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**LAW**

**On the legal status of adoption**

*The Parliament of Romania adopts the present law.*

**CHAPTER I**

General provisions

**Article 1.** – Adoption is the legal operation through which a filial relationship is created between the adopter and the adoptee, and a kinship relationship is created between the adoptee and the adopter's relatives.

**Article 2.** – The following principles must be obligatorily observed during the adoption procedure:

- a) the principle of the child's best interest;
- b) the principle of raising and educating the child in a family environment;
- c) the principle of continuity in the child's education, taking into account his or her ethnic, cultural and linguistic origin;
- d) the principle of informing the child and taking the child's views into account in accordance with his or her age and degree of maturity;
- e) the principle of celerity in drafting any documents pertaining to the adoption procedure.

**Article 3.** – In the sense of the present law, the terms and expressions below have the following meanings:

- a) the adoptee – the individual who has been or will be adopted in compliance with the present law;
- b) the adopter – the individual who has adopted or is willing to adopt someone, in compliance with the present law;
- c) the internal adoption – the adoption in which both the adopter or the adopting family, as well as the adoptee have their domicile in Romania;
- d) the intercountry adoption – the adoption which, in compliance with the present law, is not considered to be an internal one;
- e) the certificate – the document drafted in compliance with the present law, which is proof of someone's capacity to adopt as a result of fulfilling the moral warranties and material requirements needed for the complete and harmonious development of the child's personality;
- f) the Hague Convention – the Convention on the Protection of Children and Co-operation in respect of Intercountry Adoption, concluded in the Hague, on May 29, 1993 and ratified by Romania through Law no. 84/1994, published in the Romanian Official Gazette, Part I, no. 298/October 21, 1994;
- g) the child – the human being below the age of 18, who does not have full capacity to exercise his or her rights, in compliance with the law;
- h) the department – the General Social Assistance and Child Protection Department, a public institution with legal personality, established under the subordination of the county councils, and the local councils of the Bucharest municipality sectors, respectively, in compliance with the law;

- i) the adopting family – the husband and wife who adopted or who are willing to adopt a child, in compliance with the present law;
- j) the family – the family made up of the children and the parents who are providing for them;
- k) the extended family – the parents, the child and his or her biological relatives, including fourth degree relatives;
- l) the substitute family – the individuals, others than those who belong to the extended family, who, in compliance with the law, ensure the raising and care of the child;
- m) the Office – the specialized body of the central public administration with legal personality, which has been established as a result of re-organizing the Romanian Committee for Adoptions, and which has supervisory and coordinative responsibilities of all activities pertaining to adoption;
- n) the biological parent – the individual with whom the child already has a biological filial relationship established, in compliance with the law;
- o) the individualized protection plan – the document which provides the planning of services, benefits and child protection measures, based on the psycho-social evaluation of the child and his or her family, in order to integrate a child who has been separated by his or her family, into a permanent and stable family environment, in the shortest possible time;
- p) the receiving state – the state in which the adopter or the adopting family reside, in cases of international adoption, and where the adoptee will move following the approval of the adoption.

**Article 4.** – During the entire adoption process, the department in whose territorial range the child’s domicile is located, is compelled to provide the child with clear and concise information and explanations, suitable for his or her age and degree of maturity, concerning the steps and duration of the adoption process, and its outcomes, the adopter or the adopting family and his or her relatives.

## **CHAPTER II**

### **The fundamental adoption conditions**

**Article 5.** – (1) The adoption shall be performed only if it is in the child’s best interest.

(2) The child may be adopted until he or she attains the age of civil majority.

(3) The major individual can be adopted only if the adopter or the adopting family has raised him or her during the time when he or she was a minor.

**Article 6.** – (1) During the adoption process, all necessary measures shall be taken so that siblings are entrusted together.

(2) The separate entrustment of the siblings in view of adoption, as well as the adoption of siblings by different individuals or families can only be accomplished if it is in the children’s best interest.

**Article 7.** – (1) The child, and the major referred to in Article 5, paragraph (3) respectively, cannot be adopted by several adopters neither simultaneously, nor successively.

(2) However, as an exception to the provisions stipulated under paragraph (1), simultaneous or successive adoptions may be approved, if the adopters are husband and wife.

(3) As an exception to paragraphs (1) and (2), a new adoption process may be approved when:

a) The adopter or the adopting couple have passed away; in this case, the previous adoption is considered terminated on the day when the court decree issued to approve the new adoption becomes irreversible;

b) The previous adoption came to an end for any other reason.

**Article 8.** – (1) Adoption between siblings is forbidden.

(2) The adoption of spouses or of former spouses by the same adopter or adopting family, as well as the adoption between spouses or between former spouses are forbidden.

(3) Mentally retarded individuals and individuals who suffer from mental disorders cannot adopt.

**Article 9.** – (1) The only individuals allowed to adopt are those who have the full capacity to exercise their rights and who are at least 18 years older than the person they wish to adopt.

(2) For well-founded reasons, the court may approve the adoption even when the age difference between the adoptee and the adopters is of less than 18 years, however, under no circumstance can the age difference be of less than 15 years.

**Article 10.** – (1) The adopter or the adopting family must meet the moral warranties and the financial resources needed for the complete and harmonious development of the child’s personality.

(2) According to the provisions of the present law, competent authorities must certify that the warranties and resources stipulated under paragraph (1) are met.

**Article 11.** – (1) The individuals who must consent to adoption are the following:

- a) The biological parents, or, as the case may be, the legal guardian of the child whose biological parents are deceased, are unknown, have been declared dead or missing or under interdiction, according to the law;
- b) The child who has reached the age of 10 years old;
- c) The adopter or, as the case may be, the adopting family.

(2) The consent given while considering a promise or service in return, which should be granted previously or after the consent, and regardless of its nature, is not regarded as legally binding.

**Article 12.** – (1) The child’s biological parents must give their consent for adoption. In the case when the spouse of the adopter is also willing to adopt the child, the consent must be given by the spouse who is already an adoptive parent of the child.

(2) The parent or parents who have been deprived of parental rights or upon whom was enforced the penalty of prohibiting parental rights maintain their right to consent to the child’s adoption. The consent of the legal guardian is compulsory.

(3) If one of the biological parents is deceased, unknown, declared deceased or missing in accordance with the law, under interdiction, as well as if the biological parent is incapable to express his or her will under any circumstances, the consent of the other parent is sufficient.

(4) The consent of the biological parents of the child is not necessary, if both of them are subject to any of the situations stipulated under paragraph (3), as well as in the case of the adoption stipulated under article 5, paragraph (3).

**Article 13.** – In exceptional cases, the court may not take into account the refusal of the biological parents or, as the case may be, of the legal guardian to consent to the adoption of the child, if it is proven by any method of evidence that they are abusively refusing to give their consent for adoption and the court considers that adoption is in the child’s best interest, taking into account the child’s opinion given as stipulated under Article 11, paragraph (1), point (b), and, in this regard, the court provides a specific motivation for the decision.

**Article 14.** – The child’s biological parents or, as the case may be, the child’s legal guardian must consent to adoption freely, unconditionally, and only after they have been properly informed on the consequences of adoption, especially on the termination of all kinship relations of the child. The department in whose territorial range the biological parents are living, must provide counseling and information to the parents or, as the case may be, to the legal guardian, before they express their consent for adoption, and must draft a report to this end.

**Article 15.** – (1) The consent of the biological parents or, as the case may be, of the legal guardian, shall be given in front of the court of law, at the time of ruling the petition for the initiation of the adoption procedure.

(2) In the case of the adoption of the child by his or her parent’s spouse, the biological parent’s consent shall be expressed in a certified form, through a notarized document.

(3) While requesting the consent stipulated under paragraph (1), the court shall also require the department to present the report which confirms the fulfillment of the obligation stipulated under Article 14.

**Article 16.** – (1) The consent of the child’s biological parents for adoption, or as the case may be, the consent of the legal guardian, may be given after 60 days from the date when the child was born, as indicated in the birth certificate.

(2) The biological parent or, as the case may be, the legal guardian can revoke her/his consent within 30 days since the consent was expressed according to the law.

**Article 17.** – (1) The consent for the adoption of the child who has reached the age of 10 years old shall be given in front of the court of law, at the time of ruling the petition for the adoption approval.

(2) The adoption shall not be approved without the consent of the child who has reached the age of 10 years old.

(3) Prior to giving his or her consent, the department in whose territorial range is located the domicile of the child who has reached the age of 10 years old, shall advise and inform him or her, taking into consideration the child’s age and degree of maturity, especially on the consequences of adoption and of his or her consent for adoption and shall draft a report concerning this issue.

**Article 18.** – (1) The consent of the adopter or of the adopting family is given in front of the court of law, at the time of ruling the petition for the adoption approval.

(2) If the individual who wishes to adopt is married, the consent of his or her spouse is also necessary, with the exception of the cases in which the spouse is unable to express his or her will. The provisions of paragraph (1) shall be properly enforced.

### **CHAPTER III**

#### The internal adoption procedure

### **SECTION 1**

#### The certification of the adopter or of the adopting family

**Article 19.** – (1) The evaluation of the moral warranties and material requirements of the adopter or of the adopting family is conducted at their own request, by the department in whose territorial range is located their domicile, and must focus on:

- a) the personality, health condition and the economic situation of the adopter or of the adopting family, the family life, living conditions, and the capacity to educate a child;
- b) the reasons for which the adopter or the adopting family wish to adopt;
- c) the reasons for which, if only one of the two spouses files a petition to adopt a child, the other spouse does not join up the petition;
- d) the obstacles of any kind which are relevant to the capacity to adopt.

(2) Based on the results of the evaluation stipulated under paragraph (1), the department in whose territorial range is located the domicile of the adopter or of the adopting family, shall decide within 60 days from the date when the evaluation request was submitted by the adopter or by the adopting family, whether they have or not the capacity to adopt. In case of a positive result of the evaluation, the department shall issue a certificate for an adoptive person or family able to adopt.

(3) The certificate issued by the department in whose territorial range is located the domicile of the adopter or of the adopting family, is valid for a period of one year. The validity of this certificate can be extended on a yearly basis, on condition of upholding the same conditions stipulated under paragraph (1) and following an application for the renewal of the certificate, filed by the adopter or by the adopting family.

(4) In case of a negative result of the evaluation, the adopter or the adopting family have the right to request that the department perform a re-evaluation, within 30 days from the date when the initial result was presented to them.

(5) The negative result of the re-evaluation can be appealed against, within 15 days from the date when its result was presented, in the competent court of law in whose territorial range is located the domicile of the adopter, and which is authorized to rule in adoption cases.

**Article 20.** – Obtaining the certificate is not mandatory in the following cases:

- a) for the adoption stipulated under Article 5, paragraph (3);
- b) for the adoption of the child by the spouse of his or her biological or adoptive parent.

**Article 21.** – During the evaluation process, the department in whose territorial range is located the domicile of the adopter or of the adopting family, must provide them with the preparatory/counseling services that are necessary in order to assume the role of parent fully aware and in the appropriate manner.

## **SECTION 2**

### The initiation of the internal adoption procedure

**Article 22.** – (1) Based on the individualized protection plan, as it is regulated by the Law no. 272/2004 on the protection and promotion of the rights of the child, the department in whose territorial range is located the child's domicile, takes the necessary measures in order to reintegrate the child in the family, or, as the case may be, to place the child in the extended or substitute family.

(2) The individualized protection plan may result in internal adoption, if the measures taken for reintegrating the child in the family or in the extended family have failed.

(3) Within 30 days from the date when the measures stipulated in paragraph (2) were taken, the department in whose territorial range is located the child's domicile, shall notify the court of law in whose territorial range is located the child's domicile, in order to approve the initiation of the internal adoption procedure.

**Article 23.** – (1) The approval for the initiation of the internal adoption procedure shall only be granted if:

- a) the individualized protection plan establishes the need for internal adoption;
- b) the child's parents or, as the case may be, the child's legal guardian express their consent to adoption in accordance with the present law; the provisions stipulated under Article 12, paragraphs (2), (3) or (4) or under Article 13 are properly enforced;

(2) The department presents evidence of having properly taken the necessary measures stipulated under Article 22, paragraphs (1) and (2). In case of the child for whom a legal guardian has been appointed, the approval of the initiation of the internal adoption procedure is done upon the request of the department in whose territorial range is located the child's domicile, and only if the court considers that the condition specified under paragraph (1), point (b) has been met, and that the initiation of the internal adoption procedure is in the best interest of the child.

(3) The irreversible court decree through which the court of law accepts the department's request has the following outcomes:

- a) the parental rights and obligations of the biological parents, or, as the case may be, those exercised by natural or legal persons, are suspended;
- b) the parental rights and obligations are exercised by the county council or, as the case may be, by the local council of the Bucharest municipality sector, in whose territorial range is located the child's domicile, through the department.

(4) As an exception, the outcomes of the court decree stipulated under paragraph (1) automatically cease if, within one year from the date when the decree became irreversible, the department has not identified an appropriate individual or family for the child, and has not initiate the procedures stipulated by the present law, in view of finalizing the internal adoption process.

(5) In the situation stipulated under paragraph (4), the department must revise the individualized protection plan of the child and request the court of law one of the following, according to the plan's end results:

- a) to maintain, modify or terminate the child protection measure;
- b) to approve the initiation of a new adoption procedure.

**Article 24.** – The provisions of the present section are not applicable in the case of the adoptions stipulated under Article 5, paragraph (3) and Article 20, point b).

### SECTION 3

#### The entrustment of a child in view of adoption

**Article 25.** – (1) The adoption may be approved by the court of law only after the child has been entrusted for a period of 90 days to the individual or family who wishes to adopt him or her, so that the court may rationally assess the family relationships which would be established if the adoption were approved.

(2) The child's capacity to adapt, both physically and mentally, to his or her new family environment shall be analyzed in terms of socio-professional, economic, cultural, linguistic, religious conditions, as well as in terms of any other such elements which are characteristic to the location where the child lives during the entrustment period and which may be relevant in assessing the subsequent evolution of the child, in case the adoption is approved.

**Article 26.** – (1) Within 30 days from the date when the court decree through which approval was granted for the initiation of the internal adoption procedure has become final and irreversible, the department in whose territorial range is located the child's domicile takes all the necessary measures, in order to identify the most suitable adopter or adopting families for the child.

(2) Within the deadline stipulated under paragraph (1), the department in whose territorial range the child's domicile is located, analyzes the alternative of entrusting the child in view of adoption primarily to a relative belonging to the extended family, with the exception of the case stipulated under Article 8, paragraph (1), to the professional maternal assistant in whose care the child is, or to any other individual or family where the child has been placed.

(3) If there are no adoption petitions from the relatives or the families stipulated under paragraph (2), the department in whose territorial range is located the child's domicile takes the necessary measures, in order to identify within its administrative and territorial range a certified individual or family, who are registered with the Office.

(4) If, after the deadline stipulated under paragraph (1) expires, the department in whose territorial range is located the child's domicile, has not identified an adopting individual or family out of the persons stipulated under paragraphs (2) and (3), it requests the Office to forward, within 5 days, the centralized national list of adopting individuals or families who are certified and registered in the National Adoption Record.

(5) The selection of the adopter or of the adopting family suitable for the child must be made within 60 days from the date when the centralized list is received, by the department in whose territorial range is located the child's domicile, taking into account the child's best interest the information included in the adopter's certificate and the evolution of the child's situation until that specific date.

(6) The selection of the adopter or the adopting family is notified, within 3 days, to the department in whose territorial range is located their domicile.

**Article 27.** – (1) As a result of the selection process, the department in whose territorial range is located the child's domicile verifies and assesses the compatibility of the child with the adopter or with the adopting family.

(2) The compatibility is established by taking into account and paying appropriate attention to the child's needs, wishes and opinions, as expressed by him or her. The child's best interest must be primarily taken into consideration.

(3) In the case in which, as a result of conducting the verification stipulated under paragraphs (1) and (2), the department in whose territorial range is located the child's domicile, establishes the compatibility between the child and the selected individual or adopting family, it immediately notifies the court of law, in order to entrust the child in view of adoption.

**Article 28.** – The entrustment of the child in view of adoption is decided for a period of 90 days by the court of law in whose territorial range is located the child's domicile.

**Article 29.** – (1) The entrustment in view of adoption is not necessary in the following situations:

- a) for the adoption stipulated under Article 5, paragraph (3);
- b) for the adoption stipulated under Article 20, point b);
- c) for the adoption of the child for whom an internal adoption procedure has been initiated and who has been placed with the adopter or with the adopting family, and the placement measure is enforced for at least 90 days;
- d) for the adoption of the child by his or her legal guardian, if at least 90 days have elapsed from the date of establishing the legal guardianship.

(2) In the situations stipulated under paragraph (1), points a) and b), the individual or the family who wishes to adopt shall be able to directly petition the court of law for adoption approval, in accordance with the present law.

**Article 30.** – (1) During the period of entrustment in view of adoption, the child’s domicile is that of the individual or family to whom he or she has been entrusted. The usual acts that are needed in order to exercise parental rights and fulfill parental obligations, with the exception of those that lead to the conclusion of a legal act, are carried out by the individual or family to whom the child has been entrusted.

(2) The right to represent the child in legal acts or, as the case may be, to approve the acts which the child concludes, as well as the right to administer the child’s property, are exercised by the county council or the local council of the Bucharest municipality sector in whose territorial range is located the domicile of the individual or family to whom the child has been entrusted in view of adoption. In exceptional situations, the administrative right may be transferred to the individual or family to whom the child was entrusted, in order to carry out special acts, in the best interest of the child, which shall be expressly stated in the document which authorizes the transfer of that right.

**Article 31.** – (1) During the period of entrustment in view of adoption, the department in whose territorial range is located the domicile of the adopter or of the adopting family, monitors the evolution of the child and of the relationship between the child and the individual or family to whom he or she has been entrusted, and drafts bi-monthly reports on this subject.

(2) At the end of the period of entrustment in view of adoption, the department drafts a final report concerning the evolution of the relationship between the child and the adopters, which is then forwarded to the competent court of law, in order to rule the petition for adoption approval.

(3) Drafting and sending the report stipulated under paragraph (2) are also compulsory when the child is in one of the situations specified under Article 29, paragraph (1), points c) and d).

(4) The petition for adoption approval filed with the court of law automatically extends the period of entrustment, until the court of law issues an irreversible decree.

**Article 32.** – (1) If, during the period of entrustment in view of adoption, the department in whose territorial range is located the domicile of the adopter or of the adopting family, concludes that the child did not adjust to the individual or the adopting family, or that there are reasons which could impede upon the finalization of the adoption procedure, it notifies immediately the court of law, in order to have the court revoke or, as the case may be, extend the entrustment measure.

(2) The provisions regarding the ruling procedures for entrustment petitions are also properly enforced in the case of the petitions stipulated under paragraph (1). The decree through which the court of law rules in favour of entrustment revocation or extension is automatically executory.

**Article 33.** – If, in the situation stipulated under Article 32, paragraph (1), the court of law rules to revoke the entrustment measure, the department must re-initialize the procedure stipulated under Articles 26 and 27.

## **SECTION 4**

### The adoption approval

**Article 34.** – The adoption approval is granted by the courts of law.

**Article 35. – (1)** The petition for adoption approval may be filed directly by the adopter or by the adopting family, in the case of the adoption stipulated under Article 5, paragraph (3) and Article 20, point b), while in all other cases, the petition for adoption approval can be filed either by the adopter or by the adopting family, or by the department in whose range is located their domicile, at the end of the period of entrustment in view of adoption, or, as the case may be, after the deadlines stipulated for the adoption of a child who is in one of the situations indicated under Article 29, paragraph (1), points c) and d).

**(2)** The petition for adoption approval is accompanied by the following documents:

- a) a certified copy of the child's birth certificate;
- b) a medical certificate on the child's health condition, which has been issued by the public medical institutions appointed by the public health department;
- c) the valid certificate of the adopter or of the adopting family;
- d) the irreversible court decree of placement in view of adoption;
- e) a certified copy of the birth certificates of the adopter or of the husband and wife from the adopting family;
- f) a certified copy of the marriage certificate of the adopter or of the spouses from the adopting family;
- g) the police record of the adopter or, as the case may be, of each member of the adopting family;
- h) a medical certificate on the adopter's health condition, issued by the adopter's family physician;
- i) relevant documents concerning the consent of the child's biological parents, to the extent to which no previous court decree approved the initiation of the internal adoption procedure; the provisions stipulated under Article 12, paragraphs (3) or (4), or under Article 13 are properly enforced.

**Article 36. –** The department in whose territorial range is located the domicile of the adopter or of the adopting family, shall have the obligation to submit the final reports specified under Article 31, paragraph (2), or, as the case may be, under Article 31, paragraph (3), within 5 days at the latest prior to the date when it was subpoenaed for the ruling of the case, as well as, as the case may be, to provide the court of law with any relevant information that may be needed in order to rule the petition for adoption approval.

**Article 37. – (1)** The court of law shall accept the petition for adoption approval only if, based on administered evidence, it has concluded that the adoption is in the child's best interest.

**(2)** Within 5 days from the date when the decree which approved the adoption has become irreversible, the department which participated in the ruling of the adoption approval petition shall issue a written notification in this regard, for the biological parents.

**Article 38. – (1)** The department in whose territorial range is located the domicile of the child, shall follow up and draft quarterly reports on the child's evolution and on his or her relationship with his or her adoptive parents, for a period of time of at least two years after the adoption has been approved.

**(2)** The department in whose territorial range is located the child's domicile, must provide post-adoption services to the adoptive parents.

## **CHAPTER IV**

### The intercountry adoption procedure

#### **SECTION 1**

##### General provisions

**Article 39. –** The intercountry adoption of the child whose domicile is in Romania may only be approved if the adopter or one of the spouses in the adopting family who have the domicile abroad is the grandparent of the child for whom the petition for internal adoption initiation has been approved.

**Article 40. – (1)** The petition for adoption approval is forwarded by the Office to the court of law.

(2) The court shall then rule, in accordance with the present law, only after analyzing the department's report concerning the existence of any similar petitions from the child's relatives up to the 4<sup>th</sup> degree, who have the domicile in Romania.

**Article 41.** – The intercountry adoption has the outcomes stipulated under Articles 50-53 and infers the transfer of the child to the territory of the receiving state, following the approval of the adoption by the Romanian court of law.

**Article 42.** – The intercountry adoption, if the adoptee has the domicile abroad, and the adopter or the adopting family has the domicile in Romania, is subject to the provisions stipulated under Article 30 – 33 of Law no. 105/1992 on regulating the private international law relations.

## SECTION 2

The certification of the adopter or of the adopting family from the receiving state

**Article 43.** – (1) The petitions filed by individuals or families who have the domicile on the territory of another state, which is a party to the Hague Convention, and who wish to adopt a child from Romania, are forwarded to the Office through the competent central authority from that state or through its accredited organizations.

(2) In the case of the receiving states who are not parties to the Hague Convention, the petitions stipulated under paragraph (1) are forwarded to the Office through the appointed authority which has responsibilities in the field of international adoption or through the accredited organizations from the receiving state.

(3) The accredited organizations stipulated under paragraphs (1) and (2) must also be authorized by the Office, in accordance with the methodology approved through a Government Decision.

**Article 44.** – The petition of the adopter or of the adopting family is recorded by the Office only if the competent central authority from the receiving state or its legally accredited and authorized organizations certify that:

- a) the adopter or the adopting family meet the adoption eligibility conditions and are suitable to adopt, in accordance with the applicable legislation of the receiving state;
- b) the adopter or the adopting family have received the necessary adoption counseling in the receiving state;
- c) a post-adoption survey of the child's evolution is provided for a period of time of at least two years;
- d) post-adoption services are provided for the child and the family in the receiving state.

**Article 45.** – (1) The petitions forwarded to the Office must be accompanied by the following documents:

- a) a report drafted by the competent authorities from the receiving state, which should include information regarding the identity of the individuals who wish to adopt, their capacity and ability to adopt, their personal, family, financial and medical situation, the social environment, the reasons which have determined them to adopt a child from Romania, as well as information regarding the children whom they may receive for adoption; the report's conclusions shall be supported by the documents issued by the competent authorities from the receiving state;
- b) certified copies of the birth and marriage certificates and of the identity documents of the individuals who wish to adopt, accompanied by their certified translation into Romanian;
- c) the police records of the individuals who wish to adopt;
- d) a separate medical report for each of the adopters;
- e) the document which certifies that there is a warranty to the fact that the adoptee has the possibility to enter and permanently live in the receiving state.

(2) The documents stipulated under paragraph (1), points a), c), d) and e) shall be original documents and shall be accompanied by a certified translation into Romanian.

### SECTION 3

#### The approval of the intercountry adoption by the court of law

**Article 46.** – (1) The petition for adoption approval, accompanied by the documents stipulated under articles 43-45, is forwarded by the Office to the court of law.

(2) The provisions stipulated in chapter VII shall be properly enforced.

(3) The Office has the obligation to ensure that the adoptee shall benefit, in the receiving state, from the same warranties and standards which are equivalent to those provided in the case of a national adoption; upon reaching a decision concerning the petition for adoption approval, the court shall also take into account the document which certifies that this obligation is fulfilled.

**Article 47.** – Based on the irreversible adoption approval decree, the Office issues, within 3 days from the date of its notification, a certificate which attests that the adoption is in accordance with the standards of the Hague Convention.

**Article 48.** – The journey of the adoptee from Romania to the state of domicile of the adopter or of the adopting family is possible only when the adoption approval decree has become final and irreversible. The adoptee travels only accompanied by the adopter or by the adopting family, in safety conditions which are appropriate to the adoptee's needs.

**Article 49.** – (1) The Office must assess the child's evolution and the relationship between the child and the adoptive parent or parents for a period of time of at least two years after the approval of the adoption, through the competent central authority or the accredited or authorized organization from the domicile state of the adoptive parents.

(2) For the purpose of fulfilling the obligation stipulated under paragraph (1), the Office must request quarterly reports from the competent central authority or the accredited and authorized organization from the receiving state.

(3) In case that, subsequent to the intercountry adoption, the adopter or the adopting family establishes his/its domicile in Romania, the assessment of the child's evolution becomes the responsibility of the department in whose territorial range is located the domicile of the adoptee.

### CHAPTER V

#### The outcomes of adoption

**Article 50.** – (1) The adoption generates outcomes starting only from the date when the adoption approval decree has become irreversible.

(2) A filial relationship is established between the adoptee and the adopter through the adoption, as well as family relations between the adoptee and the adopter's relatives.

(3) At the moment of establishing the filial relationship through the adoption, the natural kinship between the adoptee and his or her descendants, on the one hand, and his or her biological parents and their relatives, on the other hand, ceases, with the exception of the adoption stipulated under Article 20, point b), when the termination of the kinship relationship is enforced only with regard to the biological parent and the relatives of the biological parent who is not married to the adopter.

(4) According to the law, there is a marriage interdiction caused by kinship both between the adoptee and his or her descendants, on the one hand, and his or her biological relatives, on the other hand, as well as between the adoptee and his or her descendants, on the one hand, and the individuals with whom he or she has become related through the adoption, on the other hand.

(5) The outcomes of international adoption, as well as the outcomes of the annulment of the intercountry adoption on the adoptee's citizenship are those stipulated under the Law no. 21/1991 on Romanian citizenship, re-published, with subsequent amendments and additions.

**Article 51. – (1)** The adopter has towards the adopted child all the rights and obligations which a biological parent has towards his or her child.

(2) In case the adopter is the spouse of the adoptee's biological parent, the parental rights and obligations are exercised by both the adopter and the biological parent married to the adopter.

(3) The adoptee has towards the adopter all the rights and obligations which an individual has towards his or her biological parents.

**Article 52. – (1)** The adopters shall inform the child that he or she has been adopted, as soon as the child's age and degree of maturity allow it.

(2) The adopters and the adoptee have the right to obtain from the competent authorities public records excerpts, which certify the occurrence, date and place of birth, but do not specifically reveal the adoption, nor the identity of the biological parents.

(3) The identity of the adoptee's biological parents may be revealed before the adoptee acquires full capacity to exercise his or her rights, only for medical reasons, with the authorization of the court of law, upon the request of any of the adopters, of the adoptee, of the adoptee's spouse or descendants, or of a medical institution or a hospital representative.

(4) After acquiring full capacity to exercise his or her rights, the adoptee shall be able to petition the court of law in whose territorial range is located his or her domicile, or, in case his or her domicile is not located in Romania, the Bucharest Court of Law, to authorize his or her access to the information recorded by any public authority concerning the identity of his or her biological parents.

(5) The court of law subpoenas the department in whose territorial range is located the child's domicile, the Office, as well as any other individuals whose hearing may prove useful in the ruling of this petition, and shall be able to approve it if, according to the administrated evidence, the court of law concludes that granting access to the requested information is not harmful to the psychological integrity and the emotional balance of the petitioner, and if the respective adoptee has received counseling from the department.

**Article 53. – (1)** Through adoption, the adoptee acquires the last name of the adopter.

(2) If the adoption is made by a couple, or by the spouse who adopts the child of the other spouse, and the spouses bear the same last name, the adoptee shall acquire it as well. If the spouses bear different last names, they must state in front of the court of law which approves the adoption the name which the adoptee is going to bear.

(3) For well-founded reasons, the court of law, by approving the adoption, at the request of the adopter or of the adopting family, and with the consent of the child who has reached the age of 10 years old, may dictate the change of the child's first name.

(4) In the case of the adoption of a married individual who bears a common last name during marriage, the adopted spouse may receive the last name of the adopter during marriage, with the consent of the other spouse, given in front of the court of law which approves the adoption.

(5) Based on the irreversible court decree for adoption approval, the competent population record service drafts, in accordance with the law, a new birth certificate for the child, in which the adopters shall be listed as the child's biological parents. The old birth certificate shall be archived, bearing a side note which states that a new certificate had been issued.

## CHPATER VI

### The termination of adoption

**Article 54. –** The adoption comes to an end when terminated or declared null.

**Article 55. –** The adoption is terminated in the case stipulated under Article 7, paragraph (3), point a).

**Article 56. – (1)** The adoption is declared null if it was conducted for a different purpose than that of protecting the child's best interest, or if it involved the violation of any form or content conditions stipulated by the law.

(2) However, the court of law may reject the petition for adoption annulment, if it determines that maintaining the adoption is in the adoptee's best interest.

**Article 57.** – Any interested individual may initiate a court action to nullify the adoption. After the adoptee acquires full capacity to exercise his or her rights, this action may only be initiated by him or her.

**Article 58.** – (1) The ruling of cases concerning the annulment of the adoption involves the subpoenaing of:

- a) the adopter, or, as the case may be, the adopting family;
  - b) the adoptee who has acquired full capacity to exercise his or her rights;
  - c) the department in whose territorial range is located the child's domicile, or, in the case of international adoptions, the Office;
- (2) The child who has reached the age of 10 years old shall always be heard.

**Article 59.** – (1) In the case of the termination of adoption as a result of an annulment decree, the adoptee re-acquires the last name which she or he bore prior to the approval of the adoption.

(2) The biological parents of the child regain their parental rights and obligations, unless the court decides to establish a legal guardianship or other special child protection measures, according to the law.

**Article 60.** – The department informs the Office about the irreversible court decrees on the nullity of the adoption, in order for the Office to record the necessary remarks in the National Adoption Record.

## **CHAPTER VII**

### Joint procedural provisions

**Article 61.** – (1) The Romanian courts of law are competent to rule the petitions stipulated by the present law, if at least one of the parties involved has its domicile in Romania.

(2) The Romanian courts of law are exclusively competent to rule in the trials concerning the approval of the petitions for internal adoption procedure initiation, the petitions for entrustment in view of adoption and the petitions for adoption approval, if the individual who will be adopted has the domicile in Romania and is a Romanian citizen or is a foreign citizen with no citizenship.

(3) The adoption petitions stipulated by the present law are ruled by the court of law in whose territorial range is located the adoptee's domicile. The Bucharest Court of Law gives rulings in all cases for which no competent court of law can be determined.

(4) The petitions for the initiation of the internal adoption procedure, the petitions for the child's entrustment in view of adoption and the petitions for adoption approval are judged in the first instance according to the regulations stipulated in Book III – General provisions on non-contentious procedures of the Romanian Civil Procedure Code, with the exceptions specified under the present law.

(5) The rulings for the petitions stipulated by the present law cannot be subject to first appeal. The ruling of the second appeal suspends the enforcement of the initial decree.

**Article 62.** – The petitions stipulated under Article 61, paragraph (3) of the present law are exempt from the judicial stamp tax and are judged with celerity.

**Article 63.** – (1) The petitions stipulated under Article 61, paragraph (3) are judged by specialized judge panels of the court, in the council chamber, with the mandatory presence of the prosecutor. The department must submit a social survey report on the child.

(2) The biological parents of the child, or, as the case may be, the legal guardian and the department in whose territorial range is located the child's domicile, shall all be subpoenaed during the rulings of the petitions for the initiation of the internal adoption procedure.

(3) The department in whose territorial range is located the child's domicile, the department in whose territorial range is located the domicile of the adopter or of the adopting family, and the adopter or the

adopting family are all subpoenaed during the rulings of the petitions for the child's entrustment in view of internal adoption, as well as during the rulings of the petitions for adoption approval.

(4) The department in whose territorial range is located the child's domicile, the adopting individual or the adopting family, as well as the Office are all subpoenaed during the rulings of the petitions for the approval of the international adoption.

(5) The adopter or the adopting family, as well as the adoptee are subpoenaed during the rulings of the petitions for adoption approval which are stipulated under Article 5, paragraph (3), while the adopter and the biological parents of the adoptee are subpoenaed during the rulings of the petitions for adoption approval, which are stipulated under Article 20, point b).

**Article 64. – (1)** The court of law may administrate any evidence approved by the law.

(2) The hearing of the child who has reached the age of 10 years old is mandatory during the ruling of the petitions for the initiation of the internal adoption procedure and of the petition for the entrustment in the view of adoption, and the consent of the child who has reached the age of 10 years old is required for adoption approval.

(3) The child's opinion expressed during the ruling of the petitions specified under the present law shall be taken into account and shall be given due weight, considering the age and degree of maturity of the child. In case the court rules against the opinion expressed by the child, the court has the obligation to motivate the reasons which led to the removal of the child's opinion.

## CHAPTER VIII

### The National Adoption Record

**Article 65. – (1)** For the purpose of drafting and organizing the national adoption file system, the Office must draft and update the National Adoption Record.

(2) The Record includes information concerning the adopter or the adopting family, be they Romanians or foreigners, as well as information on children for whom the internal adoption procedure has been initiated, and on children for whom a court decree for entrustment in view of adoption or for adoption approval or annulment has been issued.

**Article 66. – (1)** In order for the Office to draft and organize the file system stipulated under article 65, the department in whose territorial range is located the child's domicile, forwards to the Office copies of the following documents:

- a) the court decree for the approval of the national adoption initiation procedure;
- b) the court decree for the entrustment in view of adoption;
- c) the court decree for the approval of the adoption;
- d) the court decree for the annulment of the adoption;
- e) the certificate issued according to Article 19, paragraph (2).

(2) The documents stipulated under paragraph (1) are forwarded within 5 days from the date when the court decree becomes final and irreversible, or within 5 days from the date when the certificate is issued, respectively.

(3) The document stipulated under paragraph (1), point e) shall be accompanied by all data concerning the individuals or families for whom the certificate was issued.

## CHAPTER IX

### Final and transitory provisions and sanctions

**Article 67. – (1)** The Office takes all the necessary measures, in accordance with the provisions of the Hague Convention, in view of preventing unlawful profits, be they financial or of a different kind, which may be achieved as a result of adoption, and in order to discourage any practice contrary to the objectives of this convention and of the present law.

(2) The Office establishes a single flat-rate tax, which is based on the maximum costs corresponding to all services provided for the completion of the international adoption procedure, with the exception of those regulated through special laws.

(3) The tax stipulated under paragraph (2) is divided by expense categories and is approved through a Government decision.

(4) The payment of the tax is made by the adopter or by the adopting family via a bank transfer to the Office and to the central authority or the accredited or authorized organization from state of domicile of the adopting parents. The taxes charged by the Office become incomes to the state budget within 5 working days from the date when they are collected.

**Article 68.** – Donations and sponsorships are forbidden, and so is the offer by the adopter or the adopting family, either in their own name or through intermediaries, either directly or indirectly, to provide any unlawful material profits to the Office, to the departments involved or to the physical persons working in the public institutions involved in the adoption process.

**Art 69.** – (1) The participation of private institutions in the intercountry\_adoption procedure that takes place in Romania is forbidden. The prohibition also applies to their members or staff, with the exception of the case when they are in the position of adopter or adopting family.

(2) The Romanian authorities may cooperate in intercountry adoption cases with private institutions which are conducting their activity on the territory of the receiving state, only if these institutions are accredited by the respective state and are authorized in accordance with the provisions stipulated under Article 43, paragraph (3).

(3) In case it is observed that the provisions stipulated under paragraphs (1) and (2) are violated, the National Authority for the Protection of the Rights of the Child must request to the court of law to dissolve the legal entity involved.

(4) The services and activities which can be conducted by the foundations, associations or federations during the national adoption procedures are established through a Government decision.

**Article 70.** – (1) If the parent or the legal representative of a child requests or receives, either for himself/herself or for another individual, money or other material profits, in return for the adoption of the child, they face a punishment of 2 to 7 years imprisonment and deprivation of certain rights.

(2) The same punishment is given to the individual who, without having any such right, intermediates or facilitates the adoption of a child, for the purpose of gaining material profits or profits of other kind.

**Article 71.** (1) The certificate of individual or family suitable to adopt, which has been issued prior to the enforcement of the provisions of the present law, is valid for a period of one year from the date it was issued.

(2) The provisions of Article 21 are properly enforced in the case of individuals or families stipulated under paragraph (1).

**Article 72.** – (1) The petitions for adoption approval that are in the process of being examined by the courts of law, at the time when the present law comes into force, are ruled according to the legal provisions in force at the time when the petition was filed.

(2) The individuals and families to whom children had been entrusted in view of adoption at the time when the present law comes into force, shall be able to file petitions for adoption approval, which shall be ruled according to the provisions of the Emergency Government Ordinance no. 25/1997 on the legal status of adoption, approved with amendments through Law no. 87/1998, with subsequent amendments and additions.

(3) In all other cases, the whole adoption procedure must be in accordance with the provisions of the present law.

(4) For the purpose of enforcing the provisions of the present law, the Office shall renegotiate the bilateral and multilateral agreements in the field of adoption, which Romania has signed with other countries, and which shall be published in the Romanian Official Gazette, Part I.

**Article 73.** – In the case of children identified by the child protection commissions, based on the provisions of the Emergency Government Ordinance no. 25/1997, approved with amendments through Law no. 87/1998, with subsequent amendments and additions, and who are registered with the Romanian Committee for Adoptions at the time when the present law comes into force, the provisions of Articles 22-24 are properly enforced.

**Article 74.** – (1) In the case of children who were declared abandoned by a court of law, in accordance with the provisions of Law no. 47/1993 on court decrees concerning child abandonment, the department must re-evaluate the circumstances in which the protection measures for these children were taken and draft the individualized protection plan.

(2) If the individualized protection plan seeks to re-integrate the child in the biological or extended family, the department requests the court of law to restore its capacity to exercise parental rights or, as the case may be, to delegate that capacity to the members of the extended family where the child shall be placed.

(3) The court of law authorized to rule the petitions concerning the restoration or, as the case may be, the delegation of parental rights is the court of law in whose territorial range is located the child's domicile.

(4) The parents or, as the case may be, the members of the extended family, the department in whose territorial range is located the child's domicile, are subpoenaed during the ruling of the petition, and the presence of the prosecutor is mandatory. The petition shall be accompanied by the social survey report drafted by the department in whose territorial range is located the child's domicile.

**Article 75.** – (1) The present law comes into force on January 1, 2005, with the exception of the provisions stipulated under Article 43, paragraph (3), Article 67, paragraph (3), Article 69, paragraph (4) and Article 77, which come into force 3 days after the present law is published in the Romanian Official Gazette, Part I.

(2) The methodological norms for the enforcement of the provisions stipulated under Article 43, paragraph (3), Article 67, paragraph (3), Article 69, paragraph (4) and Article 77 are drafted by the National Authority for Child Protection and Adoption.

(3) On the date when the present law comes into force, the following legal acts are repealed:

- a) the Emergency Government Ordinance no. 25/1997 on the legal status of adoption, published in the Romanian Official Gazette, Part I, no. 120/June 12, 1997, approved with amendments through Law no. 87/1998, with subsequent amendments and additions;
- b) the Emergency Government Ordinance no. 121/2001 for the provisional suspension of all international adoption procedures, published in the Romanian Official Gazette, Part I, no. 633/October 9, 2001, approved with amendments and additions through Law no. 347/2002, with subsequent amendments;
- c) the Government Decision no. 245/1997 on the authorization criteria for private institutions which conduct activities focusing on the protection of children's rights through adoption, published in the Romanian Official Gazette, Part I, no. 112/June 5, 1997;
- d) any other provisions which are contrary to the present law.

(4) 3 days after the date of publishing the present law in the Official Romanian Gazette, Part I, the following legal acts are repealed:

a) Law no. 47/1993 on court decrees concerning child abandonment, published in the Romanian Official Gazette, Part I, no. 153/July 8, 1993;

b) the Government Decision no. 1315/2000, on certain measures focusing on the protection of children's rights through adoption, published in the Romanian Official Gazette, Part I, no. 678/December 19, 2000;

**Article 76.** – The authorizations issued by the Romanian Committee for Adoptions, based on the Government Decision no. 245/1997 on the authorization criteria for private institutions which conduct activities focusing on the protection of children's rights through adoption, cease to be valid on the date when the present law comes into force.

**Article 77.** – Within 30 days from the date when the present law is published in the Romanian Official Gazette, Part I, the methodological norms for the enforcement of the present law shall be drafted and approved through a Government decision.

This law was adopted by the Parliament of Romania, observing the provisions stipulated under Article 75 and Article 76, paragraph (1) of the Romanian Constitution, republished.

CHAIRMAN OF THE CHAMBER  
OF DEPUTIES  
VALER DORNEANU

CHAIRMAN OF THE SENATE  
NICOLAE VĂCĂROIU

Bucharest, June 21, 2004.  
No. 273.