



Colombia: Adoption Law

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COLOMBIA

Adoption Law

Adoption law in Colombia is governed by the 1989 Code of Minors¹ which has been in force since January 27, 1990.²

This new statute abolishes so called *simple adoption* where blood parentage co-exists with the adoptive parentage.³ Simple adoption has been replaced by full adoption (*adopcion plena*) that establishes civil parentage between the adopted and the adopting parents and the biological or adoptive family.

According to the adoption procedure set forth under the Code,⁴ the adopting parent or parents, either in person or by proxy, have to file the adoption petition before the family court of the minor's domicile.⁵ The petition has to include the following documents:

- the consent for adoption given in person by the individual who has parental authority (*patria potestad*) over the child;⁶
- birth certificates from the adopting parent or parents and the child;⁷
- the adopting parents' marriage certificate or evidence of a *de facto* union;⁸
- a copy of the declaration of abandonment, if such is the case, or the authorization for adoption;⁹
- a certification of the physical, mental, moral and social aptitude of the adopting parent or parents issued by the Colombian Institute of Family Welfare (*Instituto Colombiano de Bienestar Familiar*) or any other authorized entity issued within no more than six months before the adoption;¹⁰

¹ Decree No. 2737 of November 27, 1989, *Código del Menor* [C.D.M.], *Diario Oficial* No. 39.080 of November 27, 1989, art. 354.

² Joseph Elesbaan Paul Torrent, "Introduccion al Código del Menor," *La Nueva Legislacion de Menores*, 84 (Cali, 1991).

³ C.D.M., arts. 98 and 103.

⁴ *Id.* arts. 104-117.

⁵ *Id.* art. 104.

⁶ *Id.* arts. 94 and 105a.

⁷ *Id.* art. 105b.

⁸ *Id.* art. 105c.

⁹ *Id.* art. 105d.

¹⁰ *Id.* art. 105e.

- the adoption petition signed and filed in person by the adopting parent or parents;¹¹
- an updated criminal report on the adopting parent or parents issued by a competent authority;¹²
- an updated licence certificate from the Institute where the minor is hosted issued by the Colombian Institute of Family Welfare.¹³

In addition to this documentation required from all adopting parents, foreigners who wish to adopt Colombian children are required to provide the following documents:

- a certificate issued by an official or authorized private entity accepting the responsibility to follow up on the nationalization of the adopted child in the adopting parent or parents' country of residence;¹⁴
- authorization from the government of the adopting parent or parents' country of residence to take the adopted child into that country;¹⁵
- a favorable evaluation of the adopting parent or parents issued by the family defense counsel (*defensor de familia*), based on an interview held with the adopting parents, and the resulting report issued by the entity authorized for adoption programs.¹⁶

All foreign documents required for adoption have to be authenticated according to the procedure set forth in the Code of Civil Procedure. Ratification by the parties concerned with the content of such documents is not required. All documents in languages other than Spanish have to be translated into Spanish either by the Ministry of Foreign Affairs or an officially authorized translator.¹⁷

The Colombian Institute of Family Welfare or any authorized entity for adoption programs will give preferential treatment to those petitions filed by nationals over foreigners.¹⁸

Once all the required documents have been filed, the judge will have ten days to decide on the adoption.¹⁹ At least one of the adopting parents must be personally notified of the adoption decree.²⁰

¹¹ *Id.* art. 105f.

¹² *Id.* art. 105g.

¹³ *Id.* art. 105h.

¹⁴ *Id.* art. 106a.

¹⁵ *Id.* art. 106b.

¹⁶ *Id.* art. 106c.

¹⁷ *Id.* art. 106, last paragraph.

¹⁸ *Id.* art. 107.

¹⁹ *Id.* art. 108.

A suspension of the proceedings may be granted for just cause upon petition of any interested party for no more than 3 months.²¹

The new Code of Minors has made adoption by foreigners more complicated by requiring additional documentation not required from nationals. Thus, foreigners must be present when the petition is filed and when the adoption decree is issued. In order to fulfill this requirement, the adopting parents must either remain in Colombia for 30 or 60 days or enter the country twice, obviously adding considerably to the cost of the whole process.²²

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²⁰ *Id.* art. 109.

²¹ *Id.* art. 110.

²² Torrent, *supra* note 2, at 27.