

DECREE # 77-2007

THE CONGRESS OF THE REPUBLIC OF GUATEMALA

CONSIDERING:

That the Political Constitution of the Republic of Guatemala establishes that the State recognizes and protects the process of adoption and declares of national interest the protection of orphaned and abandoned children; the State of Guatemala likewise ratified the Convention on Children's Rights, which has been in force since 1990.

CONSIDERING:

That the family, as a permanent social institution, constitutes the foundation of society, therefore its preservation is vital for the integral growth and full development of the child, therefore, the State must adopt measures which respond to the fundamental rights of the child, mainly his right to stay in the family nucleus, preferably with his biological family.

CONSIDERING

That it has become necessary to create a legal system which must have as primary goals the well-being of children ahead of anything else; that it be in accordance with the principles contained in the doctrine of child protection so that an efficient and streamlined process is in place; as well as the implementation of an Agreement Pertaining to the Protection of Children and Cooperation in Respect of Inter-country Adoption

THEREFORE:

In observance of the attributions bestowed upon by article 171, paragraph a) of the Political Constitution of the Republic of Guatemala

DECREES:

The following:

ADOPTION LAW

**PART I
OF THE ADOPTION**

**CHAPTER I
OBJECTIVE, SCOPE AND DEFINITIONS**

Article 1. Objective and scope. The objective of the current law is to regulate the process of adoption as an institution of national interest and its judicial and administrative procedures.

Article 2. Definitions. For the purpose of the current law, it will be understood as:

- a. Adoption:** Social institution for protection and public order sanctioned by the State by which an individual takes as his own the biological child of another.
- b. International adoption:** That in which a child with legal residence in Guatemala is going to be relocated to a host country .
- c. Domestic Adoption:** That in which the adopted child and adoptive parents are both legal residents of Guatemala.
- d. Adoptability:** Judicial declaration, as dictated by a Minor's Judge, which takes place after a process of examination of the social, psychological and medical aspects of a child which establish that a reunion of said child with his family is not possible. The primary objective is the reinstatement of the child's right to a family and his own development.
- e. Adoptive Party:** It is the person who, through legal proceedings, adopts an individual who is the child of another, with the intent of granting him all the rights and benefits that our Political Constitution grants to biological children.
- f. Extended Family:** Comprises all the parties related by blood or affinity with the adopted child but who are not the parents or siblings; and other parties who maintain with him a relationship similar to a familial relationship in accordance with the practices, uses and traditions in place in the country or community.
- g. Biological family:** Refers to parents and siblings of the adopted child.
- h. Temporary home:** Refers to those people who, though not part of the biological or extended family, welcome a child at their home on a temporary basis for as long as the adoption process lasts.
- i. Follow up to adoption:** This is the evaluation on the adequate adjustment and development of the adopted child with regards to the new family and social environment.

CHAPTER II

GENERAL PROVISIONS

Article 3. Guardianship and protection. It shall be the responsibility of the State of Guatemala to protect and look after the children and adolescents in the process of being

adopted so as to guarantee their rights and especially prevent their abduction, sale and trafficking as well as any other form of exploitation or abuse.

Article 4. Child's best interests. The best interest of the child, as defined by the current law, is the principle which seeks to guarantee the protection and development of the child with his biological family or, should this not be possible, with another permanent family environment.

Article 5. Equal rights. When a foreign individual or family starts the process of adoption of a Guatemalan child, the Central Authority must ensure that the adopted child will enjoy the same rights as those given to a child up for adoption in their country of origin.

Article 6. Poverty conditions. Poverty or extreme poverty conditions should not be a valid reason for parents to give up their children for adoption. The State must promote and facilitate the creation of institutions, policies, social programs and support services geared towards improving living conditions and promote family unity.

Article 7. Nationality. The adopted child shall not lose his Guatemalan citizenship nor its inherent rights.

Article 8. Reserve. All proceedings part of the adoption process shall be conducted with the guarantee of discretion and reserve. This guarantee applies to the adopted child, adoptive and biological parents whatever their involvement in the process happens to be.

Article 9. Types of adoption. An adoption could be:

- a. Domestic
- b. International

Domestic adoption will always be preferred; international adoption will occur only after thorough examination and conclusion that a domestic adoption is not possible.

In accordance with the provisions of the Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption, any competent authority involved in the adoption process shall adhere to the principle of celerity, in the best interest of the child.

Article 10. Prohibitions. Adoption is a social institution of social protection, therefore the following is not permitted:

- a. Profit gain, material or otherwise, by individuals, institutions, and authorities involved in the adoption process; including those considered relatives, under the law, of the adoptive parent or child.

- b. Biological parents or legal guardians deciding on who will adopt a child; unless it happens to be the spouse's child, partner's or the family who previously fostered the child.
- c. The adoptive parents to use the organs and tissues of the child adopted for illicit gain.
- d. Those individuals involved in the adoption process to have any kind of relationship with private institutions and accredited foreign entities dedicated to the care of children considered adoptable.
- e. That the consent for the adoption be granted by a minor, mother or father, without judicial authorization.
- f. That prospective adoptive parents have any kind of contact with the child's parents or any other person who could influence on the final decision, authority or institution involved in the adoption process; except those cases whereby the adoptive parties are relatives of the child as stipulated by the law.
- g. That biological parents give consent for the adoption before the child's birth or that such consent is granted sooner than six weeks after the child is born.
- h. Any files, where the prohibitions listed above are found to be present, shall be immediately rejected and the adoption not authorized if the action in and of itself constitutes a crime or misdemeanor. The corresponding authority must begin the process of protecting the child.

Article 11. Inherent rights. The rights and guarantees afforded by this law, do not exclude others, which perhaps not mentioned herein, are inherent to children and adolescents.

CHAPTER III INDIVIDUALS FOR ADOPTION

Article 12. Individuals who can be adopted. The following may be adopted:

- a. Orphaned or abandoned children/adolescents
- b. The child or adolescent whose right to a family has been violated.
- c. Children or adolescents whose biological parents lost their parental rights.
- d. Children whose biological parents voluntarily expressed their desire to give them up for adoption.
- e. The child of a spouse or partner, in which case both biological parents must give their consent unless one of them is deceased or lost his/her parental rights.
- f. An individual legally of age who has given consent; likewise disabled adult as long as consent has been given by the guardian.

Efforts will be made in the case of siblings up for adoption so they are not separated before or during the process. Ideally, they should be adopted by the same family; the exception being those cases where it is deemed that separating them would be in their best interest as determined by the Central Authority.

Article 13. Individuals who can adopt. Married couples or common law partners in accordance with Guatemalan law, as long as the two of them agree to consider the child adopted as their own child.

Singles may adopt if deemed in the best interest of the child.

When the adoptive parent is the guardian of the child, the adoption will proceed as long as the guardian is found to be a suitable parent and meets the eligibility requirements as set by the law.

Article 14. Suitability of adoptive parent. Individuals, who meet the requirements set in Article 13, and who wish to adopt a child or adolescent, must be at least 20 years older than the child; must have the moral, socio-cultural and law abiding qualities as well as skills required which would allow for the full development of the child or adolescent.

Suitability of the adoptive parents is a statement by which it is ascertained that the prospective adoptive parents are found capable and suitable to permanently ensure in a satisfactory manner the care, respect and development of the child. Suitability is established through an assessment process which includes a psycho-social study encompassing legal, economic, psychological, medical, social and personal aspects in order to prove that the prospective adoptive family is not only suitable but also their motivations and expectations in wishing to adopt.

Article 15. Exceptions. The Suitability Certificate won't be necessary:

- a. When an individual legally of age is being adopted.
- b. When the adoptive child is the son/daughter of one of the spouses or common law partners or if the family previously fostered the child.

Article 16. Not allowed to adopt. The following individuals are not allowed to adopt:

- a. Anyone afflicted with physical illnesses or mental/personality disorders which could pose a risk to the health, life, integrity or full development of the child or adolescent.
- b. Anyone suffering from physical or psychological dependence on drugs not prescribed by a physician and any other addictive substance.
- c. Anyone who has been convicted of crimes against the life, physical and sexual integrity and freedom of individuals.
- d. One spouse or common law partner without the express consent of the other.

- e. The guardian and protutor, in addition to the requirements of Article 13, who has not accounted for the management of the guardianship nor handed over the child's assets or has been incapable of doing so.
- f. Parents who have lost their parental rights or have had them suspended, as long as same have not been reinstated by a competent judge.

PART II

CENTRAL AUTHORITY

Article 17. Central Authority. The National Council on Adoptions (CNA) is created as an autonomous, legal entity with its own assets and full capacity to acquire rights and assume obligations. The National Council on Adoptions shall act as the Central Authority under the Hague Convention.

The headquarters of the National Council on Adoptions will be in the Republic's capital, however, in order to carry out its functions, branch offices can be set up in the various departments as deemed necessary. The CNA will be the overseeing institution in charge of the faithful implementation of administrative procedures on all adoption cases.

Article 18. Organizational structure. The Central Authority will be the National Council on Adoptions, which in order to carry out its functions, will be composed of the following departments:

- a. director's council, composed in the manner described in article 19 of the current law.
- b. Directorate General.
- c. MDT
- d. Registration
- e. Others as established following the regulations of the law.

Article 19. Board of Directors. The Board of Directors of the National Council on Adoptions will be composed as follows:

- a. A member appointed by the Plenary of the Supreme Court.
- b. A member appointed by the Ministry of Foreign Affairs.
- c. A member of the Social Welfare Department of the Republic of Guatemala.

Each member of the above named institutions, shall serve a four year term. In addition to the appointed member, each of the above institutions shall appoint an alternate member who will fill in for the regular member in case of absence. There will be no re-election of members.

The core functions of the Board of Directors shall be the development of policies, procedures, standards and guidelines for the adoption process.

Article 20. Director General. The Director General is the administrative head of the institution, responsible for its smooth operation.

Article 21. Appointment. The Director General of the National Council on Adoptions will be appointed by the Board of Directors and selected from a pool of candidates who submitted an application for the post. The appointment will last three years with re-election not allowed..

Article 22. The National Council on Adoptions is responsible for the recruitment of prospective adoptive parents in Guatemala. The Central Authority must conduct studies on the homes of prospective adoptive parents and maintain a list of prospective parents considered eligible and suitable for adoption.

Article 23. Functions. In addition to those outlined in the Hague Convention, the following are responsibilities of the Central Authority:

- a. Ensure the protection of children and adolescents in the process of being adopted;
- b. Promote domestic adoption, with a focus on institutionalized children.
- c. Assign each child in the process of being adopted to the appropriate family, always keeping the child's best interest in mind.
- d. Gather, keep and share information relating to the child's circumstances and prospective adoptive parents to the extent necessary so the process can be carried out.
- e. Gather and keep information on the children's origin, mainly his and his parents' identities and medical histories, ensuring access to said information.
- f. Look after adoptable children; that they are admitted to the State's shelter homes or foster homes and, prior judicial authorization at the request of the Central Authority, that they may be admitted to private shelter institutions which are duly registered and licensed in accordance with the law.
- g. Keep an up to date file of children whose rights to a family life have been violated and the institutions where they're kept.
- h. Prepare a file on each adoptable child if State institutionalized or request an equivalent from private institutions, in accordance with article 16 of the Hague Convention showing:
 1. His personal data and circumstances, photographs to be included;
 2. Full identification through birth certificate and foot and hand prints; biological parent's fingerprints, if needed, as well as other scientific means;
 3. Medical history.
- i. Issue Suitability Certificate for applicants in no later than thirty days.
- j. Confirm that candidates for international adoption are qualified in accordance with Guatemalan legislation.
- k. Secure consent from biological parents, prior to counseling in accordance with the law;

- l. Monitor the period of socialization and issue the certificate of empathy;
- m. Secure the applications for adoption and put together and maintain the respective file in custody until it is sent to the family judge;
- n. Follow up with the children given up for adoption; for international adoptions a follow up report with the Central Authority is required.
- o. Authorize, supervise and monitor on a regular basis, penalizing where needed, private institutions, shelter homes and foster homes involved in the care of children;
- p. Take appropriate and pertinent steps in order to prevent improper financial gain from the adoption process.
- q. Maintain constant communication and cooperation with Central Authorities or their equivalents by promoting collaboration to ensure the children's protection; especially in the exchange of information on legislation regarding adoption matters, statistics, forms and operation of the Convention Relating to the Protection of Children and Cooperation in Respect of Inter-country Adoption;
- r. Establish the number of accredited foreign agencies which will be allowed to operate in the country and license those parties who have been authorized to act accordingly. Accredited foreign agencies must prove that they are licensed in their country of origin;
- s. Ask from the institutions, deemed appropriate, the necessary information to carry out their functions and duties;
- t. Promote cooperation among competent authorities in order to provide the necessary protection to the children;
- u. Verify that at each stage of the adoption process, the provisions of this act are observed;
- v. Issue the certificate stating the international adoption was completed in accordance with Hague Convention requirements on Protection of Children and Cooperation in Respect of Inter-country Adoption;
- w. Any other function considered pertinent for the effective fulfillment of their duties.

Article 24. Multi-disciplinary Team. The MDT is the unit of the Central Authority assigned with the task of advising on an adoption process compliant with the law, transparent, ethical and in accordance with internationally accepted standards; they may counsel the biological parents, adoptive parents and child's relatives as well as institutions or authorities whose consent may be required for the adoption process.

Article 25. Integration. The MTD will have a coordinator in charge of administrative and technical matters. The coordinator will be appointed by the CNA; there will also be a team of professionals and technical specialists in different disciplines, with emphasis on children and adolescents.

The MTD will have the technical and administrative support as deemed appropriate.

Article 26. Requirements. To become a member of the Multi-disciplinary Team, the following requirements must be met:

- a. To be of Guatemalan origin;
- b. To be of honorable reputation.
- c. To be a college graduate; active collegiate.
- d. To be found in complete enjoyment of their civil rights;
- e. To have proven experience in the field of children and adolescents, particularly the matter of adoptions;

Article 27. Following are the duties of the Multi-disciplinary Team:

- a. Counsel the families of both the adoptive/adopted parties;
- b. Study and give their opinion on adoption cases as required by the Central Authority;
- c. Conduct research and investigation as required by the Central Authority and suggest others it may deem necessary.
- d. Give opinion in the selection process of a suitable family for the child to be adopted;
- e. Give opinion regarding the certificate of suitability of the adoptive parents and empathy certificate between the adopted child and adoptive family;
- f. Give professional opinion to guide the final resolution of the Central Authority;
- g. Supervise, as coordinated by the Secretariat of Social Welfare, the public and private entities involved in the sheltering of children;
- h. Any other task which, according to their technical functions, may be required;

Article 28. Prohibitions. The following cannot be members of the Multi-disciplinary Team:

- a. Those who may have been convicted of mismanagement of funds;
- b. Those who may have been convicted of a crime against a child or the public administration;
- c. Those who may have been penalized by the professional association to which they belong and have not yet been reinstated;
- d. Those who may have a relationship, connection or who represent the interests of people or private entities involved in the care or any other type of relationship with children who may be given up for adoption;

Article 29. Registration. The Central Authority will require registration of the following Information:

- a. Domestic adoptions;
- b. International adoptions;
- c. Adoption files;
- d. Children whose adoptions are proceeding
- e. All foreign accredited agencies in a host Convention country must comply with all the requirements outlined by this law and its regulations in order to be authorized to operate in an adoption process in Guatemala;

- f. Suitable individuals or families who wish to adopt;
- g. Scientific evidence, photographs, hand, foot and fingerprints of children whose adoption is allowed to proceed;
- h. Private entities, shelter and foster homes involved in the care of children;
- i. Adoptions of individuals legally of age.

CHAPTER II PUBLIC OR PRIVATE ENTITIES INVOLVED IN THE CARE OF CHILDREN

Article 30. Authorization and supervision of private entities. Private entities involved in the shelter of children must be authorized and registered by the Central Authority.

The Central Authority and competent courts, in accordance with the Law on Protection of Children & Adolescents, this law and its regulations must strive to ensure that the children under protective measures, have their rights respected. Should that not be the case, the respective authorities must file complaints and take appropriate protective measures.

Article 31. Registration of private entities. Private entities engaged in the care of children, in addition to complying with the legal requirements, must register with the Central Authority and provide the address of the place where the children are cared for. A detailed report of the physical structure of the centers; maximum capacity; type of population housed and specific care programs. Notarized copies of the following documents must also be enclosed:

- a. Incorporation documents duly registered;
- b. Appointment of legal representative;
- c. Payroll and positions;
- d. Operating favorable opinions as issued by the Ministry of Public Health, Social Welfare and Ministry of Education;
- e. Others as described in this law.

Article 32. Requirements for private entities. Private entities involved in the care of children are required to watch over and ensure their development; they must guarantee, at the very least, the following:

- a. Appropriate care and attention, food and education;
- b. Physical, mental and social health;
- c. Adequate upkeep of the facilities as provided in the regulations of this law;
- d. Send to the Central Authority, on a regular basis, reports and data on the children under their care;
- e. Others as described in the regulations of this law.

Article 33. Accredited foreign agencies. In accordance with the Hague Convention, adoption agencies accredited in member Convention countries, referred to in this law as accredited foreign agencies, must be authorized by the Central Authority of the foreign

country and by the Central Authority of Guatemala, to carry out the duties in accordance with the provisions set forth by the Hague and as agreed by the Central Authority of Guatemala.

The request for licensing, from an accredited foreign agency, to operate in Guatemala, must be carried out by the Central Authority of the country of accreditation to the Central Authority of Guatemala.

When an accredited foreign agency is authorized to act in accordance with this article, The Central Authority of Guatemala must register it on its records. No accredited foreign entities will be able to carry out international adoptions in Guatemala if they are not registered with the Central Authority of Guatemala.

Registered accredited foreign agencies must comply with all the regulations approved by the Central Authority of Guatemala.

An accredited foreign agency must provide evidence to the effect that they're currently accredited in a host Convention country and, at the same time, licensed to operate in Guatemala as well.

The Central Authority of Guatemala must report to the Central Authority in the country of accreditation on any complaints regarding the accredited foreign agency.

The Central Authority of Guatemala can withdraw its approval of any accredited foreign agency at any given time in accordance with the regulations set forth by the Hague Convention.

The regulations of this law shall establish the requirements to obtain authorization for accredited foreign agencies to operate in Guatemala; their control and procedures to ensure that no profits are pursued and that they are managed and led by qualified individuals.

Article 34. Penalties. When an authority finds that the shelters, accredited foreign agencies or any other private institution involved in the care of children, have not respected, or there is a risk that the provisions of this law as well as the Hague Convention, may not be respected, said authority must inform the Central Authority and Minor's courts so that the pertinent penalties are enforced as established by the law. If the nature of the acts appear to constitute a crime, the respective complaint must be made with the Public Ministry.

If the entity in question is a public institution, the Central Authority and the court system must ensure that its officials and employees comply with the regulations of this law and the Law on Protection of Children and Adolescents.

CHAPTER III DECLARATION OF ADOPTABILITY STATUS

Article 35. Procedure to declare adoptability status. Having concluded the process of protection of children and adolescents as well as the required proceedings as set forth by the Law on Protection of Children and Adolescents, the judge, as appropriate, may issue a ruling declaring the violation of a child's right to a family and order the reinstatement of such right through the act of adoption. The Minor's judge, in the same vein, must declare the child adoptable and instruct the Central Authority to start the adoption process.

In order for a child to be declared adoptable, the following must be established:

- a. The child needs an adoptive family because he cannot be cared for or returned to his biological family.
- b. The child is set, medically and emotionally, to benefit from the act of adoption.
- c. The child is legally adoptable.
- d. The individuals, including the child taking into account his level of maturity, institutions and authorities involved, whose consent is required for the adoption:
 - d.1 Have been duly counseled and informed on the consequences of their consent, particularly in regards to maintaining or breaking, by virtue of the adoption process, the legal ties between the child and his biological family;
 - d.2 Have consented freely to the adoption, as provided by the law, and this consent has been given or stated in writing;
 - d.3 No consent has been obtained through payment or compensation of any kind and that such consent has not been revoked;
 - d.4 The mother's consent has been given only after the birth of the child;

Article 36. Voluntary desire for adoption. Biological parents who voluntarily express a desire to give up a child for adoption, must contact the Central Authority in order to receive the necessary guidance. If their desire to give up the child for adoption is confirmed, the Central Authority must bring the child before a Minor's judge so that the process of protecting the child, and declaring him adoptable, can be started.

In cases such as these, the judge will also order the corresponding investigation as set forth by the Law on Protection of Children and Adolescents and will instruct the Central Authority to follow through with the following steps:

- a. Counsel the biological parents on their decision;
- b. Conduct the necessary scientific testings in order to establish paternity, such as Deoxyribonucleic Acid-DNA-;
- c. Take the biological parents' fingerprints and the child's hand and foot prints.
- d. Asses any other matters that the Multi-disciplinary Team deem appropriate

The conclusions of these efforts must be submitted by the coordinator and/or MTD at the scheduled hearing at the judge's discretion.

CHAPTER IV ORIENTATION PROCESS

Article 37. Orientation. The process of orientation entails professional and individual guidance and information led by the Multi-disciplinary Team with the goal of educating on the principles, rights and consequences of adoption; this process must be included in the file.

The regulations of this law will establish the system to be applied.

Article 38. Orientation process to biological parents. Biological parents who voluntarily wish to give up their child for adoption, may do so only after six weeks have elapsed since the child's birth, that being the case they may contact the Central Authority to express their desire to give the child for adoption and start the process as indicated by this law and its regulations.

If, after going through the orientation phase, the parents desire to continue with the adoption process, they must appear before the Central Authority to continue with the proceedings.

CHAPTER V REQUIREMENTS OF ADOPTION APPLICATION

Article 39. Application. In the case of domestic adoption, applicants must submit their application with the Central Authority who must evaluate it and issue the suitability statement if appropriate.

In the case of international adoptions, the parties interested in adopting the child must start the process with the Central Authority in their country of residence; said application with corresponding certificates will be forwarded to the Central Authority of Guatemala.

The parties referred to in items e and f of article 12 of this law may convene with a notary who, assuming favorable determination on the part of the Central Authority, may be able to formalize the adoption by deed.

Article 40. Requirements for domestic applicants. Following are the requirements for domestic applicants who wish to start an adoption process:

- a. Application containing full name, age, marital status, nationality, home address, identification document and address where notifications may be sent.
- b. Copy of birth certificate and registration record.
- c. Proof that applicants have no criminal records.
- d. Copy of marriage certificate or if common law partners, certificate verifying their relationship issued by the corresponding registry.
- e. Employment letter verifying employment and income.

- f. Medicals certifying physical and mental well being of applicants and other household members.
- g. Applicants' recent photos.

Article 41. Requirements for guardians. In case the applicant happened to be the guardian of the child, in addition to the requirements listed above and those referred to in this law, the applicant must prove that all funds were managed correctly and that upon settlement of the account, all assets belonging to the child were handed over to the respective authorities.

Article 42. Requirements for foreign applicants. Following are the requirements for foreign applicants in order to start the adoption process:

- a. Application containing full names of applicants, age, marital status, nationality, address, identification document and address where notifications may be sent;
- b. Special power of attorney in favor of an individual who might represent them in Guatemala;
- c. Notarized copy of documents attesting to their personal identification;
- d. Certified copy of birth certificates
- e. Proof that applicants have no criminal record issued by the appropriate authorities in the country of origin;
- f. Certified copy of marriage certificate;
- g. Employment letter or income statement;
- h. Medicals certifying physical and mental well being of applicants and other household members;
- i. Recent photographs;
- j. Certificate stating applicants completed the orientation process or equivalent with the Central Authority in their country of origin;
- k. Certificate of suitability issued by the Central Authority or its counterpart in their country of origin;

CHAPTER VI ADMINISTRATIVE PROCEDURE

Article 43. Selecting a family. Once the adoptability of a child has been declared by the Minor's judge, the Central Authority will conduct the selection of suitable candidates to adopt the child; this will be done over a period of 10 days from the day the application to adopt was submitted. Top priority will be given to domestic families. Should it be determined that domestic adoption is not possible, and always keeping the child's best interest in mind, the alternative, international placement, will then be considered.

In the process of selecting the ideal individuals for the adoption, it must be stated that in the placement of the child the following was considered: child's best interest, right to his cultural identity, physical characteristics and result of the medical, socio-economic and psychological evaluations.

The Central Authority must ensure that at each stage of the process the rules of this law are observed as set forth.

Selecting a child's adoptive parents must be made in observance of the following criteria:

Best interest of the child;
Right to his cultural identify;
Medical and physical aspects;
Socio-economic data
Psychological aspects.

Article 44. Period of Socialization. Prior to the period of socialization, adoptive parents must submit in writing their acceptance of the placement of the child no later than 10 days after receiving the respective notification.

Once the acceptance is received by the Central Authority, a period of socialization and bonding, lasting no less than five business days, will be authorized by the CNA. This will apply to both domestic and international adoptions.

The Central Authority will inform the judge that the period of socialization and bonding has started.

Article 45. Child's opinion. Two days after the period of socialization concludes, the Central Authority will ask the child, taking into account his age and level of maturity, to ratify his desire to be adopted. The child's consent will be given or verified in writing.

Article 46. Empathy report. At the conclusion of the socialization process and taking into account the child's opinion, the Multi-disciplinary Team will issue, within the following three days, an empathy report which will address the quality of the relationship established between the prospective adoptive parents and the child.

Article 47. Migratory guarantee. In the case of international adoptions, written confirmation must be included in the dossier that the central authorities of both countries agree on continuing with the adoption process.

It shall be required from the Central Authority or its counterpart in the host country to provide all necessary information so that post adoption follow up may be given to the adopted child.; in addition, the necessary steps must be taken to ensure the child receives the exit visa to leave Guatemala as well as entry visa and permanent residence in the host country. The Central Authority must provide complete and accurate information on the child, including background, to the Central Authority of the host country or its accredited entities so that the Central Authority in the host country is able to make a decision in accordance with article 5, paragraph c of the Hague Convention.

Article 48. Final resolution. As soon as the administrative process of this chapter has ended, the Central Authority will determine, within five days, on the process in accordance with the prohibitions that this law sets forth in article 10.

The Central Authority will issue report certifications so the parties involved can attach them to their application for approval and submission to the judge in charge of the case.

CHAPTER VII COMPLETION OF THE ADOPTION PROCESS

Article 49. Judicial approval. The family court judge will receive the request for adoption from the interested parties and will verify that the administrative process adheres to the requirements of this law and the Hague Convention. The judge will then approve and declare the adoption completed, whether domestic or international within a period not exceeding three business days and will order the corresponding entry in the Registry, granting custody of the child, for the purposes of immigration and adoption abroad.

If the judge determines that the file is not compliant with the requirements of this law, this will mean forwarding the file to the Central Authority for correction and the judge will immediately ensure the protection of the child.

Article 50. Final Resolution. Once it has been determined that the requirements previously listed have been met, the family court judge will issue the final resolution declaring the adoption complete. Should the adopted child have any assets of his own, an inventory must be taken and released.

The judge will not declare the adoption complete or issue the final resolution on the process if it's found that one of the legal requirements was not observed. Should this be the case, the judge will forward the file to the Central Authority for correction and at the same time ensure the appropriate steps are taken to protect the child.

Article 51. Appealing a case. The resolutions to end the legal proceedings can be appealed within three days of notification and must be brought before the same judge who handed down the final resolution or the same family court.

Article 52. How to appeal a case. Once the appeal has been submitted, the judge, prior notification to all parties involved, must bring the complete file before the corresponding family court which will schedule a hearing no later than five days upon receipt of the file. Notices will be sent to all parties involved so the appellant can proceed with the appeal within a period not exceeding twenty four hours; the judge must then decide on the appeal no later than three days after the hearing takes place.

Article 53. Registration of adoption. Certificate of the legal resolution on the adoption must be entered with the corresponding Registry so that the official record is made in the

respective books; likewise, certificate of the Central Authority's opinion must be attached as well.

In the event that a certificate is issued which omits the word adoption, this would be at the request of the adopted party or the judge.

Article 54. Reinstatement of right to a family. Once the judge has authorized the adoption, notice must be sent to the Central Authority; the judge then reinstates the adopted child's right to a family through a special ceremony where adoptive parents and child convene together.

Article 55. Recognition of international adoption. Once the judge has issued a final decision, which is found to be firm, declaring the adoption legal and granting custody of the child, the Central Authority for all international adoptions will issue a certificate declaring the adoption legal and compliant with this law and the Hague Convention. This must take place in no later than eight days.

Guatemala will recognize the adoption as sanctioned by the respective authority of the Convention member, as long as it has been carried out in accordance with its regulations, unless it is manifestly in opposition to public interest.

CHAPTER VIII TRANSITIONAL PROVISIONS

Article 56. Adoptions in process. All adoption cases in process at the time this law comes into effect, must be registered with the Central Authority within a period of thirty days; this will allow the process to continue in accordance with the law in effect at the time the case began. Cases not registered within the prescribed period will be completed in accordance with the procedures established by the current law.

Article 57. Regularization. Within thirty days of this law's inception, the Central Authority, in conjunction with the Attorney General's Office, will verify the circumstances of the children subject to this law and under the care and custody of individuals, foster families and private institutions so as to start the process of registration, licensing and supervision established by this law as well as legal proceedings to protect the children.

Article 58. Deadline for registration. All private entities involved in the care and custody of children and adolescents, must be registered with the Central Authority within thirty days following the effective date of this law.

Article 59. Budgetary allocation. The State's revenue and expenditure budget must allocate the necessary items so the institutions responsible for the implementation of this law can carry out their functions.

Article 60. Resources. The resources of the National Council on Adoptions will originate from the following sources:

- a. Funds as allocated annually by the State's revenue and expenditure budget;
- b. Real estate and personal property;
- c. Salaries received on account of services rendered in accordance with this law.

In the case of international adoptions, the Central Authority must establish the fees for services rendered and officially release them. Domestic adoptions are free of charge.

Funding and resources, originating from the implementation of this law and its regulations will be used exclusively for the operation of the National Council on Adoption.

Article 61. First Board of Directors. Those institutions whose officials will be appointed as members of the Board of Directors will select them based on Article 19 within 15 days following inception of this law.

Article 62. Rules of the law. Within 60 days following the inception of this law, the executive branch shall publish its regulations which must include the fees as established by the Central Authority.

PART III FINAL PROVISIONS

CHAPTER I FINAL PROVISIONS

Article 63. Article 228 of the Civil Code, Law Decree No. 106 is amended as follows:

“**Article 228.** All aspects relating to adoption shall be governed by the Adoption Law”.

Article 64. Article 258 of Law Decree No. 106, Civil Code, is amended; numeral 6 is added:

“**6.** By judicial declaration of adoptability as issued by the Minor's judge.”

Article 65. Article 435 of Law Decree No. 106, Civil Code, is amended as follows:

“**Article 435.** The adoption will be entered in a special book in accordance with the terms of the Adoption Law.”

Article 66. Article 1076 of Law Decree No. 106, Civil Code, is amended as follows:

“**Article 1076.** Biological or adoptive children, shall have the same rights to inheritance but they do not retain those rights when it comes to their former

family.

Guatemala, December 11, 2007.