

Updates: Family Law in Italy and in the World

Family Law Reform in Italy: equality in filiation

The recent Italian law No. 219 of 10 December 2012, which came into force on 1st January 2013, in a conscious attempt to follow a principle of equality between the different forms of filiation, an attempt which could be described as substantial in nature, abolishes the distinction between legitimate and natural offspring and introduces the principle of a single legal state of filiation in legislation. A series of changes of a substantial nature are also envisaged, such as those concerning the definition of kinship as stated in Article 74 of the Civil Code. The effects of a parent's acknowledgement of a child have also changed, as this also has consequences for the relatives of this same parent. These substantial changes are also associated with legal changes, introduced by the new legislation, as well as with a number of principles that legislators are delegating to the implementation of future laws. Many aspects of this legislation offer room for improvement, even in formal terms. The principle of equality, which motivated legislators to change family law, is capable of producing both direct and indirect legal consequences, consequences which in all likelihood are yet to be entirely appreciated by the system.

Same-sex marriage in France

Same-sex marriage has been introduced in the French legal system with "Loi n. 2013-404 du 17 mai 2013 ouvrant le mariage aux couples de personnes de meme sexe" and it has been legal in France since 18 May 2013. President François Hollande signed the bill into law, after its examination by the Constitutional Council, which ruled that the law was constitutional. The law allows all married couples also to adopt children jointly. It doesn't provide however (yet) state aid to help same-sex couples procreate. The new legislation also applies to the French Overseas

departments and territories all over the world, such as Guadelupe, Martinique, French Guiana, Réunion, Mayotte, French Polynesia, Saint Martin and others.

Same-sex marriage in the United Kingdom (England and Wales)

Same-sex marriage (Same-Sex Couples Act) received Royal Assent (the formal approval of the sovereign required for all legislation) on 17th July 2013. It makes provisions for the marriage of same-sex couples in England and Wales, for the gender change by married persons and civil partners, for the review of civil partnership (it also allows couples who had previously entered into a civil partnership to convert their relationship to a marriage), for the review of survivor benefits under occupational personal schemes and for connected purposes. The Bill enables gay couples to get married in both civil and religious ceremonies in England and Wales. Under the terms of the new Bill, religious organisations will have to “opt in” to offering weddings, with the Church of England and Church in Wales being banned in law from doing so. Once the necessary processes are in place, it is anticipated that the first wedding could happen by summer 2014.

International adoption of Russian minors: Russia bans adoptions to U.S. and to many European Countries.

At the end of 2012 Russia signed a bill (“Dima Yakovlev Law”⁽¹⁾) banning adoptions of Russian children to Americans. The measure was voted unanimously by the Russia’s Assembly, according to the news, debated by the newspapers in the last years, on Russian children dying or suffering abuse at the hands of their American adoptive parents.

In July 2013 Russia passed a law banning gay and lesbian couples in foreign countries from adopting Russian children and barred adoption by unmarried individuals living in countries that allow same sex-marriage.

For instance, during 2013 Russia stopped adoptions to Sweden. The reasons are different from the US ban. Seeking an agreement for barring gay couples from adopting, in the meantime Russia banned all Swedish parents from adopting Russian children and stopped adoptions of Russian children to all the countries which recognize gay unions (Scandinavian, but also Canada, France, and so on). The prohibition is also part of a recent

⁽¹⁾ The “*Dima Yakovle Llaw*” was approved by the State Duma on December 21, 2012 and approved by the Federation Council on December 26, 2012. The Federal Law came into force on 1st January 2013.

court decision that disallows any foreign country that recognizes same sex-unions or affords adoption rights to gay couples, from taking in a Russian child.

Federica Giardini
School of Law
University of Padua