



Dutch Civil Code

Book 1 Law of Persons and Family Law

Title 1.11 Consanguinity

Section 1.11.1 General provisions

Article 1:197 Legal familial relationships

A child, its parents and their blood relatives stand in a familial relationship to each other.

Article 1:198 Mother of a child

The woman who has given birth to a child or who has adopted a child is the mother of that child.

Article 1:199 Father of a child

The father of a child is the man:

- a.** who, at the time of birth of the child, is married to the woman who has given birth to that child, unless the provision under point (b) is applicable;
- b.** whose marriage to the woman who has given birth to the child, has been dissolved because of his death within a period of 306 days before the birth of the child, even if the mother has remarried; if, however, the woman was legally separated from her husband since the 306th day before the birth of the child or if she and her husband lived separately since that moment, then the woman may, within one year after the birth of the child, declare before the Registrar of Civil Status that her deceased husband is not the father of the child, which declaration will be written down in a certificate of civil status; in such event the man with whom the woman is married at the time of birth shall be the father of the child;
- c.** who has officially recognized paternity of the child;
- d.** whose legal paternity has been established, or
- e.** who has adopted the child.

Section 1.11.2 Denial of marital paternity

Article 1:200 Denial of paternity and time limits

- **1.** Paternity arisen pursuant to Article 1:199 under point (a) or point (b) may be denied on the ground that the man is not the biological father of the child:
 - a.** by the father or the mother of the child;
 - b.** by the child itself.
- **2.** Paternity arisen pursuant to Article 1:199 under point (a) or point (b) cannot be denied by the father or mother if the man already knew that the woman was pregnant before he entered into a marriage with her.
- **3.** Paternity arisen pursuant to Article 1:199 under point (a) or point (b) cannot be denied by the father or mother if the man has consented to an act that could have resulted in the conception of the child.
- **4.** Paragraph 2 and 3 shall not apply to the father if the mother has deceived him with regard to the person who has fathered the child.
- **5.** A request for a judicial acknowledgement of a denial of paternity may be filed by the mother at the District Court within one year after the birth of her child. Such a request may be filed by the father within one year after he became aware of the fact that he probably is not the biological father of the child.
- **6.** A request for a judicial acknowledgement of a denial of paternity may be filed by the child at the District Court within three years after the child became aware of the fact that the man probably is not its biological father. If, however, the child became aware of this fact before it reached the age of legal majority, then such a request may be filed up until three years after the child has come of age.

Article 1:201 Denial of paternity after the death of a parent or child

- **1.** When the father or mother has died before the end of the period meant in Article 1:200 paragraph 5, then a descendant in the first degree of this spouse or, in the absence of such a descendant, a parent of that spouse may file a request at the District Court for a judicial acknowledgement of a denial of paternity. The request must be filed within one year after the day on which the spouse has died or within one year after the applicant

has become aware of the spouse's death.

- **2.** When the child has died before the end of the period meant in Article 1:200 paragraph 6, then a descendant in the first degree of the child may file a request at the District Court for a judicial acknowledgement of a denial of paternity. If the child already had reached the age of legal majority at the time of his death, then the request must be filed within one year after the day on which he has died or within one year after the applicant has become aware of his death. If the child has died before it reached the age of legal majority, then the request must be filed within one year after the child, if he would have been alive, could have filed the request on his own or, if the applicant became aware of the child's death at a later moment, within one year after that moment.

Article 1:202 Legal effects of a court order acknowledging a denial of marital paternity

- **1.** After a court order acknowledging a denial of marital paternity has become final and binding, that marital paternity is deemed to have never had any legal effect.

- **2.** Rights of third persons obtained in good faith are, however, not affected.

- **3.** A court order acknowledging a denial of marital paternity does not create any claim for reimbursement of costs of care and upbringing or of costs of maintenance and education, nor any claims for a refund of what has been enjoyed on account of a parental usufruct. Furthermore, it creates no obligation to return or compensate benefits derived from property if the person who received such benefits no longer enjoys any advantage therefrom at the moment on which the request was filed.

Section 1.11.3 Recognition of paternity

Article 1:203 Ways to recognize paternity

- **1.** Paternity may be recognized:

a. by a certificate of recognition drawn up by the Registrar of Civil Status;

b. by notarial deed.

- **2.** The recognition has effect from the time it was done.

Article 1:204 Null and void recognition

- **1.** A recognition of paternity is null and void if it is done:

a. by a man who pursuant to Article 1:41 may not enter into a marriage with the child's mother;

b. by a minor who has not yet reached the age of sixteen years;

c. without the prior written consent of the mother, while the child has not yet reached the age of sixteen years;

d. without the prior written consent of the child that has reached the age of twelve years or more;

e. by a man who, at the time of recognition, is married to another woman than the child's mother, unless the District Court has determined that it is likely that there is or has been a relationship between this man and the mother of the child that, to a sufficient degree, may be aligned with a marriage or that there is a close personal relationship between the man and the child;

f. while there are two parents.

- **2.** The consent required pursuant to the preceding paragraph under point (c) or (d) may be given also at the occasion of the drawing up of the certificate of recognition.

- **3.** Upon the request of the man who wants to recognize paternity, the District Court may put its authorisation in the place of the required consent of the mother whose child has not yet reached the age of sixteen years or of the required consent of a child of twelve years or older, provided that the recognition will not harm the mother's interests in an undisturbed relationship with her child or the interests of the child and on the condition that the man is the biological father of the child.

- **4.** A man who is placed under adult guardianship on account of a mental disorder, may only recognize paternity after the Subdistrict Court has given its authorisation to do so.

Article 1:205 Nullification of a recognition of paternity

- **1.** A request for the nullification of a recognition of paternity, on the ground that the man who has recognized paternity is not the biological father of the child, may be filed at the District Court:

a. by the child, unless the recognition was done after the child has reached the age of legal majority;

b. by the man who has recognised paternity if he had been moved to recognise the child under the influence of threat, mistake or fraud (deception) or, provided that the influence occurred in a period that he was still under age, under the influence of abuse of circumstances (duress);

c. by the mother if she had been moved to give her consent to the recognition of paternity under the influence of threat, mistake or fraud (deception) or, provided that the influence occurred in a period that she was still

under age, under the influence of abuse of circumstances (duress).

- **2.** The Public Prosecution Service may file a request for the nullification of a recognition of paternity on account of a conflict with Dutch public order if the man, who has recognised paternity, is not the biological father of the child.
- **3.** The man who has recognised paternity or the mother may file the request for a nullification, in the event of a threat or abuse of circumstances, no later than one year after this influence has stopped to have impact and, in the event of fraud or mistake, no later than one year after the applicant has discovered the fraud or mistake.
- **4.** The request for a nullification may be filed by the child within three years after the child became aware of the fact that the man probably is not his biological father. If, however, the child became aware of this fact while he was still under age, then he may file the request up to three years after he has reached the age of legal majority.
- **5.** Where the man who has recognised paternity or the mother dies before the period laid down in paragraph 3 has expired, Article 1:201 paragraph 1 applies accordingly. Where the child dies before the period laid down in paragraph 4 has expired, Article 1:201 paragraph 2 applies accordingly.

Article 1:206 Legal effects of the nullification of a recognition of paternity

- **1.** After the court order nullifying the recognition of paternity has become final and binding, this recognition is deemed never to have had any legal effect.
- **2.** Rights acquired in good faith by third persons are, however, not affected.
- **3.** The nullification of the recognition of paternity does not create any claim for reimbursement of costs of care and upbringing or of costs of maintenance and education, nor any claims for a refund of what has been enjoyed on account of a parental usufruct. Furthermore, it creates no obligation to return or compensate benefits derived from property if the person who received such benefits no longer enjoys any advantage therefrom at the moment on which the request was filed.

Section 1.11.4 Judicial determination of paternity

Article 1:207 Determination of paternity by the court

- **1.** The paternity of a man may be determined, even after his death, by the District Court on the ground that this man is the biological father of the child or on the ground that he has agreed, during the time that he was the life companion of the mother, to an act which could have resulted in the conception of the child, if such a request is filed by:
 - a.** the mother, provided that the child has not yet reached the age of sixteen years;
 - b.** the child.
- **2.** The court may not determine the paternity of a man if:
 - a.** the child has two parents;
 - b.** the man pursuant to Article 1:41 is not permitted to enter into a marriage with the child's mother, or
 - c.** the man is a minor who has not yet reached the age of sixteen years, unless he has died before reaching that age.
- **3.** The request has to be filed by the mother within five years after the birth of the child or, when the identity of the presumed biological father or his whereabouts are unknown, within five years after the date on which the mother became aware of his identity or whereabouts.
- **4.** When the child dies before the determination of paternity could have taken place, a descendant in the first degree of that child may file a request at the District Court for the determination of paternity, provided that the man referred to in paragraph 1 is still alive. The request has to be filed within one year after the death of the child or within one year after the applicant has become aware of his death.
- **5.** Provided that the relevant court order has become binding and final, a judicial determination of paternity has retroactive effect to the moment of birth of the child. Rights obtained in good faith by third persons are, however, not affected. Furthermore, a judicial determination of paternity creates no obligation to return or compensate benefits derived from property if the person who received such benefits no longer enjoys any advantage therefrom at the moment on which the request was filed.

Article 1:208 Determination of child maintenance (child support) in the same legal proceedings

In the court order in which paternity is determined, the court may, upon a request to this end, grant also a contribution, to be paid on behalf of the child, for the costs of care and upbringing as referred to in Article 1:404 or for the costs of maintenance and education as referred to in Article 1:395a.

Section 1.11.5 Claiming or contesting a legal familial status

Article 1:209 Legal familial status as indicated on a birth certificate

A person's consanguinity, as indicated on his birth certificate, cannot be contested by others if this person actually lives and maintains personal relationships in accordance with the legal familial status as indicated on that birth certificate.

Article 1:210 No prescription of a right or action to claim or contest a legal familial status

A right of action to claim or contest the existence of a legal familial status is not subject to any prescription.

Article 1:211 Persons entitled to file a request to claim a legal familial status

- 1. A request to claim the existence of a legal familial status may be filed:

a. by the child itself;

b. by the heirs of the child if the child has died before it has reached the age of legal majority or within three years after that moment.

- 2. If the child had filed a request as meant in paragraph 1, then its heirs may continue the proceedings.

Section 1.11.6 Special guardian

Article 1:212 Appointment of a special guardian to represent a minor child during proceedings

In matters of consanguinity, a minor child, acting as applicant or interested party, shall be represented by a special guardian appointed exclusively for this purpose by the District Court which has jurisdiction over the matter.

Article 1:213 *[repealed on 01.04.1998]*

Article 1:214 *[repealed on 01.04.1998]*

Article 1:215 *[repealed on 01.04.1998]*

Article 1:216 *[repealed on 01.04.1998]*

Article 1:217 *[repealed on 01.04.1998]*

Article 1:218 *[repealed on 01.04.1998]*

Article 1:219 *[repealed on 01.04.1998]*

Article 1:220 *[repealed on 01.04.1998]*

Article 1:221 *[repealed on 01.04.1998]*

Article 1:222 *[repealed on 01.04.1998]*

Article 1:223 *[repealed on 01.04.1998]*

Article 1:224 *[repealed on 01.04.1998]*

Article 1:225 *[repealed on 01.04.1998]*

Article 1:226 *[repealed on 01.04.1998]*

[prior Title]

[next Title]

