided for in Article 6(1) of Law No 903 of 9 December 1977, even if the adopted child is over six;
- b) absence from work, as provided for in Article 6(2) and Article 7 of Law 903/1977, until the adopted child is six;
- c) leave from work for the duration of the stay in a foreign country required for adoption].^{(55) (56)}

⁽⁵⁵⁾ The entire Chapter I (Articles 29-39) was replaced by Article 3 of Law No 476 of 31 December 1998.

⁽⁵⁶⁾ Article repealed by Article 86 of Legislative Decree No 151 of 26 March 2001.

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.

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 this Law shall apply.⁽⁵⁷⁾

⁽⁵⁷⁾ Paragraph added by Article 5 of Law No 476 of 31 December 1998.

Article 41

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

If the child has problems in adapting to the foster family or if circumstances incompatible with the pre-adoptive placement occur, 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.

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 foreign Central Authority and by the accredited body.⁽⁵⁸⁾

⁽⁵⁸⁾ Paragraph added by Article 5 of Law No 476 of 31 December 1998.

Article 42

If an adoption proceeding for a child fostered by foreigners or by Italian citizens resident abroad is in progress in Italy, no adoption measure authorised by a foreign authority for the same child shall be enforced.

Article 43

The provisions set out in Article 9 (4) and (5) shall also apply to Italian citizens resident abroad. ⁽⁵⁹⁾

With regard to the performance of consular functions, Articles 34, 35 and 36 of Presidential Decree No 200 of 5 January 1967 shall apply, where compatible.

The Juvenile Court of the child's last place of abode shall be competent to verify the state of abandonment of Italian children 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.

⁽⁵⁹⁾ Paragraph replaced by Article 33 of Law No 149 of 28 March 2001.

TITLE IV

Adoption in Special Cases

Chapter I

Adoption in Special Cases and Its Effects

Article 44

1. Even in cases where the conditions set out in Article 7 (1) are not met, children may be adopted:
 - a) by persons linked to the child by blood ties within the sixth degree of kin or by a pre-existing steady and lasting relationship, if the child is fatherless and motherless;
 - b) by the spouse, if the child is the child, natural or adoptive, of the other spouse;
 - c) if the child is in the circumstances indicated in Article 3 (1) of Law No 104 of 5 February 1992 and is fatherless and motherless;
 - d) where pre-adoptive placement proves to be impossible.
2. In the cases indicated in Paragraph 1, adoption shall be permitted even if there are legitimate children.
3. In the cases referred to in Paragraph 1 (a), (e) and (d), unmarried persons, as well as spouses, may adopt. Where the prospective adoptive parent is married and not separated, however, adoption may be ordered only at request of both spouses.
4. In the cases referred to in Paragraph 1 (a) and (d), the prospective adoptive parent must be at least eighteen years older than the child(ren) he or she wishes to adopt. ⁽⁶⁰⁾

⁽⁶⁰⁾ Article replaced by Article 25 of Law No 149 of 28 March 2001.

Article 45

1. In adoption procedures in cases provided for by Article 44, the consent of the prospective adoptive parent and of the adoptee if fourteen or older shall be required.
2. If the adoptee is twelve or older he or she shall be heard personally; if younger he or she may be heard, having regard to his or her capacity of discernment.

3. In any case, if the child is under fourteen adoption shall be ordered only after his or her legal representative has been heard.

4. Where adoption is to be ordered in the case provided for by Article 44 (1) (c), the child's legal representative shall be heard in lieu of him or her where he or she cannot be heard or cannot give his or her consent within the meaning of this Article because of his or her handicap⁽⁶¹⁾

⁽⁶¹⁾ Article replaced by Article 26 of Law No 149 of 28 March 2001.

Article 46

The consent of the adoptee's parents and, if married, of the adoptee'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 adoptee's interest, authorise the adoption, unless where the consent was refused by the adoptee's parents exercising their parental authority or by the adoptee's spouse, if living with him/her. Similarly, the Court may authorise adoption even when the persons called to express their consent cannot do so due to disability or because they cannot be traced.

Article 47

1. Adoption shall take effect from the date of the judgment ruling on it. Until the judgment is handed down, either the adoptive parent or the adoptee may withdraw their consent.

2. If either spouse dies after giving consent and before the judgment has been handed down, the procedures necessary for adoption may be carried out at the request of the other spouse.

3. If the adoption is authorized, it shall take effect from the time of the adoptive parent's death.⁽⁶²⁾

⁽⁶²⁾ Article replaced by Article 27 of Law No 149 of 28 March 2001.

Article 48

If a 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 and exercise thereof.

Adoptive parents have the duty to maintain, educate and raise adopted children 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

1. The adoptive parent shall draw up an inventory of the adopted child's property and send it to the Court within thirty days of the date of notification of the adoption judgment. The provisions contained in Section III of Chapter I of Title X of Book One of the Civil Code shall apply, where applicable.

2. If the adoptive parent fails to draw up the inventory within the set time or draws up a false inventory, the Court may deprive him or her of property management, without prejudice to any obligation to pay damages. ⁽⁶³⁾

⁽⁶³⁾ Article replaced by Article 28 of Law No 149 of 28 March 2001.

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 of the Public Prosecutor, or also *ex officio*, may issue the appropriate orders for the care of the adopted child, his/her representation and the management of his/her property, even if it deems appropriate that the parents should resume the exercise of their parental authority. The provisions of Article 330 ff 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 older 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 not less than three years.

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

Once it has gathered the necessary information and carried out the necessary enquiries, after hearing 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 orders 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 ff of the Civil Code shall apply. In cases where the measures provided for in Paragraph 4 are adopted, the Court shall inform thereof 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 adoptee, or against his/her spouse, descendants or ascendants, the adoption may be revoked at the request of the adoptee child or of the Public Prosecutor.

Once it has gathered the necessary information and carried out the necessary enquiries, and after hearing the Public Prosecutor, the adoptive parent, the adopted child if aged twelve or younger, having regard to his or her capacity of discernment, the Court shall hand down its judgment. ⁽⁶⁴⁾

Having heard the Public Prosecutor and the child aged twelve or older 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 it appropriate that the parents resume the exercise of their parental authority.

Articles 330 ff of the Civil Code shall apply.

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

⁽⁶⁴⁾ Article replaced by Article 32 of Law No 149 of 28 March 2001.

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 judgement ruling on revocation becomes final.

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

Article 55

The provisions of Articles 293, 294, 295, 299, 300 and 304 of the Civil Code shall apply to this 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 adoptee 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 latter.⁽⁶⁵⁾

The consent of the persons referred to in Article 46 may be given by a person with a special power of attorney conferred by means of a notarial 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.

⁽⁶⁵⁾ The Constitutional Court, with judgment No 182 of 10-18 February 1988 (Official Journal No 8 – Special Series), has declared Article 56(2) unconstitutional in so far as it required the consent of the child's legal representative instead of his or her hearing.

Article 57

The Court shall verify:

- 1) whether the circumstances under Article 44 occur;
- 2) whether the adoption is in the child's best interest.

For this purpose the Juvenile Court, having heard the adoptee'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 financial situation, their health, and their family environment; ⁽⁶⁶⁾
- b) the reasons why the adoptive parent wishes to adopt the child;
- c) the child's personality;
- d) the suitability to live in the same household, considering the adoptive parents' and child's personalities.

⁽⁶⁶⁾ Sub-paragraph replaced by Article 29 of Law No 149 of 28 March 2001.

TITLE V
Amendments to Title VIII of Book I of the Civil Code
Article 58

..... ⁽⁶⁷⁾

⁽⁶⁷⁾ Replaces the heading of Title VIII of Book I of the Civil Code.

Article 59

..... ⁽⁶⁸⁾

⁽⁶⁸⁾ Replaces the heading of Chapter I of Title VIII of Book I of the Civil Code.

Article 60

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

Article 61

.... ⁽⁶⁹⁾

⁽⁶⁹⁾ Replaces Article 299 of the Civil Code

Article 62

..... ⁽⁷⁰⁾

⁽⁷⁰⁾ Replaces Article 307 of the Civil Code

Article 63

... ⁽⁷¹⁾

⁽⁷¹⁾ Replaces the heading of Chapter II of Title VIII of Book I of the Civil Code

Article 64

..... ⁽⁷²⁾

⁽⁷²⁾ Replaces Article 312 of the Civil Code

Article 65

.....⁽⁷³⁾

⁽⁷³⁾ Replaces Article 313 of the Civil Code

Article 66

...⁽⁷⁴⁾

⁽⁷⁴⁾ Replaces the first two Paragraphs of Article 314 of the Civil Code

Article 67

Article 293(2) and (3), Article 296 (2) and (3) 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

...⁽⁷⁵⁾

⁽⁷⁵⁾ Replaces Article 38 (1) of the Implementing Provisions of the Civil Code.

Article 69

In addition to the rules pursuant to Article 51 of the Implementing Provisions of the Civil Code, all measures issued by the Juvenile Court pursuant to Article 10 of this Law shall be recorded in the register of guardianships.

Article 70

1. Public officials or persons appointed to carry out a public service who fail to report to the Juvenile Court the conditions of any child in a state of abandonment of which they have become aware in the performance of their duties shall be punished pursuant to Article 328 of the Penal Code. Providers of essential public services shall be punishable by imprisonment for up to one year or by a fine from 500,000 to 2,500,000 lire.

2. Persons representing public or private care institutions who fail to send every six months a list of all children living or cared for in their institution to the Prosecutor's Office attached to the Juvenile Court, or who provide incorrect information on the family connections of the children in their care shall be punishable by imprisonment for up to one year or by a fine from 500,000 to 5,000,000 lire.⁽⁷⁶⁾

⁽⁷⁶⁾ Article replaced by Article 34 of Law No 149 of 28 March 2001. The effect of Article 51 of Legislative Decree No 213 of 24 June 1998 is that penal and administrative sanctions expressed in lire have been converted into Euros from 1 January 2002.

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 from one to three years.⁽⁷⁷⁾

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 one half.

If the act is committed by a parent, his/her conviction shall result in the loss of his/her parental authority and the commencement of the adoptability procedure; if it is committed by the guardian the latter shall be removed from his or her office; if it is committed by the foster parent, the latter shall be declared ineligible for foster care or pre-adoptive placements and banned from guardianship.

If the act is committed by public officials, by persons entrusted with a public service, by healthcare or legal professionals, or by persons belonging to public or private welfare institutions in the cases referred to in Article 61 (9) and (11) of the Penal Code, the penalty shall be doubled.

The penalty laid down in the first Paragraph of this Article shall also apply to persons who, giving or promising money or other benefits to a third party, illegally foster children with a permanent placement. The conviction shall result in their being declared ineligible for foster care or pre-adoptive placements and banned for guardianship.

Anyone who acts as an intermediary in bringing about a placement as referred to in Paragraph 1 shall be punishable by imprisonment for up to one year or a fine between 500,000 and 5,000,000 lire.⁽⁷⁸⁾

⁽⁷⁷⁾ Article replaced by Article 35 of Law No 149 of 28 March 2001.

⁽⁷⁸⁾ Article replaced by Article 35 of Law No 149 of 28 March 2001. The effect of Article 51 of Legislative Decree No 213 of 24 June 1998 is that penal and administrative sanctions expressed in lire have been converted into Euros from 1 January 2002.

Article 72

Anyone who, in violation of the provisions of the present law, brings a foreign child into Italy to be permanently placed with Italian nationals in exchange for money or any other benefit, shall be punishable by imprisonment from one to 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 permanent illegal placement. Conviction implies ineligibility to foster or obtain pre-adoptive placements and being banned from 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 pursuant to Article 39(1)(c) shall be punishable by imprisonment for up to one year or by a fine from one to ten million lire.

2. The legal representatives and directors of associations or agencies in charge of the procedures under Paragraph 1 shall be punishable by imprisonment from six months to three years and by a fine from two to six million lire.

3. Without prejudice to the cases referred to in Article 36(4), any persons who, in order to adopt a foreign child, avail themselves of the services of associations, organisations, bodies or persons that are not accredited in the forms laid down by the law shall be punishable by the penalties established in Paragraph 1, reduced by one third.⁽⁷⁹⁾

⁽⁷⁹⁾ Article added by Article 6 of Law No 476 of 31 December 1998. The effect of Article 51 of Legislative Decree No 213 of 24 June 1998 is that penal and administrative sanctions expressed in lire have been converted into Euros from 1 January 2002.

Article 73

Anyone who, on grounds of his office, knows any information that can help identify a child whose adoption has been authorized or discloses in any way information concerning his/her status of legitimate child through adoption shall be punishable by imprisonment for up to six months or a fine between 200,000 and 2,000,000 lire.⁽⁸⁰⁾

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

The provisions under the preceding Paragraphs shall also apply to persons who disclose this information after pre-adoptive placement and without the authorisation of the Juvenile Court.

⁽⁸⁰⁾ Paragraph replaced by Article 36 of Law No 149 of 28 March 2001. The effect of Article 51 of Legislative Decree No 213 of 24 June 1998 is that penal and administrative sanctions expressed in lire have been converted into Euros from 1 January 2002.

Article 74

Registrars of marital 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 child who has not been recognised by the other parent. The Court shall order appropriate enquiries in order to find whether the recognition is authentic.

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

Article 75

[Persons granted legal aid at the State's expense shall be given legal assistance for the procedures under this Law.

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

The provisions of Article 14(2) of Law No 533 of 11 August 1973 shall apply].⁽⁸¹⁾

⁽⁸¹⁾ Article repealed by Article 299 of Legislative Decree No 113 of 30 May 2002 and by Article 299 of Presidential Decree No 115 of 30 May 2002. See now Article 13 of Presidential Decree No 115 of 2002.

Article 76

The procedures that are ongoing or are concluded when this Law comes into force shall continue to be subject to the provisions applicable at that time.⁽⁸²⁾

⁽⁸²⁾ The Constitutional Court, with judgment No 199 of 1 July 1986 (Official Journal No 36 of 25 July 1986 – Special Series), has declared Article 76 unconstitutional in so far as it excludes the application of Article 37 of commenced procedures concerning a foreign child in a state of abandonment in Italy.

Article 77

Articles 404-413 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 this Law.

Article 78

....⁽⁸³⁾

⁽⁸³⁾ Replaces Article 87(4) of the Civil Code

Article 79

Within three years of the entry into force of this 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 pursuant to Article 291 of the Civil Code, previously in force, if the parties were children when the relevant measure was issued.⁽⁸⁴⁾

The court shall order the appropriate enquiries regarding the adoptive parents and the adopted or affiliated person pursuant to Article 57.

Adopted or affiliated persons aged twelve or older and, where appropriate, even younger in consideration of their capacity of discernment, shall be heard; if aged fourteen or older, they shall give their consent.⁽⁸⁵⁾

The spouse of the adopted or affiliated person, if cohabiting and not legally separated, shall give his/her consent.

The descendants of the adopted or affiliating persons aged fourteen or more shall be heard.

If the adopted or affiliated persons are legitimate or recognised children, their parents' consent shall be required. If the parents cannot be traced or their refusal is not justified, the Court, on application of the adopting or affiliating persons and having heard the Public Prosecutor, the parents of the adopted or affiliated person and the latter, if aged twelve or older, shall decide with a judgment that, if the application is accepted, shall replace 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.

⁽⁸⁴⁾ The Constitutional Court, with judgment No 198 of 1 July 1986 (Official Journal No 36 of 25 July 1986 – Special Series), has declared Article 79 (1) unconstitutional in so far as it does not permit to declare its extension to adopted persons pursuant to Article 291 of the Civil Code previously in force if the spouses are no longer married when the application to extend the effects of adoption is submitted. The Court, with judgement No 183 of 10-18 February 1988 (Official Journal No 8 of 24 February 1988 – Special Series) has also declared Article 79 (1) unconstitutional in so far as it does not permit the extension of the effects of legitimising adoption for children adopted with ordinary adoption when the age difference between adopting parents and adopted child is greater than 40 years.

⁽⁸⁵⁾ Article replaced by Article 32 of Law No 149 of 28 March 2001.

Article 80

1. The judge, where appropriate and also considering the duration of the placement, may order that family allowances and social security benefits to which the child is entitled be temporarily paid to the foster parent.

2. The provisions of Article 12 of the Consolidated Text on Income Tax, approved with Presidential Decree No 917 of 22 December 1986, as subsequently amended, and of Article 6 of Law No 903 of 9 December 1977 and Law No 53 of 8 March 2000 shall also apply to the foster parents referred to in Paragraph 1.

3. Foster parents shall enjoy all the benefits entailed in compulsory and voluntary leave from work, sick leave, and daily rests granted to biological parents.

4. The regions shall lay down the conditions and procedures for providing support to the families, individuals and family-type communities that foster children so that the placement may be based on their willingness and suitability to care for children regardless of their financial conditions.⁽⁸⁶⁾

⁽⁸⁶⁾ Article first amended by Article 86 of Legislative Decree No 151 of 26 March 2001 and then replaced by Article 38 of Law No 149 of 28 March 2001.

Article 81

....⁽⁸⁷⁾

⁽⁸⁷⁾ Replaces the last Paragraph of Article 244 of the Civil Code

Article 82

The acts, documents and provisions relating to the procedures under this Law and that concern minors shall be exempt from stamp and registration duty and from any tax, levy and fee due to the public administration.

The acts and documents regarding the implementation of the provisions issued by the court during the above proceedings shall be similarly exempt.

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

The Ministry of the Treasury may make provision, by way of decree, for the necessary budget adjustments.