

ผนวก ๓.

THE FRANCE CIVIL CODE

Art. 330

Legitimation takes place either by marriage of the parents, or on the authority of the court.

Art. 331

All children born out of wedlock, "even deceased" (*Act n 93-22 of 8 Jan. 1993*), are legitimated by operation of law by the subsequent marriage of their parents.

Where their parentage was not already established, those children must be the subject of an acknowledgement at the moment of celebration of the marriage.. In that event, the officer of civil status who performs the celebration shall take note of the acknowledgement and of the legitimation in a separate record. ["The family name of the children is determined under the rules laid down in Article 311-21" (*Act n 2002-304 of 4 March 2002*)]

1 Shall come into force on 1 Jan. 2005

Art. 331-1

Where the parentage of an illegitimate child was established with regard to his father and mother or one of them only after their marriage, legitimation may take place only by virtue of a judgment.

That judgment shall state that the child has, since the celebration of the marriage, enjoyed the apparent status of their common child.

Art. 331-2

Any legitimation shall be mentioned in the margin of the record of birth of the legitimated child.

That mention may be required by any party concerned. In the case of Article 331, the officer of civil status shall provide for it himself, where he had knowledge of the existence of the children.

"The mention of the legitimization on the record of birth of an adult child is of no effect on his patronymic [*replaced by "family name" (Act n 2002-304 of 4 March 2002)*] where the record does not contain in addition mention of the consent of the party concerned to the modification of his patronymic" [*replaced by "family name" (Act n 2002-304 of 4 March 2002)*] (Act n 93-22 of 8 Jan. 1993).

1 Shall come into force on 1 Jan. 2005

Art. 332-1

Legitimation confers on a legitimated child the rights and duties of a legitimate child.

"By means of a joint declaration produced at the time of the celebration of the marriage or ascertained by the court, the parents are entitled to the option provided for in Article 311-21, if parentage has been established in the way provided for in Article 334-1 and if they did not avail themselves of the power given by Article 334-2"(Act n 2002-304 of 4 March 2002; Act n 2003-516 of 18 June 2003¹). "Legitimation however may not have the effect of modifying the patronymic [*replaced by "family name", Act n 2002-304 of 4 March 2002; Act n 2003-516 of 18 June 2003¹*] of an adult child without his consent" (Act n 93-22 of 8 Jan. 1993).

It takes effect from the date of the marriage.

¹ Shall come into force on 1 Jan. 2005

Art. 333

Where it appears that a marriage is impossible between the two parents, the benefit of legitimization may yet be conferred on the child on the authority of the court provided that he has, with regard to the parent who so requests, the apparent status of an illegitimate child.

Art. 333-1

A petition for purposes of legitimation must be initiated by one of the two parents or by both jointly before the *tribunal de grande instance*.

Art. 333-2

Where one of the parents was, at the time of conception, in bonds of a wedlock which is not dissolved, his or her petition is admissible only with the consent of her or his spouse.

Art. 333-3

The court shall verify whether the statutory conditions are fulfilled and, after receiving or inducing, if there is occasion, the comments of the child himself, of the other parent where he or she is not a party to the petition, as well as that of the spouse of the petitioner, it shall pronounce the legitimation, if it considers it is justified.

Art. 333-4

A legitimation on the authority of the court takes effect at the date of the judgment which pronounces it finally.

Where it took place on petition of one of the parents, it does not have any effect with regard to the other; it does not involve change of the ["family" (*Act n 2002-304 of 4 March 2002*)] name of the child, unless the court otherwise decides.

1 Shall come into force on 1 Jan. 2005

Art. 333-5

Where legitimation on the authority of the court was pronounced with regard to both parents, the child shall take the name of the father [*replaced by "the family name of the child is determined under the rules laid down by Articles 311-21 and 311-23" (Act n 2002-304 of 4 March 2002)*]; where he is a minor, "the court shall rule on the terms of exercise of parental authority" (*Act n 87-750 of 22 July 1987*) as in matters of divorce.

1 Shall come into force on 1 Jan. 2005

Art. 334-1

An illegitimate child acquires the name of the parent with regard to whom his parentage has been established in the first place; [*his father's name, where his*

parentage has been established simultaneously with regard to both. deleted by Act n 2002-304 of 4 March 20021)]

1 Shall come into force on 1 Jan 2005

Art. 334-2

Even where his parentage was established only in the second place with regard to the father, an illegitimate child may take the latter's name by substitution when, during his minority, the two parents make joint declaration of it before "the chief clerk of the *tribunal de grande instance*" (Act n 95-125 of 8 Feb. 1995)¹.

Where the child is more than "thirteen" (Act n 93-22 of 8 Jan. 1993) years old, his personal consent is required.

¹ Shall continue in force until 30 Dec. 2004

Art. 335

Acknowledgment of an illegitimate child may be made in the record of birth, by an instrument received by the officer of civil status or by any other authentic instrument.

The instrument shall contain the statements provided for in Article 62.

(Act n 96-604 of 5 July 1996) It shall also contain a mention that the maker of the acknowledgement was informed of the divisible character of the bond of illegitimate kinship.

Art. 336

An acknowledgement of the father without indication of the mother and admission on her part, has effect only with regard to the father.

Art. 337

A record of birth designating the mother is deemed to be an acknowledgment, where it is corroborated by an apparent status.

Art. 339

An acknowledgement may be contested by all persons having an interest therein, including his maker.

An action may also be instituted by the Government procurator's office where circumstantial evidence based on the instruments themselves renders improbable the declared paternity or maternity. "It may likewise be instituted where acknowledgement was made for evading the rules which govern adoption" (*Act n 96-604 of 5 July 1996*).

Where there exists an apparent status which is consistent with the acknowledgement and has lasted at least ten years after it, no contestation is any longer admissible, unless on the part of the other parent, of the child himself or of those who claim to be the true parents.

Art. 310-1

All children whose parentage is lawfully established have the same rights and the same duties in their relations with their father and mother. They enter into the family of each of them.

Art. 311-21

Where the parentage of a child has been established with regard to his two parents at the latest on the day of declaration of his birth or afterwards but simultaneously, the parents shall choose the family name which devolves upon him: either the father's name, or the mother's name, or both names coupled in the order they choose within the limit of one family name for each of them. Failing a joint declaration to the officer of civil status mentioning the choice of the name of the child, the latter shall take the name of the parent with regard to whom his parentage has first been established and the father's name where his parentage has been established simultaneously with regard to both.

Where a child of whom one parent at least is French is born abroad, parents who have not availed themselves of the power to choose the name in the way provided for in the preceding paragraph may make such a declaration at the time of the registration of the record, at the latest within three years of the birth of the child.

A name devolving on a first child has effect as to the other common children.

Where the parents or one of them bear a double family name, they may, by a joint written declaration, transmit only one name to their children.

Art. 371-1

Parental authority is a set of rights and duties whose finality is the welfare of the child.

It is vested in the father and mother until the majority or emancipation of the child in order to protect him in his security, health and morality, to ensure his education and allow his development, showing regard to his person.

Parents shall make a child a party to judgments relating to him, according to his age and degree of maturity.

Art. 372

(Act n2002-305 of 4 March 2002)

The father and mother shall exercise in common parental authority.

Where, however, parentage is established with regard to one of them more than one year after the birth of a child whose parentage is already established with regard to the other, the latter alone remains vested with the exercise of parental authority. It shall be likewise where parentage is judicially declared with regard to the second parent of the child.

Parental authority may however be exercised in common in case of joint declaration of the father and mother before the chief clerk of the tribunal de grande instance or upon judgment of the family causes judge.

Art. 733

Legislation does not discriminate between legitimate and illegitimate children in order to determine relatives called to inherit .

Rights resulting from adoption are regulated in the Title Of Adoption.