DIRECTORATE OF POLITICAL AND DIPLOMATIC AFFAIRS
Department of Foreign Affairs

Ref. no. 25299/2018

The Department of Foreign Affairs – Directorate of Political and Diplomatic Affairs – presents its compliments to the Honourable Embassy of the Philippines and with reference to the Note Verbale No. DNP-37-2018 has the honour to indicate Law No. 49, dated 26th of April 1986 as the main provision on marriage and divorce in the Republic of San Marino.

The address of the online platform where all San Marino laws can be searched and downloaded is https://www.consigliograndeegenerale.sm/on-line/home/archivio-leggi-decreti-e-regolamenti.html. Official documents are available in Italian only.

The Department of Foreign Affairs – Directorate of Political and Diplomatic Affairs – avails itself of this opportunity to renew to the Honourable Embassy of the Philippines the assurances of its highest esteem and consideration.

San Marino, 7 March 2018

DIPARTIMENTO AFFARI ESTERI - REP. SAN MARINO

Honourable
Embassy of the Philippines
ROMA

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DEPARTMENT OF FOREIGN AFFAIRS
Office of Legal Affairs

22 FEB 2019

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AMBASCIATA
DELLA REPUBBLICA DI SAN MARINO
IN ITALIA

Prot. N° 10099/P

NOTA VERBALE

L'Ambasciata della Repubblica di San Marino in Italia presenta i suoi complimenti all'Ambasciata della Repubblica delle Filippine e ha l'onore di trasmettere la Nota in data 7/3/2018, prot. N° 25299/2018, del Dipartimento Affari Esteri – Direzione degli Affari Politici - della Repubblica di San Marino.

L'Ambasciata della Repubblica di San Marino si avvale dell'occasione per rinnovare all'Ambasciata della Repubblica delle Filippine atti della sua più alta considerazione.

Roma, 8 Marzo 2018/1717 d.F.R.

AMBASCIATA DELLA REPUBBLICA DI SAN MARINO - ROMA -

Onorevole
Ambasciata
della Repubblica delle Filippine
ROMA

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DEPARTMENT OF FOREIGN AFFAIRS
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22 FEB 2019

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N. 43

Legge sull'ordinamento per lo Stato Civile.

Noi Capitani Reggenti

la Serenissima Repubblica di San Marino

Promulghiamo e pubblichiamo la seguente Legge approvata dal Consiglio Grande e Generale nella sua Tornata delli 12 Agosto 1946:

TITOLO I.

Le funzioni dello Stato Civile.

Art. 1.

Le funzioni dello Stato Civile sono attribuite al Dicastero degli Affari Interni.

Art. 2.

Per lo svolgimento delle funzioni contemplate nel presente ordinamento è istituita la Direzione dei Servizi Anagrafici e Statistici alla quale compete pure lo svolgimento delle altre attività di ordine demografico e statistico.

Art. 3

E' riconosciuta la qualifica di Ufficiale dello Stato Civile a chi viene preposto alla direzione dei servizi demografici e statistici.

Egli può delegare l'incarico di Ufficiale dello Stato Civile al funzionario che lo sostituisce in caso di assenza.

La delega, compilata in doppio originale, dovrà essere preventivamente approvata dal Congresso di Stato e un esemplare di essa sarà depositato presso il Tribunale Commissariale della Repubblica.

La delega può essere revocata con altra deliberazione del Congresso di Stato.

Art. 4

La nomina dell'Ufficiale dello Stato Civile è subordinata all'osservanza delle norme concernenti i funzionari di Governo, o all'applicazione di speciali disposizioni che fossero all'uopo emanate.

Art. 5

L'Ufficiale dello Stato Civile è competente a:

1) Ricevere le denuncie dei nati nel territorio della Repubblica;

2) Ricevere le denuncie dei morti nel territorio della Repubblica;

3) Ricevere le richieste delle pubblicazioni di matrimonio;

4) Trascrivere gli atti relativi alla cittadinanza;

5) Custodire e conservare i registri a qualunque atto si riferiscano;

6) Trascrivere gli atti di matrimonio celebrati dai Ministri del Culto Cattolico;

7) Rilasciare i documenti riguardanti lo Stato Civile.

Art. 6

L'Ufficiale dello Stato Civile non può ricevere gli atti nei quali intervengano come dichiaranti il coniuge ed i suoi parenti od affini in linea retta.

Art. 7

L'Ufficiale dello Stato Civile è tenuto anche a conformarsi alle istruzioni che gli vengono date dal Tribunale Commissariale, per la tutela degli istituti relativi allo Stato Civile dei cittadini.

TITOLO II.

Registri ed atti di Stato Civile

Norme Generali.

Art. 8.

Presso la Direzione dei Servizi Demografici e Statistici debbono essere tenuti i seguenti registri di Stato Civile, i cui modelli verranno stabiliti con apposito provvedimento:

1) di nascita;

2) di morte;

3) di matrimonio;

4) di cittadinanza; (tutti in doppio originale)

5) per le richieste di pubblicazione di matrimonio, in un solo originale.

Art. 9.

I registri per gli atti di nascita, di morte e di matrimonio sono costituiti da due parti; ciascuna parte è composta di fogli con moduli stampati e fogli in bianco, in rapporto alle esigenze del servizio di Stato Civile.

Art. 10.

L'Ufficiale dello Stato Civile si fornirà annualmente dei registri di Stato Civile, in conformità delle disposizioni contenute negli articoli precedenti.

Art. 11.

I registri, prima di essere posti in uso, saranno numerati e vidimati in ciascun foglio dal Commissario della Legge il quale nella prima pagina di ogni registro indicherà di quanti fogli esso si compone.

Art. 12.

I registri dello Stato Civile costituiscono una raccolta di atti pubblici.

Art. 13.

L'Ufficiale dello Stato Civile ha l'obbligo di compiere, nei registri affidatigli, le indagini chieste dai cittadini.

Art. 14.

Gli atti dello Stato Civile fanno prova, fino a querela di falso, di ciò che l'Ufficiale dello Stato Civile ha attestato intorno ai fatti dichiarati alla sua presenza.

Le dichiarazioni dei comparenti fanno fede fino a prova contraria.

Hanno valore soltanto le indicazioni riprodotte nell'atto ricevuto dall'Ufficiale dello Stato Civile.

Art. 15.

Nessuna annotazione può essere eseguita sopra un atto già iscritto nei registri di Stato Civile se non è disposta dal presente ordinamento, ovvero non è ordinata dall'Autorità Giudiziaria.

Le rettificazioni degli atti dello Stato Civile debbono essere eseguite in base a una sentenza dell'Autorità Giudiziaria passata in giudicato, mediante la quale viene ordinato all'Ufficiale dello Stato Civile di rettificare un determinato atto esistente nei registri o di ricevere un atto omesso o di rinnovare un atto smarrito o distrutto.

Le sentenze sono trascritte nei registri di Stato Civile.

Art. 16.

Le scritturazioni degli atti dovranno essere eseguite a mano con calligrafia chiara e senza abbreviature. Gli spazi in bianco dovranno essere coperti da una riga di inchiostro. Occorrendo cancellare, variare od aggiungere una o piu' parole in un atto, l'Ufficiale dello Stato Civile può valersi di postille, debitamente dichiarate e approvate.

Art. 17.

L'Ufficiale di Stato Civile redige gli atti applicando le formule prescritte.

Art. 18.

La trascrizione di atti nei registri di Stato Civile può essere domandata da Pubblica Autorità, da Pubblico Ufficiale, o da privato che abbia diretto interesse; di essa sarà redatto regolare processo verbale.

Per gli atti compilati in lingua straniera dovrà essere eseguita la traduzione in italiana, prima di procedere alla loro trascrizione.

Art. 19.

Alla fine di ciascun anno, l'Ufficiale dello Stato Civile chiude i registri e ne sottoscrive l'apposito verbale. Forma quindi l'indice alfabetico degli atti inscritti in ciascun registro secondo l'ordine alfabetico dei cognomi di coloro ai quali gli atti si riferiscono.

Art. 20.

Oltre l'indice annuale, l'Ufficiale dello Stato Civile nel mese di Gennaio successivo ad ogni decennio, compila, in doppio esemplare, un indice per il decennio stesso. Uno degli esemplari viene depositato nell'Archivio di Stato Civile e l'altro viene trasmesso al Tribunale Commissariale.

Art. 21.

Presso la Direzione dei Servizi Demografici e Statistici è altresì istituito l'archivio dei registri di Stato Civile, per la conservazione di uno degli originali di ogni registro; gli altri originali saranno invece depositati a fine anno presso la Cancelleria del Tribunale Commissariale.

Art. 22.

In caso di smarrimento o distruzione di entrambi o di uno solo degli originali dei registri, la Segreteria per gli Affari Interni promuoverà l'immediata fornitura di nuovi registri, impartendo le norme relative alla ricostituzione degli atti smarriti o distrutti. A questo scopo, la medesima Segreteria chiederà la cooperazione della speciale Commissione Governativa per lo Stato Civile.

Art. 23.

La presenza di due testimoni, di età maggiore è richiesta per gli atti e le dichiarazioni da farsi innanzi all'Ufficiale dello Stato Civile.

Art. 24.

Negli atti di Stato Civile vanno citati i documenti esibiti dai dichiaranti.

Art. 25.

L'Ufficiale dello Stato Civile darà lettura degli atti ricevuti, dopodichè gli atti stessi saranno sottoscritti dai dichiaranti, dai testimoni e dall'Ufficiale dello Stato Civile. Quando i dichiaranti o i testimoni sono analfabeti se ne fa menzione nell'atto ricevuto.

Gli atti si intendono chiusi con la firma dell'Ufficiale dello Stato Civile; non potranno quindi essere modificati.

Art. 26.

Le persone direttamente interessate al ricevimento degli atti di Stato Civile possono farsi rappresentare da un mandatario speciale, munito di scrittura privata autenticata o di atto pubblico.

Art. 27.

I documenti esibiti all'Ufficiale dello Stato Civile saranno muniti di visto ed allegati, in apposito fascicolo, ai registri originali.

Essi dovranno essere in piena conformità delle leggi sul bollo e sul registro, e, qualora sia richiesto, debitamente legalizzati.

Art. 28.

Gli atti di Stato Civile rimessi al Governo della Repubblica da uno Stato Estero, agli effetti della trascrizione, dovranno riportare la legalizzazione da parte dell'Autorità che li trasmette.

TITOLO III.

Degli atti di nascita.

Art. 29.

I registri degli atti di nascita sono divisi in due parti e ciascuna parte è suddivisa in due serie distinte dalle lettere A e B.

Nella prima parte della serie A si ricevono le dichiarazioni di nascite avvenute nel territorio della Repubblica.

Nella parte prima della serie B si ricevono le dichiarazioni tardive di nascite avvenute nel territorio della Repubblica.

Nella parte seconda della serie A si trascrivono le copie degli atti di nascita ricevuti dall'estero.

Nella parte seconda della serie B si trascrivono:

a) i processi verbali relativi a bambini trovati;

b) gli atti di riconoscimento di filiazione naturale ricevuti dall'Ufficiale dello Stato Civile;

c) le dichiarazioni di consegna di bambini ad un istituto;

d) le sentenze che dichiarano o disconoscono la filiazione legittima;

e) i decreti di adozione, legittimazione, cambiamento od aggiunta di nome o cognome e i provvedimenti che revocano od annullano i decreti medesimi;

f) le sentenze di rettificazione.

Art. 30.

La dichiarazione di nascita dev'essere fatta all'Ufficiale dello Stato Civile nei dieci giorni successivi alla nascita.

L'Ufficiale dello Stato Civile è tenuto ad accertarsi della verità della nascita.

Nell'atto relativo sarà precisato se il bambino viene presentato, oppure il diverso modo di accertamento della nascita.

Art. 31.

Nel caso che la dichiarazione di nascita venga presentata dopo i dieci giorni prescritti, l'Ufficiale dello Stato Civile la inscrive nella parte prima serie B, l'atto però resterà privo di efficacia, e di esso non se ne potranno rilasciare copie od attestati sino a tanto che non sarà stato dichiarato valido dal Tribunale Commissariale. L'Ufficiale dello Stato Civile che avrà ricevuto una dichiarazione tardiva di nascita ne darà immediato avviso al Tribunale anzidetto, al quale rimetterà una copia integrale dell'atto formato, nonchè la richiesta di convalida.

La sentenza pronunciata dal Tribunale sarà annotata a margine dell'atto.

Art. 32.

L'Ufficiale dello Stato Civile, qualora sia a conoscenza che è stata omessa una dichiarazione di nascita, ne riferisce al Tribunale Commissariale.

In ordine alla sentenza del Tribunale formerà l'atto di nascita.

Art. 33.

La dichiarazione di nascita è fatta dal padre, dalla madre o da un loro procuratore speciale; in mancanza, dal medico o dalla levatrice o da qualsiasi altra persona che ha assistito al parto.

Quando il dichiarante non è il medico o la levatrice, dev'essere prodotto il certificato di assistenza al parto rilasciato dal medico o dalla levatrice.

Art. 34.

L'atto di nascita indicherà principalmente la casa, il giorno e l'ora della nascita, il sesso del bambino e il nome che gli viene imposto.

Se il parto è plurimo, ciascun atto determinerà l'ordine in cui sono avvenute le nascite. Se il dichiarante non dà un nome al bambino, vi provvede l'Ufficiale dello Stato Civile.

Se si tratta di bambini dei quali non sono conosciuti i genitori, l'Ufficiale di Stato Civile impone ad essi il cognome ed il nome.

Art. 35.

E' vietato d'imporre al bambino lo stesso nome del padre vivente, di un fratello o di una sorella viventi, un cognome come nome, nomi e, per i figli di cui non siano conosciuti i genitori, anche cognomi ridicoli o vergognosi.

Art. 36.

Se la nascita deriva da unione legittima nell'atto relativo si deve enunciare il nome e cognome, l'età, la cittadinanza, la professione e la residenza tanto del padre quanto della madre.

Se la nascita deriva invece da unione illegittima, le enunciazioni di cui sopra saranno limitate al solo genitore che si è presentato personalmente all'Ufficiale dello Stato Civile per richiedere l'accettazione della dichiarazione di nascita.

Art. 37.

Se il bambino al momento della dichiarazione di nascita non è vivo, il dichiarante è tenuto a comprovare, esibendo il certificato di assistenza al parto, oppure mediante certificato medico, se il bambino è nato morto o se è morto posteriormente alla nascita. In quest'ultimo caso occorre indicare la causa della morte.

Art. 38.

Chiunque trova un bambino deve effettuarne (*) la consegna all'Ufficiale dello Stato Civile esponendo le circostanze di tempo e di luogo in cui è avvenuto il rinvenimento. L'Ufficiale di Stato Civile redige, nel registro di nascita, processo verbale, in ordine alle circostanze espresse, enunciando l'età apparente del bambino, il sesso, il cognome e il nome impostogli, nonchè l'istituto o la persona a cui viene affidato.

Art. 39.

Il direttore dell'istituto, al quale sia stato affidato un bambino trovato, ne prende nota sui registri dell'istituto medesimo.

Art. 40.

Nel caso della nascita di un bambino figlio di genitori stranieri, residenti nel territorio della Repubblica, la Direzione dei Servizi Demografici trasmette, entro dieci giorni, copia integrale dell'atto ricevuto al Tribunale Commissariale, per l'inoltro al competente organo giudiziario o diplomatico dello Stato al quale appartengono, per ragioni di residenza, i genitori del neonato.

Art. 41.

L'Ufficiale dello Stato Civile ha l'obbligo di annotare in margine agli atti di nascita:

a) i decreti di adozione;

b) le comunicazioni di apertura e di chiusura della tutela;

c) gli atti di matrimonio;

d) gli atti e i provvedimenti del Consiglio Grande e Generale relativi all'acquisto o alla perdita della cittadinanza sammarinese;

e) gli atti di riconoscimento di filiazione naturale;

f) le legittimazioni per susseguente matrimonio o per rescritto del Consiglio Grande e Generale;

g) i decreti di cambiamento o di aggiunta di nome o cognome;

h) le sentenze di rettificazione che concernono l'atto già inscritto nel registro;

i) l'atto di morte.

Art. 42.

Le annotazioni a margine di cui al precedente articolo saranno eseguite a cura dell'Ufficiale dello Stato Civile che ha provveduto alla formazione degli atti o alla trascrizione degli atti, sentenze o decreti relativi.

Nessuna annotazione può essere eseguita se non è consentita per legge, e se non è approvata o ordinata dall'autorità giudiziaria.

TITOLO IV.

Filiazione legittima, illegittima e legittimazione.

Art. 43.

La filiazione legittima viene comprovata dall'atto di nascita inscritto nei registri di Stato Civile.

In mancanza di questo atto, basta il possesso continuo dello stato di figlio legittimo.

Art. 44.

Qualora manchi l'atto di nascita o il possesso di stato, oppure quando il figlio fosse stato inscritto sotto falsi nomi o come nato da genitori ignoti, la prova della filiazione può essere fornita mediante testimonianza.

Art. 45.

Il figlio naturale può essere riconosciuto dal padre e dalla madre, tanto congiuntamente quanto separatamente.

Il riconoscimento non può essere praticato se il padre o la madre naturale non hanno raggiunto l'età prescritta per contrarre matrimonio.

Art. 46.

La dichiarazione di riconoscimento di un figlio naturale, fatta davanti all'Ufficiale dello Stato Civile, viene inscritta nei registri delle nascite.

Negli stessi registri delle nascite si trascrivono integralmente i riconoscimenti di figli naturali risultanti da atto pubblico o da testamento, qualunque sia la forma di questo.

Art. 47.

Il riconoscimento non ha effetto che riguardo a quello dei genitori da cui fu fatto.

L'atto di riconoscimento di uno solo dei genitori non deve contenere indicazioni relative all'altro genitore. Tali indicazioni, qualora siano state fatte, son prive di ogni effetto.

Art. 48.

Il figlio naturale assume il cognome del genitore che lo ha riconosciuto, o quello del padre se congiuntamente o separatamente è stato riconosciuto da entrambi i genitori.

Art. 49.

Il pubblico ufficiale che ha ricevuto una dichiarazione di riconoscimento deve, nei dieci giorni successivi, inviarne copia alla Direzione dei Servizi Demografici per la trascrizione nei registri di Stato Civile.

Se trattasi di dichiarazione contenuta in un testamento segreto la copia di questo dev'essere trasmessa dal notaio entro venti giorni dalla pubblicazione del testamento stesso.

Art. 50.

Il riconoscimento di un figlio già riconosciuto dall'altro genitore, deve essere comunicato, dall'Ufficiale dello Stato Civile, al Tribunale Commissariale il quale provvede a darne partecipazione agli interessati.

Art. 51.

La legittimazione dei figli naturali avviene per susseguente matrimonio contratto dai genitori del figlio naturale o per rescritto del Consiglio G. e Generale.

Art. 52.

L'Ufficiale dello Stato Civile che riceve la dichiarazione di nascita di un bambino di genitori ignoti deve darne notizia al Commissario della Legge entro dieci gironi, affinchè sia disposta l'apertura della tutela e la nomina del tutore e del protutore.

Dell'apertura e della chiusura della tutela il Cancelliere del Tribunale Commissariale dà comunicazione, nel termine di dieci giorni, all'Ufficiale dello Stato Civile per l'annotazione in margine all'atto di nascita del minore.

TITOLO V.

L'adozione.

Art. 53.

L'adozione produce i suoi effetti dalla data del provvedimento che la pronunzia.

Art. 54.

L'adottato assume il cognome dell'adottante e lo aggiunge al proprio.

L'adottato che sia figlio naturale non riconosciuto dai propri genitori assume solo il cognome dell'adottante.

Se l'adozione è compiuta da entrambi i coniugi, l'adottato assume il cognome del marito.

Art. 55.

Il provvedimento che pronunzia l'adozione dev'essere comunicato, in copia, all'Ufficiale dello Stato Civile per l'annotazione in margine all'atto di nascita dell'adottato e a quello dell'adottante, o, in mancanza di tali atti, nel registro di popolazione.

TITOLO VI.

Degli atti di morte.

Art. 56.

Nella prima parte dei registri degli atti di morte l'Ufficiale dello Stato Civile inscrive le dichiarazioni di morte ricevute direttamente.

Art. 57.

La parte seconda dei registri di morte è suddivisa in due serie, distinte rispettivamente dalle lettere A e B.

Nella serie A , composta di fogli con moduli a stampa, si inscrivono gli atti di morte che l'Ufficiale dello Stato Civile redige in seguito ad avviso ricevuto dall'ospedale, da collegi, istituti, da magistrati o da ufficiali di polizia.

Nella serie B, composta di fogli in bianco, si trascrivono:

a) gli atti di morte ricevuti dall'estero;

b) le sentenze di rettificazione passate in giudicato;

c) le sentenze di morte presunta divenute eseguibili;

d) gli atti di morte ai quali non si adattano i moduli stampati.

Art. 58.

La dichiarazione di morte dev'essere presentata, entro le ventiquattro ore dal decesso, all'Ufficiale dello Stato Civile da persona convivente col defunto o da persona informata del decesso.

Art. 59.

L'atto di morte deve enunciare il luogo, il giorno e l'ora della morte, il cognome e nome, l'età e il luogo di nascita, la professione e la residenza del defunto, e, quando si tratti di straniero, la cittadinanza; il cognome e il nome del coniuge superstite, se il defunto era congiunto in matrimonio, o del predefunto coniuge, se era vedovo; il cognome e nome, la professione e la residenza del padre e della madre del defunto; il cognome e nome, l'età, la professione e la residenza dei dichiaranti.

Art. 60.

L'Ufficiale dello Stato Civile rilascia in carta non bollata e senza spesa l'autorizzazione alla sepoltura dei cadaveri.

Tale autorizzazione non può essere accordata se non siano trascorse ventiquattro ore dal decesso, e dopo che l'Ufficiale dello Stato Civile si sia accertato della morte per mezzo di un medico necroscopo o di un altro delegato sanitario il quale deve rilasciare un certificato scritto sulla visita compiuta.

Il certificato viene allegato al registro degli atti di morte.

Art. 61.

Quando risulti che è stata data sepoltura ad un cadavere senza l'autorizzazione dell'Ufficiale dello Stato Civile, questi ne riferisce immediatamente al Tribunale Commissariale. In tale caso, se l'atto di morte non è stato ricevuto, non dev'essere redatto se non dopo che il Tribunale avrà pronunciata la sentenza relativa ad istanza di persona interessata o del Procuratore del Fisco. La sentenza medesima sarà menzionata nell'atto tesso ed inserita nel volume degli allegati.

Art. 62.

L'Ufficiale dello Stato Civile che, nell'accertare la morte di una persona ai sensi dell'articolo precedente, rileva qualche indizio di morte dipendente da reato, ne avverte subito il Tribunale Commissariale, dando disposizioni, nel frattempo, affinchè il cadavere non sia rimosso dal luogo in cui si trova.

Art. 63.

Risultando segni, indizi di morte violenta o se vi è ragione di sospettarla per altre circostanze, non si può dare sepoltura al cadavere se non quando il Tribunale Commissariale avrà accordato il nulla osta.

Art. 64.

Nel caso di morte senza che sia stato possibile rinvenire o riconoscere il cadavere, l'Ufficiale dello Stato Civile ne redige processo verbale e lo trasmette al Tribunale Commissariale, per l'autorizzazione a trascriverlo nei registri di Stato Civile.

Art. 65.

L'Ufficiale dello Stato Civile, che ha inscritto nei propri registri un atto di morte relativo a cittadini stranieri, ne rimette copia integrale, entro dieci giorni, al Tribunale Commissariale, per l'inoltro al competente organo giudiziario o diplomatico dello Stato al quale apparteneva, per ragioni di residenza, la persona defunta, purchè vi sia reciprocità nello scambio degli atti di Stato Civile.

Art. 66.

L'Ufficiale dello Stato Civile provvede ad annotare a margine dell'atto di nascita delle persone defunte la data di morte.

Art. 67.

In margine degli atti di morte si annotano le sentenze di rettificazione ad essi relativi.

Art. 68.

L'Ufficiale dello Stato Civile che riceve la dichiarazione di morte di una persona la quale ha lasciato figli in età minore, deve darne notizia al Commissario della Legge, entro dieci giorni, affinchè sia disposta l'apertura della tutela e la nomina del tutore e del protutore.

Art. 69.

Dell'apertura e della chiusura della tutela il Cancelliere del Tribunale Commissariale ne dà comunicazione, nel termine di dieci giorni, all'Ufficiale dello Stato Civile, per l'annotazione in margine dell'atto di nascita del minore.

TITOLO VII.

Assenza e dichiarazione di morte presunta.

Art. 70.

L'Ufficiale dello Stato Civile trascriverà nei registri degli atti di morte le sentenze del Tribunale Commissariale che dichiarano l'assenza o la morte presunta.

TITOLO VIII.

Gli atti di matrimonio.

Art. 71.

Il matrimonio celebrato davanti ai Ministri del Culto Cattolico, secondo le norme del Diritto Canonico, viene trascritto nei registri di Stato Civile tenuti dalla Direzione dei servizi demografici e statistici della Repubblica.

Art. 72.

Ai predetti Ministri saranno forniti, annualmente, gli appositi registri composti di moduli a stampa.

Art. 73.

L'Ufficiale dello Stato Civile si uniformerà alle regole comuni agli altri registri di Stato Civile, per quanto riflette i registri degli atti di matrimonio.

I registri medesimi saranno formati da due parti: nella prima parte si trascriveranno gli atti di matrimonio celebrati dinanzi ai Ministri del Culto Cattolico della Repubblica di San Marino, nella seconda parte si trascriveranno gli atti di matrimonio celebrati in uno stato estero.

Art. 74.

Il Ministro del Culto Cattolico, davanti al quale è celebrato il matrimonio, compila l'atto di matrimonio in doppio originale. Uno di questi è rimesso all'Ufficiale dello Stato Civile entro le ventiquattro ore successive alla celebrazione del matrimonio.

Art. 75.

L'Ufficiale dello Stato Civile, appena ricevuto l'atto di matrimonio, ne cura la trascrizione nei registri a lui.

Art. 76.

La celebrazione del matrimonio deve essere preceduta dalle pubblicazioni eseguite, oltre che nella chiesa Parrocchiale, anche nell'apposito albo istituito dalla Direzione dei Servizi Demografici e Statistici della Repubblica.

La celebrazione del matrimonio è pertanto subordinata al rilascio del certificato di eseguite pubblicazioni da parte dell'Ufficiale di Stato Civile.

Art. 77.

Il registro per le richieste di pubblicazione di matrimonio è formato di due parti: nella parte prima, composta di fogli con moduli a stampa, si iscrivono le richieste di pubblicazione di matrimonio pervenute all'Ufficiale dello Stato Civile dal Parroco dinanzi al quale sarà celebrato il matrimonio; nella parte seconda, quelle pervenute dall'estero.

Art. 78.

Il registro delle pubblicazioni è parte integrante del volume degli allegati al registro degli atti di matrimonio. Esso è conservato presso la Direzione dei Servizi Demografici fino a quando non sono stati celebrati tutti i matrimoni di cui fu ricevuta la regolare richiesta di pubblicazione, ovvero fino a quando, per il decorso di 180 giorni, la pubblicazione deve considerarsi come non avvenuta.

Il registro è quindi trasmesso al Tribunale Commissariale, ai fini del deposito negli archivi dello stesso Tribunale.

Art. 79.

La richiesta delle pubblicazioni di matrimonio va accompagnata dai seguenti documenti, oltre quelli necessari per l'istruttoria ecclesiastica: copia dell'atto di nascita di ciascuno degli sposi, certificato di stato libero, documento comprovante l'assenso, se necessario.

In mancanza dell'atto di nascita può sopperire la produzione di un atto di notorietà giudiziale.

Art. 80.

Lo sposo che ha già contratto un matrimonio deve provare la sua libertà di stato, mediante le esibizione della copia integrale dell'atto di morte del coniuge o dell'atto di matrimonio recante l'annotazione della sentenza dichiarativa di morte presunta del coniuge stesso, ovvero l'annotazione del provvedimento che dichiara nullo o scioglie il matrimonio.

Art. 81.

Ricevuta la richiesta di pubblicazione, l'Ufficiale dello Stato Civile la trascrive entro le 24 ore, disponendone l'affissione nell'albo di cui all'articolo 76.

Art. 82.

L'atto di pubblicazione resta affisso almeno per otto giorni, comprendenti due domeniche. Di tale formalità sarà redatto processo verbale nell'apposito spazio del registro per le richieste di pubblicazione.

Art. 83.

Il matrimonio non può essere celebrato prima del quarto giorno successivo alla pubblicazione.

Se il matrimonio non è celebrato nei 180 giorni successivi alla pubblicazione questa si considera come non avvenuta.

Art. 84.

Se è stata concessa la dispensa o la riduzione del termine di pubblicazione, deve essere presentato il relativo provvedimento da chi richieda la pubblicazione.

Art. 85.

L'Ufficiale dello Stato Civile è tenuto a rimettere, con le modalità prescritte, le copie dell'atto di matrimonio allo stato estero di appartenenza degli sposi o di uno di essi.

Art. 86.

Lo stesso Ufficiale dello Stato Civile deve notificare al Tribunale Commissariale l'avvenuta trascrizione dell'atto di matrimonio, ai fini dell'annotazione marginale da eseguirsi sugli atti di nascita degli sposi.

TITOLO IX.

Dispensa dagli impedimenti a contrarre matrimonio e dispensa dalle pubblicazioni.

Art. 87.

L'uso della facoltà di dispensare dagli impedimenti a contrarre matrimonio o di dispensare dalle pubblicazioni, è subordinato all'osservanza del Diritto Canonico.

Art. 88.

Se la celebrazione del matrimonio non sia stata preceduta dalle pubblicazioni o dalla dispensa, la trascrizione dell'atto di matrimonio potrà aver luogo soltanto dopo l'accertamento che non esiste alcuna delle circostanze seguenti:

1) che anche una sola o entrambe le persone unite in matrimonio risultino legate da altro matrimonio valido agli effetti civili, in qualunque forma celebrato;

2) che il matrimonio non è stato contratto da un interdetto per infermità di mente.

A questo scopo l'Ufficiale dello Stato Civile, oltre a richiedere i documenti occorrenti e a compiere le indagini che riterrà opportune, affigge nell'albo particolare l'avviso dell'avvenuta celebrazione del matrimonio da trascrivere, con la indicazione delle generalità degli sposi, della data, del luogo di celebrazione del matrimonio e del Ministro del Culto davanti al quale è avvenuto. Tale avviso resterà esposto per dieci giorni consecutivi, ai fini di eventuali opposizioni.

TITOLO X.

Le opposizioni al matrimonio.

Art. 89.

L'opposizione al matrimonio può essere dichiarata a norma del Diritto Canonico.

Art. 90.

L'atto di opposizione deve essere notificato anche all'Ufficiale dello Stato Civile.

TITOLO XI.

Gli atti di cittadinanza.

Art. 91.

Presso la Direzione dei Servizi Demografici e Statistici saranno tenuti, secondo le norme fissate nel presente ordinamento, i registri degli atti di cittadinanza composti di fogli in bianco.

Art. 92.

La compilazione degli atti di cittadinanza è assoggettata all'adozione delle formule che verranno prescritte.

Art. 93.

Nei registri di cittadinanza si trascrivono:

1) i decreti di concessione di cittadinanza;

2) i decreti di riammissione alla cittadinanza;

3) gli altri decreti o provvedimenti che importano riconoscimenti, concessioni, perdita della cittadinanza.

Art. 94.

L'Ufficiale dello Stato Civile non può trascrivere il decreto di concessione della cittadinanza se prima non è stato prestato, da parte dell'interessato, il prescritto giuramento.

Nell'atto di trascrizione si farà menzione dell'adempimento di tale formalità.

TITOLO XII.

Cambiamenti e aggiunte di nomi e di cognomi.

Art. 95.

Chi intende cambiare il cognome od aggiungere al proprio un altro cognome deve presentare domanda al Consiglio Grande e Generale, per mezzo del Tribunale Commissariale, esponendo le ragioni della domanda e unendo l'atto di nascita e gli altri documenti che la giustificano.

Art. 96.

Il Tribunale Commissariale assume informazioni sulla domanda e la inoltra alla Segreteria di Stato per gli Affari Interni con il suo parere e con tutti i documenti necessari. La Segreteria medesima provvede alla ulteriore istruttoria, qualora la domanda meriti di essere presa in considerazione, e prima che essa venga sottoposta a deliberazione del Grande e Generale Consiglio ne dà avviso al pubblico, per le eventuali opposizioni, le quali dovranno essere fatte nel termine di venti giorni.

Art. 97.

Chi vuole cambiare il nome od aggiungere al proprio altro nome, perchè ridicolo o vergognoso o perchè rivela origine illegittima deve assoggettarsi alle disposizioni indicate nei due precedenti articoli.

Art. 98.

I decreti che autorizzano la modificazione, il cambiamento, l'aggiunta del nome o cognome devono essere trascritti, a cura dell'Ufficiale dello Stato Civile, nei registri in corso degli atti di nascita.

Gli effetti dei decreti decorrono dalla data della loro trascrizione nei registri di Stato Civile.

TITOLO XIII.

Rettificazione degli atti di Stato Civile ed annotazioni.

Art. 99.

Il Tribunale Commissariale può, in ogni momento, promuovere d'ufficio le rettificazioni degli atti di Stato Civile richieste dall'interesse pubblico e quelle che riguardano errori materiali di scritturazione.

Art. 100.

La parte direttamente interessata, che intende richiedere una rettificazione, deve presentare domanda al Tribunale Commissariale. La domanda di rettificazione dev'essere accompagnata da una copia integrale dell'atto che si vuole rettificare, rilasciata dall'Ufficiale dello Stato Civile.

1

Art. 101.

La rettificazione degli atti di Stato Civile si fa in base a una sentenza dell'autorità giudiziaria passata in giudicato, mediante la quale si ordina all'Ufficiale dello Stato Civile di rettificare un atto esistente nei registri.

Le sentenze devono essere trascritte nei registri di Stato Civile, senza apportare alcuna variazione sull'atto rettificato.

2

Art. 102.

Chi intende fare eseguire una sentenza di rettificazione deve farne richiesta, anche verbale, all'Ufficiale dello Stato Civile, depositando copia autentica della sentenza medesima.

3

Art. 103.

Nessuna annotazione può essere fatta sopra un atto già inscritto nei registri, se non è disposta per legge ovvero non è ordinata dall'autorità giudiziaria.

4

Art. 104.

Le medesime annotazioni vengono eseguite dall'Ufficiale dello Stato Civile nei registri in corso e in quelli depositati presso l'archivio, e dal Cancelliere del Tribunale Commissariale nei registri depositati presso il Tribunale. Essi vi provvedono d'ufficio, a richiesta delle parti interessate o dell'autorità giudiziaria.

5

Art. 105.

Chi ha interesse che sia eseguita un'annotazione sopra un atto di stato civile ne fa domanda all'Ufficiale di Stato Civile presentando copia autentica del documento su cui la domanda si fonda.

6

Art. 106.

Quando l'annotazione richiesta o da eseguire d'ufficio concerne i registri in corso, l'Ufficiale di Stato Civile la esegue senz'altro nei due originali dei registri in modo uniforme.

Quando invece uno dei registri originali trovasi depositato presso il Tribunale Commissariale, l'Ufficiale di Stato Civile propone il testo dell'annotazione al Commissario della Legge, il quale, se riconosce che l'annotazione deve essere eseguita, concede l'autorizzazione.

7

Art. 107.

Le annotazioni sono sottoscritte dall'Ufficiale di Stato Civile e dal Cancelliere del Tribunale Commissariale.

8

Art. 108.

Per ogni questione o contestazione relativa al presente titolo l'Ufficiale dello Stato Civile ha l'obbligo di interpellare il Tribunale Commissariale, cui spetta impartire disposizioni in merito.

TITOLO XIV.

Verificazioni periodiche dei registri di Stato Civile.

9

Art. 109.

Il Commissario della Legge deve compiere una verificazione annuale dei registri di Stato Civile, per accertare:

a) se i registri sono tenuti con regolarità ed esattezza;

b) se sono stati prodotti tutti i documenti richiesti dalla legge;

c) se gli atti sono stati iscritti in ambedue i registri;

d) se sono state osservate tutte le altre norme fissate dal presente ordinamento.

Terminate le verificazioni, il Commissario della Legge riferisce, mediante trasmissione di un esemplare del verbale, appositamente redatto, alla Reggenza della Repubblica, sulle osservazioni e sui rilievi fatti nel corso delle verifiche.

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Art. 110.

In caso di inconvenienti nella regolare tenuta dei registri di Stato Civile la Reggenza disporrà affinchè ne siano eliminate prontamente le cause.

TITOLO XV.

Rilascio degli estratti di atti di Stato Civile.

1

Art. 111.

L'Ufficiale dello Stato Civile è tenuto a rilasciare estratti, per riassunto o per copia integrale, degli atti di Stato Civile, in conformità dei moduli ufficiali a stampa esistenti presso la Direzione dei Servizi Demografici e Statistici.

Il rilascio dell'estratto per riassunto o per copia integrale è subordinato al particolare uso richiesto dai cittadini interessati.

2

Art. 112.

Negli estratti per riassunto e nei certificati relativi agli atti di nascita e di matrimonio concernenti i figli naturali, l'Ufficiale dello Stato Civile ometterà ogni indicazione da cui risulti che la paternità o la maternità non è conosciuta.

Se si tratta di figlio naturale riconosciuto, è indicato soltanto il nome del genitore che l'ha riconosciuto.

Il figlio naturale non riconosciuto, nè legittimato, il quale è stato adottato, ed il figlio naturale riconosciuto successivamente all'adozione saranno indicati col solo cognome dell'adottante, con l'aggiunta della qualità di figlio adottivo e con la menzione di colui che l'ha adottato. Se l'adozione è stata compiuta da entrambi i coniugi, deve farsi menzione dell'uno e dell'altro.

Le disposizioni dei commi precedenti si applicano anche ai certificati di cittadinanza ed a quelli attestanti lo stato di famiglia.

3

Art. 113.

Gli estratti per riassunto o per copia integrale degli atti di Stato Civile ed i certificati dovranno essere rilasciati su carta prescritta dalle leggi sul bollo, o su carta esente da bollo, in rapporto all'uso e all'ente che li richiede. Inoltre l'Ufficiale dello Stato Civile percepirà i diritti stabiliti da apposita, separata tabella.

TITOLO XVI.

Delle sanzioni.

4

Art. 114.

Le infrazioni alle disposizioni del presente ordinamento sono punite con il pagamento a favore dell'Erario pubblico di una somma oscillante fra le lire cento e le lire mille, salvo che il fatto non costituisca reato.

La competenza per l'applicazione delle sanzioni anzidette è devoluta al Commissario della Legge.

5

Art. 115.

Il Tribunale, sentito l'incolpato, pronuncia la sentenza, la quale sarà notificata, per tramite della Cancelleria, entro il termine di dieci giorni dal deposito avvenuto presso la Cancelleria stessa.

6

Art. 116.

Per quanto non è qui contemplato si applicheranno le disposizioni che fossero impartite, oltre che dalla Reggenza, dal Tribunale Commissariale.

TITOLO XVII.

Disposizioni fiscali.

7

Art. 117.

Tutti gli atti giudiziari relativi allo Stato Civile, qualora siano promossi d'ufficio, saranno esenti dalle tasse di bollo e, occorrendo, registrati gratuitamente.

TITOLO XVIII.

Disposizioni finali.

8

Art. 118.

Il presente ordinamento entrerà in vigore il 1° Gennaio 1947.

9

Art. 119.

Col 1° Gennaio 1947 non saranno considerate piu' in vigore le precedenti disposizioni legislative in materia di Stato Civile.

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Art. 120.

Il Consiglio Grande e Generale autorizza il Congresso di Stato ad emanare norme separate per l'attuazione delle disposizioni contenute nel presente ordinamento.

Dato dalla Nostra residenza, addì 12 Agosto 1946 (1645 d.F.R.).

I CAPITANI REGGENTI

Giuseppe Forcellini - Vincenzo Pedini

IL SEGRETARIO DI STATO

f.f. PER GLI AFFARI INTERNI

G. Giacomini

LAW 26 April 1986 n. 49 (published on 22 May 1986)

REFORM OF THE FAMILY LAW

We Captains Regents
the Most Serene Republic of San Marino

INDEX

We promulgate and send to publish the following law approved by the Great and General Council in the session of April 26th.

TITLE I
OF THE MARRIAGE

Art. 1

(Definition of marriage)

Marriage is the union of a man and a woman founded on a free and responsible choice based on the moral and legal equality of the future spouses.

The state recognizes the fundamental role of the family and promotes its well-being.

Art. 2

(Regulation of marriage)

Marriage is governed by the provisions of this law.

Art. 3

(Civil effects of marriage)

Civil effects achieve:

- to civil marriage
- to religious marriage, contracted with any rite and celebrated in observance of the laws of the state.

The transcription of the marriage must be requested by both spouses, by means of a specific form and submitted to the Office of Civil Status by at least one of the spouses or by a person expressly delegated by the 3rd day not holiday from the date of the marriage celebration.

Civil effects start from the day of the wedding celebration.

Art. 4

(Of the conditions necessary for contracting marriage - age)

The underage cannot contract marriage.

The Commissioner of the Law, as a tutelary judge, can authorize, for very serious reasons for the marriage of the minor who has turned 16 years, after consultation of the exhibition of rights or the protection, ascertained the psycho-physical maturity through experts in medical-psychological matters.

Art. 5

(Absence of interdiction due to mental illness)

The interdiction due to insanity of mind cannot contract marriage.

The celebration of the marriage of a person against whom the procedure is pending interdiction due to mental illness is suspended for the definition of the judgment of interdiction.

If the ban has been declared after the marriage, the appeal can be proposed by both the spouse and the guardian.

Art. 6

(Freedom of State)

Those who are bound by a previous marriage cannot contract marriage. He who has already contracted marriage must prove his freedom of state by means of presentation of the complete copy of the death certificate of the spouse or of the marriage certificate containing the annotation of the declarative sentence of presumed death of the spouse, or the annotation of the pronouncement of dissolution, of termination of civil effects or of nullity of the previous marriage.

Art. 7

(Absence of kinship, affinity, adoption)

They cannot contract marriage between them:

1) ascendants and descendants in a straight line, legitimate or natural;

2) siblings, blood relatives or uterine siblings;

3) the uncle and the niece; the aunt and the nephew;

4) affinities in a straight line; the prohibition also exists in the case in which the affinity derives from marriage declared null or void or for which the termination was pronounced of civil effects;

5) related collateral in second degree;

6) the adopter, the adopted and his descendants;

7) the adoptive children of the same person;

8) the adopted and children of the adopter;

9) the adoptee and spouse of the adopter, the adopter and the spouse of the adoptee.

The prohibitions contained in numbers 2 and 3 apply even if the relationship depends on natural filiation.

The Law Commissioner can grant dispensation in the case indicated by the number 5.

The dispensation can also be granted in the case indicated by the number 4 when affinity derives from declared null marriage.

Art. 8

(Ban on marriage between persons one of whom has suffered conviction for consummated or failed or attempted murder on own spouse or the other)

They cannot contact marriage among them the persons of whom one was sentenced for murder committed or failed or attempted on their own spouse other.

If only one of the final disputes were received, or a provision was issued restrictive of personal freedom pending judgment, the celebration of marriage is suspended until the sentence of acquittal has been pronounced.

Art. 9

(Temporary prohibition of new marriage)

The woman cannot contract marriage until after three hundred days dissolution or from the final judgment of the pronouncement of dissolution or of cessation of the civil effects or nullity of the previous marriage, unless it produces medical certification that excludes pregnancy.

TITLE II
PRELIMINARY FORMALITIES AT THE CELEBRATION OF MARRIAGE

Art. 10

(Publications and place)

The celebration of the marriage must be preceded by the publications made in the appropriate register established at the Civil Status Office.

The publication consists in the exhibition, in the register of the bill of civil status and of the Castle house or the house of the commune of origin of the future spouses, of an act where you indicate the name, surname, place and date of birth, residence and citizenship of the spouses, if they are older or younger, as well as the place where they intend to celebrate marriage.

The act must also indicate the name and surname of the father, the name and surname of the mother of the future spouses.

The celebration of marriage is subject to the issue of the certificate of executed publications by the Civil Status Office.

Art. 11

(Dispensation from publications)

The Commissioner of the Law can grant the dispensation from the publications.

The provision for granting the dispensation from publications must be exhibited by those who requested it.

Art. 12

(Duration of publications)

The act of the publications remains posted at least eight days.

This formality is drafted in the appropriate space of the state register civil for requests for publications.

Art. 13

(Request for publications)

The Registrar of Civil Status, receives the request for publications by the future spouses, transcribes within twenty-four hours by arranging the posting in the registers referred to in art. 10.

Art. 14

(Documents for publications)

The request for marriage publications must be accompanied by the following documents:

- copy of the birth certificate and the certificate of citizenship and residence of each one of the future spouses;
- certificate of free status;
- notice of lack of impediments;
- copy of the authorization decree of the Commissioner of the Law for the minor.

In the absence of the birth certificate, it can compensate for the production of an act of notoriety.

Art. 15

(Rejection of publications)

The Civil Status Officer who believes he cannot proceed with the publications issues a reasoned statement of the refusal.

An appeal is filed against the Commissioner's Court against the refusal.

Art. 16

(Deadline for the celebration of marriage)

Marriage cannot be celebrated before the fourth day following the publication.

If the marriage is not celebrated in the one hundred and eighty days following the publication, these are considered as not having taken place.

Art. 17

(Of opposition to marriage - People who can oppose)

The parents, or in their absence, the ancestors and collaterals within the second degree can oppose the marriage of their relatives for any reason provided for by the law that precludes the celebration.

If one of the spouses is subject to protection or curation, the opposition is the guardian or the trustee.

The right of opposition also belongs to the spouse of the person who wants to contract another marriage.

The Procuratore del Fisco must oppose the marriage if he is aware of the infirmity of one of the future spouses in relation to whom, due to age or for any other reason, the interdiction procedure has not been promoted or if the existence of any other impediment to the celebration of marriage by anyone reported.

Art. 18

(Opposition Act)

The notice of opposition is proposed to the Commissioner of the Law and must be notified in the form of the citation to the future spouses and to the Officer of the Civil Status within the day before the wedding celebration.

Art. 19

(Effects of the opposition)

The opposition made by those who have the faculty suspends the celebration of the marriage until the sentence passed in judicial sentence is passed on it.

If the opposition is rejected, the opponent may be ordered to pay damages.

TITLE III
OF THE MARRIAGE CELEBRATION

Art. 20

(Place of celebration)

Marriage must be celebrated in public institutions or in places intended for worship.

Art. 21

(Form of the celebration)
On the appointed day the celebrant, in the presence of two witnesses, even if relatives, gives reading to the future spouses of the art. 28 of the present law and receives from each of them personally the declaration of mutual acceptance for husband and wife and following sentence that are united in marriage.

This declaration cannot be submitted either in terms or under conditions.

The marriage certificate must be completed immediately after the celebration.

In the case of civil marriage, the Secretary of State for Internal Affairs or his delegate must be assisted by the Civil Status Officer to whom he / she immediately remits the original of the marriage act.

The Registrar of Civil Status, just received the marriage certificate bearing, in the case of religious marriage, the request for transcription pursuant to art. 3 of the present law, immediately takes care of the transcription in the records of the Civil Status.

Art. 22

(Inability of one of the partners to go to the place where the wedding is held)

If one of the future spouses for infirmity or other justified impediment with the Registrar of the Civil Status, it is impossible to go to the premises of public institutions or places designated for worship, the Secretary of State for Internal Affairs or his delegate, assisted by the Registrar of Civil Status, or the celebrant moves to the place where the groom is prevented and there, in the presence of four witnesses, proceed to the celebration of the marriage.

Art. 23

(Exhibition of the celebration of marriage)

No one can claim the title of spouse and the effects of the marriage if he does not present the deed of celebration extracted from the registers of civil status.

The possession of the state, although claimed by both spouses, does not dispense with presenting the act of celebration.

The possession of a state in conformity with the act of marriage, heals any form defect.

Art. 24

(Lack of celebration)

In the case of destruction or loss of civil status records and in any other case where the marriage certificate has not been included in the civil status registers, the existence of marriage can be proven by all means.

Art. 25

(Marriage of the citizen abroad)

For the purposes of the transcription of marriage the citizen is subject to the provisions contained in Titles I and II of this law even when he contracts marriage in a foreign country according to the forms established therein.

Art. 26

(Marriage of the foreigner in the Republic)

A foreigner who has no domicile or residence in the State and wants to contract marriage must submit to the Civil Status Officer a declaration of the competent authority of his country which shows that, according to the laws to which it is subjected, there is no impediment to marriage.

However, the foreigner is subject to the provisions contained in Title I and II.

Art. 27

(Determination of the national law on the property regime)

At the time of the celebration of marriage the future spouses of different citizenships must declare from which national law the patrimonial regime of the family will be regulated. The declaration is noted by the Civil Status Officer in the margins of the marriage act.

TITLE IV
OF THE RIGHTS AND DUTIES BORN FROM THE MARRIAGE

Art. 28

(Rights and reciprocal duties of spouses)

From the marriage derives equal rights and duties for both spouses.

From marriage derives the reciprocal obligation to respect, to moral and material assistance to cohabitation, fidelity and collaboration in the interest of the family.

Both spouses have the right to work outside the family and are obliged to contribute, each in relation to their substances and their ability, to housework and the needs of the family.

Art. 29

(Organization of family life and home)

The spouses agree on the organization of family life and fix the domicile of the family in accordance with the needs of the family unit.

In case of disagreement, each of the spouses may request the intervention of the Commissioner of the Law who must hear the opinions of all the members of the family that have completed the sixteen years.

Both spouses, for work reasons, can set a domicile outside the territory other than that of the family.

Art. 30

(Removal from the family home)

The right to moral and material assistance is suspended for the spouse who leaves the family home without a just cause and refuses to return.

The failure of the other spouse to comply with the obligations set forth in art. 28.

The proposition of the application for separation, nullity or termination of the civil effects of marriage is also a just cause.

Art. 31

(Duties towards children)

Both spouses have the obligation to maintain, instruct and educate their offspring in respect of their children's personality and aspirations.

Spouses must fulfill the obligation of proportion to the substances of the family and their respective capacities.

Art. 32

(Fulfillment and measurement of child support obligations)

Anyone interested can ask the Law Commissioner to determine the pecuniary amount of the obligations referred to in the previous article.

The Commissioner of the Law, having assumed the appropriate information, decides with an immediate executive decree, in spite of encumbrance, which part of the income of the obligor must be paid directly to the fulfilling spouse or who bears the expenses for the maintenance, instruction and education of the offspring.

TITLE V
OF FILATION

Art. 33

(Paternity)

The husband is the father of the child conceived during the marriage, to which he transmits the surname.

Art. 34

(Presumption of conception during marriage)

The child born presumably after one hundred and eighty days of his celebration is presumed to be conceived during the marriage and within three hundred days from the date of declaration of nullity, dissolution or termination of the civil effects of the marriage.

The presumption has not taken place three hundred days from the date of judicial separation, or from the date of approval of consensual separation, or from the date of the provision that authorizes the spouses to live separately pending the separation judgment or judgments listed in the previous paragraph.

Art. 35

(Birth of the child outside the terms established by the previous article)

Each of the spouses and their heirs may prove that the child born outside the terms established by the previous article was conceived during the marriage.

The child, or, in case of his death, the descendants within the first degree can propose action to claim the state of legitimacy.

Art.36

(Disclaimer of paternity)

The action for the disregard of paternity of the child conceived during the marriage is allowed both to the husband and to the wife in the following cases:

a) if the spouses have not had sexual relations in the period between the three hundred and one hundred and eighty days before birth;
b) if during the same period the husband was suffering from the powerlessness to generate;
c) if during the same period the wife has concealed the pregnancy or the birth of the child from the husband;
d) if during the same period the wife has had extra-marital relations.

In these cases, the husband or wife is required to prove that the child has bio-genetic and blood characteristics incompatible with those of the alleged father.

The declaration of the mother alone does not exclude paternity.

The act of disowning can also be exercised by the child who has reached the age of majority in all cases where it can be exercised by the parents.

Art. 37

(Birth certificate and state possession)

The legitimate filiation is proved by the birth certificate entered in the registers of the Civil Status.

It is sufficient, in the absence of this title, the continued possession of the status of legitimate child.

Art. 38

(Lack of marriage in relation to the legitimacy of the child)

In the absence of the marriage act the legitimacy of the child of two persons who have lived publicly as husband and wife and have both died cannot be challenged if the legitimacy is proven by the possession of the state.

Art. 39

(Terms of the disregard action)

The act of disowning paternity by one of the spouses must be proposed within one year from the birth of the child, or from the day of the father's return to the place where the child was born, or from the news of the birth for the father that he is away from the family home.

The action of disowning the paternity can be proposed by the child within a year of reaching the age of majority, or if they are of age, within a year from the moment in which he becomes aware of the facts that make the disowning admissible.

The action within the same term can also be promoted by the special administrator appointed by the Commissioner of the Law on the request of the minor child who has completed the sixteen years.

If the party interested in promoting the action of disregard of paternity is in a state of interdiction due to insanity of mind, the action can be promoted by the guardian according to the terms established by the previous article.

Art. 40

(Transmissibility of the disownment action)

If the owner of the action of disregard of paternity dies without having proposed it but before the expiration of the previous article has elapsed, it is allowed to exercise it in his stead:

a) the ascendants and descendants within the first degree in the case of the death of the alleged father or mother;
b) the spouse and the descendants within the first degree in case of death of the child.

Art. 41

(Parts necessary in the judgment of disregard)

The alleged father, mother and child are necessary parts in the judgment of disownment. If one of the parties is minor or forbidden, the Law Commissioner appoints a special administrator. If the presumed father or the child are dead, the action proposes us in front of the ascendants referred to in the previous article as well as of the heirs.

Art. 42

(Legitimation of the action to challenge legitimacy, imprescriptibility)

The action to challenge the legitimacy of the filiation lies with those who have their parent's birth and whoever has an interest in it. The action is imprescriptible. When the action is proposed against near-death or minor or otherwise incapacitated persons, the provisions of the preceding article are observed. Both parents must be called in the judgment.

TITLE VI OF NATURAL FILMING

Art. 43

(Recognition)

It is the natural child born outside marriage. The natural child can be recognized by the father and the mother, both jointly and separately, even if already united in marriage with another person. In the event that one or both parents are minors, recognition takes place at the request of the person exercising parental responsibility or underage parents. In the event that the owner does not give rise to the request the Commissioner of the Law appoints a guardian to the minor parent and if he considers it to the newborn. The recognition of the child who turned sixteen has no effect without his consent.

Art. 44

(Entrusting of the natural child and his insertion into the legitimate family)

If the natural minor child of one of the spouses is recognized during the marriage, the Commissioner of the Law, assessed the circumstances and heard the other parent and the minor who has completed the sixteen years, decides the custody of the minor and adopts any other provision to protect the moral and material interests of the minor.

For the inclusion of the natural child in the legitimate family of one of the parents, the other parent must be admitted, the consent of the other parent is necessary.

If the natural child is recognized before the marriage, his / her insertion in the legitimate family of one of the parents, after hearing the other parent, is subordinated to the consent of the other spouse, unless the child is already cohabiting with the parent of marriage or the other spouse knew the existence of the natural child.

The natural parent can make opposition to the measures taken by the Law Commissioner.

Art. 45

(Form of recognition)

The recognition of the natural child is made in the act of birth, or with a special declaration, after birth or conception, before the Officer of the Civil Status or before the Commissioner of the Law or in a public deed or in a will, whatever the shape of this.

Art. 46

(Recognition of a pre-dead child)

The recognition of the premature child may also take place in favor of his descendants.

Art. 47

(Irrevocability of recognition)

There is no action for revocation against the recognition of natural filiation, except in cases of appeal under Article 50.

When the recognition is contained in a will it has effect from the day of the testator's death even if the will has been revoked.

Nothing is a clause aimed at limiting the effects of recognition.

Art. 48

(Effects of recognition)

The recognized natural child acquires, to all intents and purposes of law, including successors, the status of legitimate child.

Art. 49

(Surname of the child)

The natural child takes the surname of the parent who first recognized him.

If the parents have recognized it at the same time, the child assumes the surname of the father.

Art. 50

(Challenging)

Whoever recognizes, who has been recognized and whoever has an interest can challenge it for lack of truthfulness.

The action is imprescriptible.

Recognition may be challenged for violence by the author of recognition within one year from the day the violence ceases.

If the author of the recognition is minor, the action can be promoted within a year from the achievement of the senior age.

The recognition may be challenged for incapacity resulting from judicial interdiction by the representative of the interdict and, after the withdrawal of the ban, by the author of the recognition, within one year from the date of revocation.

The recognition may be challenged for incapacity within one year from the day on which the incapacity has ceased.

Art. 51

(Transmissibility of the recognition action)

In the cases indicated in the 3rd and 5th paragraphs of the previous article, if the author of the recognition died without having promoted the action, but before the term has expired, the action may be promoted by the descendants, by the ascendants or from heirs.

Art. 52

(Provisions pending judgment)

When the recognition is challenged, the Law Commissioner may issue, pending judgment, the measures he deems appropriate in the interest of the child.

Art. 53

(Judicial declaration of paternity and maternity)

Natural fatherhood and motherhood can be declared judicially.

Proof of paternity and motherhood is the result of expert assessments of hematological, medico-legal and bio-genetic type and by any other means.

The mother's declaration and the existence of relationships between the mother and the alleged father at the time of conception are indications of natural fatherhood.

Art. 54

(Active legitimization and term)

The action to obtain that paternity or natural motherhood is declared judicially is imprescriptible with regard to the child.

If the child dies before having started the action, this can be promoted by the descendants within two years of death.

If the child is a minor, the action may be promoted by the person exercising the power or the trustee; if he has reached the age of sixteen his consent is required for the proposition of the action.

For the interdict the action can be promoted by the guardian, after authorization of the Law Commissioner.

Art. 55

(Passive legitimization)

The action for the declaration of paternity or natural maternity must be brought against the presumed parent or, after his death, towards his heirs.

To act can contradict anyone who has a legitimate and current interest.

Art. 56

(Effects of the sentence)

The sentence declaring natural filiation produces the same effects as recognition.

With the sentence the Commissioner of the Law can issue the measures he considers useful for education, for the education of the child and for the protection of his patrimonial interests.

TITLE VII
RELIEF OF MINORS AND ADOPTION

Art. 57

(Education of the child)

The minor has the right to be educated within his own family.

Art. 58

(Temporary custody)

The minor who is temporarily deprived of a suitable family environment may be entrusted to another family, possibly with minor children, or to a single person, or to a family-type community, in order to ensure the maintenance, instruction and education.

If it is not possible to have a suitable family custody, the child's admission to a public or private institution is permitted.

Art. 59

(Provision of assignment)

Family custody is arranged by the Commissioner of the Law, with the consent expressed by the parents or by the parent exercising the power, or by the guardian and prior reference of the Minor Service referred to in Law May 3, 1977, n. 21.

Where the consent of the parental or guardian's parents is lacking, the Commissioner of the Law shall be provided, taking into account the child's pre-eminent interest.

In the provision of family custody must be indicated the reasons for it, as well as the times and methods of exercising the powers recognized to the contractor. The period of presumable duration of the assignment must also be indicated.

The Minor Service is assigned vigilance during the assignment with the obligation to keep the Law Commissioner informed.

Art. 60

(Termination of custody)

Family custody ceases with the provision of the Law Commissioner who ordered it, assessed the minor's interest, when the temporary difficulty situation of the family of origin no longer exists, or if the continuation of it causes harm to the minor.

Art. 61

(Duties of the entrant)

The assignee must accept the child with him and provide for his maintenance and education and instruction.

The assignee must facilitate relations between the child and his/her parents and favor their reintegration into the family of origin.

The rules referred to in the previous paragraphs apply, insofar as they are compatible, in the case of minors hosted in a community or institute

Art. 62

(Requirements for adopters)

Adoption is allowed for spouses or single persons who possess the following requisites:

a) having turned twenty-five;
b) be able to educate, educate and maintain the children they intend to adopt;
c) having passed the age of the adoptee of at least eighteen years and no more than forty-five years.

Multiple adoptions are also permitted with subsequent acts.

Art. 63

(Requirements of the adopters)

Adoption is allowed in favor of minors, who are not older than twelve, of declared in a state of adoptability by the Commissioner of the Law or, if foreign, by the competent foreign authority.

Art. 64

(Conditions for declaration of the status of adoptability)

Minors who are in a state of abandonment because they lack moral and material assistance from parents or relatives who are obliged to provide them can be declared in a state of adoptability by the Commissioner of the Law, provided the lack of assistance is not due to force majeure transitional.

The situation of abandonment subsists, provided that the conditions set out in the preceding paragraph occur, even when minors are housed in public or private institutions or are in family custody.

There is no cause of force majeure when the subjects referred to in the first paragraph reject the support measures offered by the Minor Service of the Republic and this refusal is considered unjustified by the Commissioner of the Law.

Art. 65

(Situation of abandonment)

Anyone has the right to report situations of abandonment of minors to the public authority.

The public officials, the public service officers, the public service operators, must report as soon as possible to the Law Commissioner, on the conditions of each child in a situation of abandonment of which they become aware on account of their office.

The situation of abandonment can also be ascertained by the Commissioner of the Law.

The Law Commissioner may at any time arrange for any temporary provision in the interests of the child, including, where appropriate, the suspension of parental responsibility over the children and the exercise of the guardian's functions and the appointment of a temporary guardian.

Art. 66

(Procedures for declaring the state of adoptability)

When the parents of the child are deceased from the investigation and there are no relatives in the third degree, the Law Commissioner declares the state of adoptability.

In the event that there is no evidence of the existence of natural parents who have recognized the minor or whose paternity or maternity has been judicially declared, the Commissioner of the Law, without carrying out further investigations, shall immediately declare the status of adoptability unless there is a request for suspension of the procedure by those who, claiming to be one of the natural parents, request a term to provide for recognition. The suspension can be arranged for a maximum period of two months, provided that the minor is assisted by the natural parent or relatives up to the third degree or otherwise convenient, while remaining in a relationship with the natural parent.

Should the Commissioner of the Law suspend or postpone the procedure pursuant to the preceding paragraph, appoint a temporary guardian to the minor if necessary.

If recognition is made within these deadlines, the procedure must be declared closed if there is no moral and material abandonment.

If the terms are passed without the recognition being made, no procedural formalities are provided for the pronunciation of the state of adoptability.

Art. 67

(Declaration of the state of adoptability)

When the situation of abandonment of a minor results, the state of adoptability is declared in the cases in which:

a) both parents are dead;
b) both natural parents have not recognized the minor;
c) has been the forfeiture of parental authority;
d) parents and relatives within the 3rd degree convened by the Commissioner of the Law, did not present themselves without justified reason;
e) the hearing of the same, has shown the persistence of the lack of moral and material assistance and the non-availability to deal with it.

The declaration of the status of adoptability of the minor is ordered by the Commissioner of the Law using the opinion of the Minor Service.

Art. 68

(Challenging)

An appeal to the Judge of Appellations is allowed against the provision of the Commissioner of the Law within 30 days of the decision. The appeal can be proposed by the guardian and the Public Prosecutor.

Art. 69

(Transcription of the state of adoptability)

The definitive declaration of the status of adoptability is transcribed, by the Registrar of the Court, on a special register reserved and kept at the Registry of the Court. The transcription must be made within the fifth day following the final judgment of the adoptability measure.

Art. 70

(Revocation of authority)

With the definitive declaration of the state of adoptability, the exercise of parental authority is void. The Law Commissioner appoints a guardian, where he does not already exist, and adopts further measures in the interests of the minor.

Art. 71

(Cessation of the state of adoptability)

The status of adoptability ceases due to adoption or for the achievement of the maximum age envisaged for adopting. The status of adoptability also ceases by revocation, pronounced by the Commissioner of the Law, in the interests of the minor, as the conditions under art. 64. In the case in which the pre-adoptive assignment referred to in the following art. 73 the state of adoptability cannot be revoked.

Art. 72

(Application for adoption)

San Marino citizens or foreigners wishing to adopt one or more minors must submit an application to the Law Commissioner specifying their availability, the family and personal motivations that induce the application for adoption showing that they meet the requirements of article 62.

The submission of applications also subsequent to the same Court and to Judicial Authorities of foreign States is admissible.

The application lapses after two years from the presentation and can be renewed.

The Commissioner of the Law, having previously ascertained the requirements set forth in art. 62 provides for the execution, through the Minor Service and any other organs of the State, of adequate inquiries that must concern in particular the ability to educate, the personal and economic situation, health, the family environment of the adopters, the reasons for which they wish to adopt.

The Law Commissioner draws up a confidential register of those who have been declared fit to adopt.

Art. 73

(Pre-adoptive entrustment)

The Law Commissioner, if a minor is declared in a state of adoptability, having heard the opinion of the Minor Service, chooses, among those who have been declared fit to adopt, the spouses or the person most able to meet the needs of the adopter and give the pre-adoptive award for a period of one year.

The assignment of only one of several friars, all in a state of adoptability, cannot be ordered, unless there are serious reasons.

Art. 74

(Supervision on pre-adoptive assignment and revocation)

The Law Commissioner supervises the good progress of pre-adoptive assignment using the Minor Service.

If the Commissioner of the Law is informed by the Minor Service that pre-adoptive custody is detrimental to the interests of the child or causes serious difficulties in cohabitation, after receiving the affidavits, he issues the revocation of the award even before the expiry of the deadline indicated in the previous article.

Art. 75

(Adoption)

After the one year period foreseen by the art. 73, the Commissioner of the Law informed by the Minor Service on the positive outcome of the assignment pronounces the measure of adoption.

If one of the spouses dies or becomes incapacitated during the pre-adoptive assignment, the adoption, in the interests of the minor, may also be arranged at the request of the other spouse in relation to both, with effect for the deceased spouse, from the date of death.

If during the pre-adoptive assignment there is a separation between the spouses, the adoption can be arranged against one or both, in the exclusive interest of the minor, if the spouse or spouses request it.

Art. 76

(Transcription of the provision)

The ruling that pronounces the adoption is transcribed by the Registrar of the Court within the fifth day following its passage in the relevant confidential register and is communicated to the Registrar for the annotation in the margin of the birth certificate of the adopted person.

Art. 77

(Effects of adoption)

Following adoption, the adoptee acquires to all intents and purposes, including successors, the status of legitimate child of the adopter or adopter of whom he assumes and transmits the surname and citizenship.

With adoption, the relationship of the adoptee to the family of origin ceases, without prejudice to marriage bans.

Art. 78

(Civil status certificates)

Any attestation of marital status referred to the adopted must be issued with the sole indication of the new surname and with the exclusion of any reference to the natural paternity and maternity of the minor and of the annotation referred to in art. 76.

The Registrar of Civil Status and Registry must, under the comminatory of penal sanctions, refuse to provide news, information, certifications, extracts or copies from which the adoption report can still result, unless otherwise authorized by the Judicial Authority.

Art. 79

(Appeal against the adoption order)

Admittedly, the decree of ruling of the adoption can be appealed to the Judge of Appellations by the guardian of the adopters and the Public Prosecutor for reasons of law, within 30 days of the adoption decree.

TITLE VIII OF THE POTENTY OF PARENTS, OF THE DUTIES OF CHILDREN

Art. 80

(Duties of the child)

The child must respect the parents and, having reached the sixteenth year, as long as he lives in the family, he must contribute in relation to his own substances and his income to the maintenance of this. The child is also always required to contribute to the moral and material assistance of parents and other ascendants who are deprived of it.

Art. 81

(Exercise of parental authority)

The child is subject to parental authority until the age of majority or emancipation. The power is exercised by mutual agreement between both parents. In case of conflict on matters of particular importance, each of the parents can appeal to the Commissioner of the Law. The Law Commissioner, after hearing the parents and the child if older than fourteen, expresses an opinion on the decision that he considers useful in the interests of the child. If the conflict persists, the Commissioner of the Law gives the decision-making power to that of the parents he deems most suitable to take care of his son's interest.

Art. 82

(Prevention of one of the parents)

If one of the parents for any impediment cannot exercise the power, this is exercised exclusively by the other until the impediment ceases.

Art. 83

(Abandonment of the parent's house)

The child, subject to parental authority, cannot leave their home.

Art. 84

(Representation and administration of assets)

Parents together, or that of those who exclusively exercise the power, have the representation of the younger child and administer the assets. In the event of disagreement, the provisions of Article 81 shall apply. The acts of extraordinary administration under penalty of nullity must be carried out jointly by the parents, subject to authorization by the Commissioner of the Law. In the event of conflict, the Law Commissioner appoints a special administrator in the interests of the minor.

In the event of unfaithful representation or unfaithful administration of the child's property, the Law Commissioner may declare, by sentence, the removal from the administration and from the representation of the parent who has not acted in the interest of the child.

The Law Commissioner may adopt temporary measures in the interests of the minor.

The parent removed from the representation or from the administration of the minor can be reinstated in the financial year by the Commissioner of the Law when the reasons that provoked the provision cease.

Art. 85

(Prohibited acts for parents)

Parents who exercise parental authority over their child cannot purchase directly or through a third person assets or rights of the child, nor can they become assignors of any reason or claim against the child.

Acts carried out despite the prohibition can be annulled at the request of the child, his heirs or assignees.

Art. 86

(Withdrawal from power over children)

The Commissioner of the Law may pronounce the forfeiture of power when the parent violates or negligently disregards the duties inherent in it or abuses the powers with prejudice to the child.

In this case the Law Commissioner takes all the necessary measures in the interest of the child.

The judge can reinstate the parent who has lapsed into power, when, ceased the reasons for which the disqualification has been pronounced, any danger of prejudice for the child is excluded.

Article 87

(Power of the custodial parent)

In cases of separation, declaration of nullity or dissolution of marriage, the power of the custodial parent is governed by Article 114.

TITLE IX
OF THE ASSETS OF THE FAMILY

Art. 88

(Family pension scheme)

The patrimony of the family is the communion of goods. The spouses may agree that each of them retain the exclusive ownership of the assets obtained during the marriage.

The will of spouses to opt for the separation of assets must be expressed at the time of marriage and must be noted on the marriage records by the officer of the Civil Status.

Art. 89

(Minor's capacity)

The minor admitted to contracting marriage is capable of carrying out all the acts of capital disposition provided for by this law.

Art. 90

(Object of communion)

They constitute the object of communion:

a) purchases made by spouses jointly or separately during marriage;
b) the fruits of the property of each spouse perceived and not consumed upon the dissolution of the communion;
c) the proceeds of the separate activity of each spouse if the dissolution of the communion has not been consummated;
d) companies and companies managed by both spouses and established after marriage;
e) goods received after marriage by succession or by donation, if it is provided in the will or in the deed of liberality that they are attributed to the communion.

If the company or the company belongs to one of the spouses before the marriage, but both spouses express their work, the communion falls on profits and increases.

The assets intended for the exercise of an activity or business of one of the spouses established after the marriage fall into communion if they exist at the time of the dissolution of this.

Article 91

(Personal property)

They are not the object of communion and are the personal property of the spouse:

a) the assets of which the spouse was the owner or with respect to which he was the holder of a real right of enjoyment before marriage;
b) assets acquired by succession or by donation after marriage;
c) the goods of strictly personal use of each spouse and their accessories;
d) the goods used for the exercise of the profession, except those intended for the management of a company or a company in which both spouses work;
e) the goods deriving from damages and the pension if referring to the work ability;
f) the money obtained from the sale of goods inherited or received as a gift and the goods purchased with such money.

Art. 92

(Proof of ownership of assets)

The spouse can prove by all means against the other the exclusive property of an asset.

The assets that none of the spouses can demonstrate exclusive ownership fall into communion.

Art. 93

(Administration of communion goods)

The ordinary administration of the assets of the communion and the representation in court for the acts relating to them belong, also separately, to both spouses.

The acts of extraordinary administration and the stipulation of deeds by which they are granted or purchased enjoyment rights must be carried out by both spouses jointly.

Art. 94

(Refusal of consent)

If one of the spouses refuses consent for the performance of an act of extraordinary administration or for other acts for which consent is required, the other spouse may contact the Commissioner of the Law for authorization to act.

The Commissioner of the Law, having assessed the interests of the family, company or firm after hearing the spouses, can grant the authorization to act.

Art. 95

(Administration entrusted to only one of the spouses)

If one of the spouses has moved away from the family home or is subject to impediment and has not issued a power of attorney, the other can ask the lawyer to perform the acts for which it is required, pursuant to art. 94, the consent of both spouses.

Art. 96

(Exclusion from the administration)

If one of the spouses is unable or unable to express his will, or if in the management of the common assets has detected ineptitude or fraud, the other spouse can ask the Law Commissioner to exclude him from the administration.

The spouse excluded from the administration can ask the Law Commissioner to be reinstated when the reasons for the exclusion have ceased.

The exclusion works by right with regard to the interdicted spouse.

The provision for exclusion from the administration for any reason must be noted in the margin of the marriage act.

Art. 97

(Acts performed without the necessary consent)

Acts performed by a spouse without the necessary consent of the other and not validated by them are null and void.

The action of nullity can be proposed by the spouse whose consent was necessary, or by his heirs, within a year from the date on which they became aware of the act. The spouse who has unduly performed the act is obliged, at the request of the underbody, to reconstitute the communion in the state in which it was before the act or, when this is not possible, to pay the equivalent according to the corresponding values at the time of the reconstitution of communion.

Art. 98

(Participation in the communion of spouses of foreign nationality)

The spouse of foreign nationality participates in the family communion in compliance with the laws in force on the heading of real estate.

Art. 99

(Obligations on the assets of the communion)

The goods of the communion respond:

a) of all the burdens on them at the time of purchase;
b) of all the administration's loads;
c) expenses for the maintenance of the family and for the education of the children;
d) any obligation contracted even separately by the spouses in the interest of the family;
e) of any obligation contracted jointly by the spouses.

Art. 100

(Bonds contracted by spouses before marriage)

Creditors can only act on personal assets owned by their debtor in the case of obligations contracted by one of the spouses before marriage.

Art. 101

(Bonds deriving from donations or successions)

The goods of the communion do not answer the obligations from which the donations and the successions achieved by the spouses during the marriage are burdened and not attributed to the communion.

Article 102

(Personal bonds)

The personal property of the spouse and, as a subsidiary, the assets of the communion only for the portion equal to half of the assets of the obligated spouse, respond:

a) of the obligations contracted by the spouse during the marriage and not included among those listed in art. 99;
b) of the obligations contracted in the exercise of a company not part of the communion.

Article 103

(Subsidiary liability of personal assets)

The creditors of the communion can act in a subsidiary way on the personal property of each of the spouses, to the extent of half of the credit, when the assets of the communion are not sufficient to satisfy the debts on it.

Art. 104

(Dissolution of the communion)

The communion is dissolved for the declaration of absence or of presumed death of one of the spouses, for the dissolution, the nullity or the cessation of the civil effects of the marriage, for the judicial contest between the creditors of one of the spouses or for similar procedures and for consensual change of the assets regime.

In the event of personal separation, each spouse may request the dissolution of the family communion.

Art. 105

(Judicial separation of assets)

The judicial separation of property can be pronounced if one of the spouses is interdicted or incapacitated, or because of the maladministration of communion, or when one of the spouses does not contribute to the needs of the family in proportion to their substance and work capacity.

The separation can be requested by one of the spouses or his legal representative.

The sentence pronouncing the separation feeds back from the day the application was made and is noted in the margin of the marriage act.

Art. 106

(Distribution of communion goods)

The division of communion goods is done by dividing the assets and liabilities equally. The judge, in relation to the needs of the offspring and the entrustment of it, can constitute in favor of one of the spouses the usufruct on a part of the assets due to the other spouse.

Art. 107

(Family business)

The work of women and men are considered equivalent.

The family member who provides his or her family work or family business in a continuous manner is entitled to maintenance in accordance with the family's financial condition and participates in the profits and assets acquired with the company or the company family, as well as in increments and start up.

Decisions concerning the use of profits and increases and those relating to extraordinary management, production guidelines and termination of the business, are adopted by a majority of family members participating in the company. The deeds for the use of profits and investments, as well as those relating to the extraordinary management of production guidelines and termination of the company adopted outside the conditions provided for in the preceding paragraph, are void. For the purposes of the provisions referred to in this article, the family and de facto family members are also considered: the spouse, the partner non-marital cohabitation, the relatives in a direct line within the second degree, the relatives within the first degree; for a family enterprise, one in which the spouse, the partner non-marital cohabitation, the relatives in a direct line within the second degree, the relatives within the first degree collaborate.

TITLE X OF THE SEPARATION

Article 108

(Consensual or judicial separation)

The separation of spouses may be consensual or judicial. The right to request separation rests solely with spouses. The Commissioner of the Law in pronouncing the separation declares, if requested, which of the two spouses to charge the separation, taking into account serious disturbances of disturbances of the assumptions on which the family rests.

Art. 109

(Causes to request separation)

The separation can be requested

a) when they occur, even independently of the will of one or both spouses, facts and conditions such as to render the continuation of cohabitation intolerable or to cause serious prejudice to the children;
b) when there is a lack of willingness to fulfill the duties
provided for in Article 28.

Article 110

(Conciliation attempt)

The Commissioner of the Law, to whom the request for separation is presented, sets a brief hearing for the spouses in order to try a conciliation attempt.

Art. 111

(Consensual separation)

The consensual separation of the spouses has no effect without the approval of the Commissioner of the Law.

The Law Commissioner must examine that the interests of minors are safeguarded as regards custody and retention.

It must ascertain that the conditions are not prejudicial to one of the spouses.

In both cases the appropriate measures apply the criteria of art. 117 at the same time as the type approval.

Article 112

(Ruling concerning children)

The Commissioner of the Law who pronounces or approves the separation declares to which of the spouses the children are entrusted, taking into account only their moral and material interest.

The Commissioner of the Law establishes the measure and the way in which the non-custodial spouse must contribute to the maintenance, education and education of the children, as well as how to exercise his rights in relations with them.

The non-custodial spouse has the right and duty to supervise the education and establishment of the children.

Art. 113

(Contribution to child support)

The contribution to the maintenance of children rests on each of the parents in proportion to their income and assets, also calculating the contribution of work of the custodial parent.

Art. 114

(Power of the custodial parent)

The spouse to whom the children are entrusted has exclusive exercise of authority over them.

The decisions of greatest interest to the children are taken by both spouses.

In the event of divergence, the will of the custodial spouse prevails.

The non-custodial spouse who believes that the decisions of the other spouse on matters of greatest interest may constitute a prejudice for the children, can appeal to the Commissioner of the Law.

Art. 115

(House of the family house)

The home of the family home is in preference to the spouse to whom the children are entrusted or to the economically weaker spouse.

Art. 116

(Revision of the provisions)

Each spouse has the right to request at all times the revision of the provisions concerning the assignment of children, the attribution of exercise of authority over them, the extent and modalities of the contribution.

Article 117

(Effects of the separation on the patrimonial relations between spouses - Right to maintenance)

A separated spouse who does not have adequate income is entitled to receive from the other what is necessary for its maintenance. In this case the Law Commissioner, having assessed the economic and patrimonial position and identified the income and the working capacity of each spouse, establishes the amount of the maintenance allowance.

The ability to work is inferred:

a) at the age of the spouse entitled to the grant;

b) from being the spouse referred to in the previous letter a) custody of the children and the number of the same;
c) the psychophysical conditions of the spouse with the right;
d) the degree of study of which the spouse with the right is in possession;
e) from having the spouse who has been interrupted or announced in the employment relationship in a state of marriage to take care of the family.

Article 118

(Criteria for determining the grant)

Spouses must present at the hearing of appearance before the Commissioner of the Law any documentation relating to their income and their personal and common assets.

In the event of a dispute, the Commissioner of the Law takes all appropriate information, takes into account the standard of living of the spouses and determines the amount of the award of maintenance in an equitable manner.

If changes occur in the income of the spouse and in the work ability of the person entitled, the Law Commissioner changes the maintenance allowance.

Art. 119

(Right to food)

The economically weaker spouse who does not have sufficient own income and to whom the separation has been charged has the right to the food of the other spouse.

Art. 120

(Guarantees to fulfill maintenance and maintenance obligations)

The Commissioner of the Law, both pending judgment and with the ruling of the separation, can impose on the spouse to provide a suitable real or personal guarantee if there is a danger that he may escape the fulfillment of the obligations set forth in the previous articles.

The provision issued pending judgment is immediately enforceable despite encumbrance and constitutes a title for the registration of a judicial mortgage.

The spouse who is responsible for the payment of the allowance, after a default of thirty days can notify the separation order, which determines the allowance to which he is entitled, to third parties required to periodically pay sums of money to the obligated spouse.

From the date of notification, the creditor spouse has the right to obtain payment of the sum directly from third parties. At the request of the person entitled, the Law Commissioner may order the seizure of the spouses' forced assets to give the check.

Art. 121

(Termination of the effects of separation)

The spouses may by mutual agreement terminate the effects of separation with a declaration made to the Commissioner of the Law or with unequivocal behavior that is incompatible with the state of separation.

In this case the separation may once again be pronounced or approved only in relation to facts and behaviors that occurred after reconciliation.

Art. 122

(Measures resulting from separation)

The Law Commissioner if justified reasons arise, after the appropriate investigations have been carried out, he may request, at the request of the interested party, the modification of the measures referred to in this title.

Art. 123

(Death of the obliged)

Without prejudice to any more favorable provisions provided for by the laws in force, in the event of death of the obligor, the Commissioner of the Law at the request of a party may order that a portion of the pension or other allowances be allocated to the surviving spouse with respect to pronounced sentence of separation, or termination of civil effects or dissolution of marriage.

Art. 124

(Non-marital cohabitation)

The rules of this title apply to the non-consensual interruption of cohabitation more than one duration without interruption for 15 years.

TITLE XI
OF THE DISSOLUTION OF MARRIAGE AND CESSATION OF CIVIL EFFECTS

Art. 125

(Dissolution of marriage)

The marriage is dissolved with the death of one of the spouses and in other cases provided for by law.

Art. 126

(Of the dissolution or termination of the civil effects of marriage)

The Law Commissioner, at the request of one of the spouses, pronounces the dissolution or termination of the civil effects of the marriage when, after the celebration of the marriage, the other spouse has been convicted, even for previously committed facts, with sentence passed in judged pronounced by San Marino or foreign judicial authorities:

a) the penalty of imprisonment of not less than 6 years even with more sentences, for one or more misdeeds;
b) the imprisonment of any degree due to incest, for the crimes referred to in articles 171 (violation of sexual freedom), 172 (aggravating circumstance), 173 (acts of libido on minors or incapable consenting), 174 (deeds of abusive libidine) and 176 (kidnapping of a person for the purpose of lechery or marriage) of the penal code or by induction, constriction, exploitation or facilitation of prostitution;
c) the sentence of imprisonment of any degree for voluntary homicide to the detriment of a descendant or adopted or ascending son, or by attempted murder at the expense of the spouse;
d) the sentence of imprisonment of any degree for the crime referred to in art. 155 of the penal code (personal injury), when the aggravating circumstance referred to in art. 156, to the detriment of the spouse or a child also adoptive;
In this last hypothesis the Judge ascertains, also in consideration of the subsequent behavior of the defendant, his inability to maintain and restore family cohabitation.
In all the cases provided for in letters a), b), c), and d) the request cannot be proposed by the spouse who has been convicted for the contest in the crime or when the marital cohabitation has resumed for at least six months.

The Law Commissioner at the request of one of the spouses also pronounces the dissolution or termination of the civil effects of the marriage when:

a) the other spouse has been acquitted on account of a defect even partial of one of the misdeeds foreseen in letters b) and c) of the first paragraph of the present article, when the Judge ascertains the non-suitability of the defendant to maintain or restore family cohabitation;
b) when the spouses live separated for at least two years uninterruptedly by virtue of consensual or judicial separation, or temporary provision of the Law Commissioner who authorizes spouses to live separately, provided that the relative separation judgment has been followed, even if he has not intervened the final sentence;
c) the criminal proceeding promoted for the misdeeds foreseen by letters b) and c) of the first paragraph of this article has been concluded with a sentence of not having to proceed to extinguish the crime, when the Commissioner of the Law believes that in the facts committed there are elements constituents and conditions for the punishment of the misdeeds;
d) the criminal proceeding for incest was concluded with an acquittal sentence with a doubtful formula;
e) the other spouse has obtained abroad the dissolution of the marriage or has contracted new marriage abroad.

Art. 127

(Procedure for the dissolution of the marriage)

The application for the dissolution of marriage by using the assumptions set forth in art. 126 is proposed in the form of the citation containing the exposition of the facts on which the application is based.

The Registrar of the Court gives notice of the summons to the Registrar of Civil Status for the annotation at the foot of the marriage act.

The citation indicates the existence of children.

The Commissioner of the Law establishes by decree the day of appearance of the spouses in front of him and possibly appoint a special administrator when the defendant is mentally ill or legally incapable or is untraceable.

Spouses must appear in person before the Commissioner of the Law, subject to serious and proven reasons.

The sentence is appealable by each of the parties in terms of the law.

Art. 128

(Periodic check)

With the sentence pronouncing the dissolution or termination of the civil effects of marriage, the Commissioner of the Law has, taking into account the art. 116, the obligation for one of the spouses to administer a grant to the other spouse on a regular basis.

Upon agreement of the parties, the payment can be made in a single solution.

The obligation to pay the personal allowance ceases if the spouse to whom it is to be paid contracts a new marriage or establishes a relationship of cohabitation or has adequate working capacity.

The obligation does not exist in cases where the spouse who would have been entitled to the administration has been pronounced sentence of conviction that has become res judicata for the crimes referred to in art. 126 of the present law.

In the case of the death of the obligated spouse the Commissioner of the Law may order the continuation of the payment in whole or in part of the allowance to be paid by the heirs, after having heard the parties.

Art. 129

(Obligations towards children)

The Commissioner of the Law, with the sentence pronouncing the dissolution of the marriage, arranges to which of the spouses the child must be entrusted, or for serious reasons provides otherwise.

The father and the mother retain the right and duty to watch over the education and education of the offspring.

The custody and provisions concerning the child have as their exclusive reference the moral and material interest of the child.

The Law Commissioner establishes the measure and the ways in which the spouses must contribute to the maintenance, education and education of their children taking into account their number, age and circumstances and the criteria of art. 117.

All child obligations remain in the event of a new marriage of one or both parents.

Art. 130

(Guarantees of patrimonial obligations)

The Commissioner of the Law with the sentence pronouncing the dissolution of the marriage can impose on the obligation to provide a suitable real or personal guarantee if there is a danger that he may escape the fulfillment of the obligations provided for and apply the art. 120.

Article 131

(Review of the decisions)

The Law Commissioner, at the request of the party, for justified reasons which have arisen after the date of the sentence pronouncing the dissolution of the marriage, may order the revision of the provisions concerning custody of the children and of those concerning articles 117 - 128 - 129.

TITLE XII
OF THE NULLITY OF THE MARRIAGE

Article 132

(Causes of invalidity of marriage)

The marriage contracted in violation of articles 3- 4-5-6-7- of the present law is void.

The contracted marriage is also null:
a) in the absence of perfect, free, spontaneous and direct consent to tighten the marriage bond;
b) with an error on the identity of the person of the other spouse or on the personal qualities of the other spouse concerning physical or mental illnesses, abnormalities or sexual deviations such as to prevent the normal conduct of married life.

Article 133

(Action for the pronunciation of nullity)

The action for the declaration of nullity must be exercised:
a) by spouses;
b) from the next ascendants if the marriage has been contracted by minors;

c) by the guardian in the case of marriage contracted by an interdiction due to insanity of mind.

The action for the declaration of nullity can also be exercised by the Procuratore del Fisco on the solicitation of anyone who has a legitimate and current interest if he finds the merits of the request.

Article 134

(Terms)

The action for the declaration of invalidity for the purpose of articles 5-6-7- is imprescriptible.

The action for the declaration of nullity, for violation of Article 3 is prescribed 6 months after reaching the age of majority.

In all other cases, the action is prescribed within 12 months of the discovery of the defect.

Art. 135

(Effects of marriage declared invalid)

Marriage declared invalid produces the effects of a valid marriage to the spouse until the definitive declaration of nullity and always produces the effects of the marriage valid for the children born or conceived or adopted or recognized during the marriage.

The pronouncement of nullity of marriage produces the effects of Articles 104-106 and 107 on the family patrimonial regime.

TITLE XIII
OF THE SUCCESSION OF THE CONIUGE AND THE CHILDREN

Art. 136

(Succession of spouse and children)

The succession of the spouse and children is governed by the provisions of this title.

Art. 137

(Succession of the children)

In legitimate succession the children succeed in equal parts.

Art. 138

(Succession of the spouse)

In the legitimate succession are reserved to the surviving spouse on the inheritance transmitted by the deceased spouse, in absence of children, the entire usufruct and ownership of half of the inheritance.

In the presence of children, the entire usufruct is reserved to the supersite spouse and the ownership of the inheritance share equal to that of each child.

In the testament succession the usufruct is reserved for the surviving spouse on half of the inheritance.

Art. 139

(Succession of the separated spouse)

The separated spouse who has not been severed by final judgment has the same rights as the spouse who is not separated. The spouse who has been charged with the final sentence has the right to a life allowance only if at the time of the opening of the succession he received food from the deceased spouse. The allowance is commensurate with the hereditary substances and with the quality and number of legitimate heirs, and is not in any case superior to that of the food supply received.

Article 140

(Succession of divorced spouse)

The divorced surviving spouse has no right to succeed.

TITLE XIV TRANSITORY AND FINAL RULES

Article 141

(Regime of households already established on the date of entry into force of this law)

The families already established on the date of entry into force of this law, after two years from that date, are subject to the regime of legal communion for goods purchased after the same date unless one of the spouses does not manifest within the same term. contrary will in an act received from a notary or from the official of the Civil Status.

Within the same period the spouses may agree that the assets purchased before the date indicated in the first paragraph are subject to the regime of communion, except for the rights of third parties.

The deeds referred to in this article including any resulting and consequential transfers are exempt from taxes and fees and the professional fees pertaining thereto are reduced by half and in any case cannot exceed the maximum amount of 300,000 lire. They cannot be opposed to third parties if they are not noted in the margin of the marriage act or of the transcription report.

Art. 142

(Options in case of marriage celebrated abroad)

If the marriage is celebrated outside San Marino territory from San Marino or residing in San Marino, within 60 days from the registration of the marriage to the competent offices of San Marino they must declare, also by means of special attorney, before Official of Civil Status, from which legislation they intend to regulate the patrimonial relationships and which patrimonial regime they choose within it. After this period has elapsed without the spouses having opted, the regime of communion applies.

Art. 143

(Ban on the constitution of a dowry)

The dowry institute is abolished.

Art. 144

All forms and registers will be prepared on the basis of a specific Decree Reggenziale.

Art. 145

(Repeals)

This law repeals:

- Title IV, Title V, Title VIII, Title IX and Title X of Law no. 43 of 12 August 1946 "Law on the organization of civil status"
- Law n. 37 of 22 September 1953 "Establishment of civil marriage"
- Law n. 36 of 22 September 1953 "Changes to inheritance law"
- Law n. 12 of 25 February 1974 "Provisions on succession between spouses" and all the norms, customs and institutes also of common law in contrast with the dispositions of the present law.

Article 146

(Entry into force)

This law comes into force on July 1, 1986.

Given by Our Residence, on 2 May 1986/1685 d.F.R.
THE CAPTAINS REGENT
Marino Venturini - Ariosto Maiani
THE SECRETARY OF STATE
FOR INTERNAL BUSINESSES
Alvaro Selva