

**56/1928 Coll.
Act
of 28 March 1928
on Adoption.**

The National Assembly of the Czechoslovak Republic resolved on this Act:

I. Conditions for adoption.

§ 1

(1) Person, who has no own children or children of equivalent standing (legitimated, adopted, as well as extramarital with regard to the mother), may accept another person as his/her own (adopt) by contract.

(2) Adoptive parent shall be major of 40 years old, adoptive child should be at least by 18 years younger than the adoptive parent.

(3) If the man wishes to adopt his extramarital child, it is no obstacle if he has children as per (1(1)), nor that he does not reach established age limit, nor that the age difference between the adoptive parent and the adoptive child is not met.

(4) Spouse may only adopt or be adopted with consent of the other spouse. If the spouse was fully deprived of his/her legal capacity due to mental illness or weak-mindedness (put into custody), or if the place of his/her stay is permanently unknown, such consent may be granted on his/her behalf by established custodian with consent of the court (of guardianship office). If the marriage was divorced, no such consent is required.

(5) For the duration of the relationship based by adoption, the adopted person may not be adopted by any other person except of the adoptive parent's spouse. Only married couple may adopt a child jointly. No one is allowed to adopt his/her own spouse, siblings, and relatives in direct generation. Several persons may be adopted together, however only on condition their mutual relationship is not against natural relationship of siblings.

[tags: right to adoption, prerequisites of an adoptive parent and an adoptive child, conditions for adoption]

§ 2

(1) Adoption of capable persons requires consent of adopted person's parents and of the court ((9)). If parents have different opinions, father's opinion shall prevail. If the adopted person is not capable, the consent of parents, or as the case may be, of the legal representative and of the court (of guardianship office) is required ((10)).

(2) The consent cannot be granted by proxy. If the person, consent of whom is required, is fully deprived of his/her legal capacity due to mental illness or weak-mindedness (put into custody), or if the place of his/her stay is permanently unknown, consent of the legal representative and of the court (of guardianship office) is required.

(3) If the parents or any of them withholds his/her consent without serious reason, it can be granted by competent court or by guardianship office established in (9) and (10) instead.

[tags: conditions for adoption, consent of adopted person and of the court of law, consent of the guardianship office]

II. Legal effects of adoption.

§ 3

The adopted person shall receive the name of adoptive father, or family (maiden) name of adoptive mother. If the adoptive mother is married, the contractually adopted person shall receive husband's name only with his consent. Married adopted woman shall attach to her name received by adoption her previous name; other adopted persons shall do that, if established so by the contract.

[tags: legal effect of adoption, name of the adopted person]

§ 4

(1) From legal point of view, the relationship between the adopting person and the adopted person and his/her descendants born later shall be the same as the relationship between parents and legitimate children, unless the law establishes otherwise. Adopted child and these his/her descendants acquire all property claims against the adoptive parent as marital children. This relationship applies to descendants of the adopted child already born at the moment of conclusion of the agreement, if they provided their consent with adoptions themselves, or, if they lack legal capacity, through established custodian with approval of the court (guardianship office).

(2) If the adopted child is minor, he/she passes under paternal authority of the adopting man.

(3) No family relationship occurs by the adoption to members of adoptive parent's family and the adopted child and his/her descendants acquire no property rights.

(4) The adopted child and his/her descendants do not lose rights within their own family. They have right for alimony, if the adoptive parent alone is not able to provide for their adequate nutrition.

[tags: legal effect of adoption, relationship between the adopting and the adopted persons, paternal authority, rights of adopted child, alimony]

§ 5

Rights between the adoptive parent and the adopted child and his/her descendants may be contractually established otherwise, unless the effect stipulated in (3) is not affected, or unless rights of any third person are not reduced without his/her consent.

[tags: contract regarding relations of adoptive parent and adoptive child, and his/her descendants]

§ 6

By adoption, the adoptive parent does not acquire any property rights against the adoptive child and his/her descendants.

[tags: property rights]

III. Abolishment of legal relationship established by adoption

§ 7

(1) Legal relationship established by adoption may be canceled again based on agreement of all parties. If some parties lack legal capacity, cancellation agreement shall require consent of legal representative nominated for such parties and approval of guardian (custodian) court or office.

(2) Based on serious reasons, in particular, such, for which person become unworthy to inherit or for which he/she can be disinherited, such relationship may be canceled based on legal action against all parties, or based on joint legal action of all parties.

(3) By cancellation of the adoption all its effects to the future thereby cease to exist. The adopted child shall regain his/her previous name, and if he/she lacks legal capacity, he/she shall return under paternal or guardian authority.

(4) Again, legal effects of adoption for individual parties may be canceled by agreement between them and the adoptive parent, or based on judgment issued based on adoptive parent's action against individual party of this legal relationship or such individual party's action against the adoptive parent due to reasons established in (7(2)). Provision of (7(1)) applies to such agreement.

[tags: abolishment of adoption, effects of abolishment of adoption]

IV. Appurtenances of the agreement.

§ 8

(1) For the agreement (1) and (7) to be legally effective, the public deed or such private deed is required, whereas signatures of parties on such deed shall be authorized by court or notary (notary public). If the approval of guardian (custodian) court or office is required, the adoption agreement may also be drawn by registration with such court (office). The same applies for the consent of parties required pursuant to (1(4)), (2(1)), (4(1)), and (7(1)) and (7(4)).

(2) The adoption agreement shall include provision on substantial effect of adoptions established in (3); furthermore, it may include provisions deviating from the law, if permissible, however, these may not be conditional or limited in time.

(3) The adoption agreement becomes legally effective as late as after its approval by the guardian (custodian) office or court ((9) and (10)). Such approval may only be withheld, if legal appurtenances of adoption are not met, or if the agreement is to the detriment of the adoptive child without legal capacity, or if such adoption of extramarital child may lead to disruption of the adoptive parent's marriage. Such approval has no legal effect, if both parties withdraw from the agreement prior to its approval, or if one of parties dies, or if the adoptive parents fully or partially loses his/her legal capacity.

[tags: form of an adoption agreement, content of an adoption agreement, legal effects of an adoption agreement]

V. Which court (office) is competent to approve the agreement and which legal order shall govern the adoption.

§ 9

If the adoptive child has legal capacity, the district court, being the competent general court in dispute matters for the adoptive child, shall be competent to approve the adoption agreement.

[tags: jurisdiction]

§ 10

(1) If the adoptive child has no legal capacity, the agreement shall be approved by guardian (custodian) court (office) of the first instance by which the adoption proceedings was commenced and which is otherwise competent for the incapable person based on law. Such court (office) shall review conditions decisive for the approval ex officio and shall decide on the application. Final decision on application

for adoption shall be submitted prior to its official issue, including all files in the district governed by jurisdiction rule of 1 August 1895 No. 111 of the Imperial Code (RGBI) to its superior collegiate court, in Slovakia and Carpathian Ruthenia to custodian office of the second instance, for its final approval.

(2) Remonstrance or complaint (appeal) against such decision may be filed within 14 days with the first instance body. Subsequently, the remonstrance may be filed with the first instance collegiate court, if it regards the second instance guardianship office. Subsequently, the complaint (appeal) shall be filed with the second instance collegiate court, or, as the case may be the third instance guardianship office, unless such remonstrance is already resolved by the first instance collegiate court, or by the second instance guardianship office.

[tags: obligatory approval of an adoption agreement by court or guardianship office]

§ 11

The agreement is to be submitted in 3 copies including all documents (baptismal or birth certificates, domicile deed, etc.). If the agreement was approved, the first instance court or guardianship office shall file one copy into collection of deeds, register it into respective registers, shall serve one copy with approval clause to parties, shall assure registration of the adoption into Register of birth of the adoptive child, and if it results into change of name also of other persons (husband, children), also registration into register of birth and marriages, and shall inform the municipality of domicile of the adoptive child accordingly. The same applies in the case of cancellation of the adoption relationship ((7)).

[tags: obligatory approval of an adoption agreement by court or guardianship office]

§ 12

If one party of the adoption is a foreigner, the adoption shall be governed by the law of the state, citizen of which is the adoptive parent. The issue if the consent of the child, his/her relatives and representatives, or other bodies is required is to be established pursuant to the law of the state, citizen of which is the adoptive child.

[tags: foreigner, private international law provision]

VI. Final provisions.

§ 13

(1) As to the date of legal effect of this Act the provisions of (179) – (185), (755), and of the last sentence of (756) of the General Civil Code, of (257) – (262) of the patent of 9. August 1854, No. 208 of the Imperial Code (RGBI), as well as provision of actual common law, Art. XX of the 1877, and provisions related to adoption applicable in Slovakia and Carpathian Ruthenia lose their validity.

(2) The Act does not apply to legal relationships established by adoption agreements that were already approved by the first instance court of office pursuant to (9) and (10) prior to legal effect of this Act. Provision of (7) also applies in the case of cancellation of the adoption agreement approved prior to the legal effect of this Act.

(3) Approval of agreements concluded in Slovakia or Carpathian Ruthenia, and if necessary, approved by the first instance orphanage body or guardianship office before the day of legal affect of this Act, and if such approval is not required, delivered to the Ministry of Justice by such day, pertains to this Ministry.

[tags: application of prior provisions]

§ 14

The Act is to be executed by the Minister of Justice and the Minister of Interior.

[tags: implementation of this act]

Mr. T. G. Masaryk b.h.

Mr. Dr. Šrámek b.h.

Mr. Černý b.h.

Mr. Dr. Spina b.h.

on behalf of the Minister, Mr. Dr. Mayr-Harting.