

NATIONAL LEGISLATION: SPAIN

SPANISCHES ZIVILGESETZBUCH BUCH II

Titel VII: Von den Eltern-Kind-Beziehungen

Kapitel I: Allgemeine Bestimmungen

Artikel 154

Die nicht emanzipierten Kinder stehen unter der Gewalt des Vaters und der Mutter.

Die elterliche Gewalt wird immer zum Wohle der Kinder- gemäss ihrer Persönlichkeit- ausgeübt und umfasst die folgenden Pflichten und Befugnisse:

1. für sie zu sorgen, sie in ihrer Gemeinschaft zu halten, ihnen Unterhalt zu geben, sie zu erziehen und ihnen eine vollständige Ausbildung zu verschaffen;
2. sie zu vertreten und ihr Vermögen zu verwalten.

Wenn die Kinder ein ausreichendes Urteilsvermögen haben, müssen sie immer gehört werden, bevor Massnahmen getroffen werden, die sie betreffen.

Die Eltern können bei der Ausübung ihrer elterlichen Gewalt um die Mithilfe der Behörden nachsuchen. Sie können ihre Kinder auch in vernünftiger Weise und massvoll strafen.

Artikel 155

Die Kinder sind verpflichtet:

1. ihren Eltern zu gehorchen, solange sie unter ihrer Gewalt verweilen, und ihnen immer Achtung zu erweisen;
2. in angemessener Weise-nach ihren Möglichkeiten- zum Bestreiten der Lasten der Familie beizutragen, solange sie mit ihr zusammenleben.

Artikel 156

Die elterliche Gewalt wird gemeinsam von beiden Elternteilen ausgeübt oder von einem allein mit der ausdrücklichen oder stillschweigenden Zustimmung des anderen. Wirksam sind die Handlungen, die einer von ihnen gemäss der gesellschaftlichen Übung und den Umständen oder in Fällen dringender Notwendigkeit vornimmt.

Im Falle von Uneinigkeit kann sich jeder der beiden an den Richter wenden, welcher- nach Anhörung beider sowie des Kindes, wenn es ausreichendes Urteilsvermögen hat, und in jedem Fall, wenn es älter als zwölf Jahre ist- ohne weiteres Rechtsmittel die Entscheidungsbefugnis auf den Vater oder die Mutter überträgt. Wenn die Uneinigkeiten wiederholt sind oder ein anderer Grund vorliegt, der die Ausübung der elterlichen Gewalt in schwerwiegender Weise behindert, kann er sie ganz oder teilweise einem der Eltern übertragen oder ihre Aufgaben unter ihnen aufteilen. Die Massnahme hat Gültigkeit während der Frist, die festgelegt wird, welche niemals zwei Jahre übersteigen darf.

In den Fällen der vorhergehenden Absätze wird hinsichtlich gutgläubiger Dritter vermutet, dass jeder Elternteil bei der gewöhnlichen Ausübung der elterlichen Gewalt mit Zustimmung des anderen handelt.

Beim Fehlen oder bei Verschollenheit, Geschäftunfähigkeit oder Unmöglichkeit eines Elternteiles wird die elterliche Gewalt ausschliesslich vom anderen ausgeübt.

Leben die Eltern getrennt, so wird die elterliche Gewalt von demjenigen ausgeübt, mit dem das Kind zusammenlebt. Jedoch kann der Richter auf begründeten Antrag des anderen Erzeugers im Interesse des Kindes dem Antragsteller die elterliche Gewalt zuweisen, damit er sie gemeinsam mit dem anderen Erzeuger ausübt, oder zwischen dem Vater und der Mutter die Aufgaben aufteilen, die mit ihrer Ausübung zusammenhängen.

Artikel 157

Ein nicht emanzipierter Minderjähriger übt die elterliche Gewalt über seine Kinder im Beistand seiner Eltern und- beim Fehlen beider- seines Vormundes aus ; im Falle von Uneinigkeit oder Unmöglichkeit in dem des Richters.

Artikel 158

Der Richter entscheidet von Amts wegen, auf Antrag des Kindes selbst, eines Verwandten oder der Staatsanwaltschaft:

1. über die passenden Massnahmen, um die Unterhaltsleistung sicherzustellen und für die künftigen Bedürfnisse des Kindes zu sorgen, im Falle der Nichterfüllung dieser Pflicht durch seine Eltern;
2. über die geeigneten Verfügungen zu dem Zweck, in den Fällen des Wechsels des Inhabers der Schutzgewalt schädliche Störungen für die Kinder zu vermeiden;
3. allgemein über die übrigen Verfügungen, die er für zweckmässig hält, um den Minderjährigen vor einer Gefahr zu bewahren oder im Nachteile zu vermeiden.

Alle die Massnahmen können innerhalb jeglichen Zivil-oder Strafprozesses oder auch in einem Verfahren der freiwilligen Gerichtsbarkeit getroffen werden.

Artikel 159

Leben die Eltern getrennt und treffen sie keine gemeinsame Entscheidung, dann entscheidet der Richter- und zwar stets zum Wohle der Kinder- darüber, unter der Obhut welchen Elternteiles die minderjährigen Kinder verbleiben. Bevor er diese Massnahme trifft, hört der Richter die Kinder an, welche ein ausreichendes Urteilsvermögen besitzen und in jedem Fall, diejenigen, die älter als zwölf Jahre sind.

Artikel 160

Der Vater und die Mutter, auch wenn sie nicht die elterliche Gewalt ausüben haben das Recht, mit ihren minderjährigen Kindern Umgang zu halten, ausgenommen derer, die durch einen anderen adoptiert sind, oder gemäss dem, was in einer gerichtlichen Entscheidung bestimmt ist.

Die persönlichen Beziehungen zwischen dem Kind und den übrigen Verwandten und Nahestehenden dürfen ohne berechtigten Grund nicht behindert werden.

Im Falle eines Widerspruchs entscheidet der Richter- auf Antrag des Minderjährigen oder des Verwandten oder Nahestehenden- unter Berücksichtigung der Umstände.

Artikel 161

Handelt es sich um einen Minderjährigen in Pflege, dann kann das Recht, welches seinen Eltern zusteht, um es zu besuchen oder Umgang mit ihm zu halten, vom Richter unter Berücksichtigung der Umstände und des Interesses des Minderjährigen geregelt oder aufgehoben werden.

Kapitel II: Von der gesetzlichen Vertretung der Kinder

Artikel 162

Die Eltern, die die elterliche Gewalt innehaben, haben die gesetzliche Vertretung über ihre minderjährigen, nicht emanzipierten Kinder.

Ausgenommen sind:

1. Handlungen in bezug auf die Persönlichkeits und anderen Rechte, welche das Kind gemäss den Gesetzen und den Umständen seiner Reife selbst vornehmen kann;
2. jene, bei denen ein Interessenwiderstreit zwischen den Eltern und dem Kind besteht;
3. diejenigen, die sich auf Güter beziehen, die von der Verwaltung der Eltern ausgeschlossen sind.

Um Verträge zu schliessen, die das Kind zur Vornahme persönlicher Leistungen verpflichten, bedarf es dessen vorheriger Zustimmung, wenn es ein ausreichendes Urteilsvermögen hat, unbeschadet dessen, was in Artikel 158 festgelegt ist.

Artikel 163

Sofern bei irgendeiner Angelegenheit der Vater und die Mutter ein Interesse haben, das dem ihrer nicht emanzipierten Kinder entgegensteht, wird für diese ein Beistand ernannt, der sie vor Gericht und aussergerichtlich vertritt. Diese Ernennung findet auch dann statt, wenn die Eltern ein Interesse haben, das dem ihres emanzipierten minderjährigen Kindes entgegensteht, dessen Geschäftsfähigkeit sie ergänzen müssen.

Besteht der Interessenwiderstreit nur mit einem der Erzeuger, dann obliegt es dem anderen kraft Gesetzes und ohne Notwendigkeit einer besonderen Ernennung, den Minderjährigen zu vertreten oder seine Geschäftsfähigkeit zu ergänzen.

Kapitel III: Vom Vermögen der Kinder und von seiner Verwaltung

Artikel 164

Die Eltern verwalten das Vermögen ihrer Kinder mit der gleichen Sorgfalt wie ihr eigenes, wobei sie die allgemeinen Verpflichtungen eines jeden Verwalters sowie die besonderen erfüllen, die im Hypothekengesetz festgelegt sind.

Von der elterlichen Verwaltung sind ausgenommen:

1. Güter, die unentgeltlich erworben sind, wenn der Verfügende es in ausdrücklicher Form angeordnet hat. Dessen Willen über die Verwaltung dieser Güter und die Zuweisung ihrer Früchte wird genau eingehalten;
2. diejenigen, die durch Erbfolge erworben worden sind, bei welcher der Vater, die Mutter oder beide berechtigterweise enterbt worden sind oder aus Gründen der Unwürdigkeit nicht haben erben können, wobei sie von der Person verwaltet werden, die vom Erblasser bezeichnet worden ist, und bei deren Fehlen- und nacheinander- vom anderen Elternteil oder von einem besonders ernannten gerichtlichen Verwalter;
3. diejenigen, die ein Kind über sechzehn Jahren mit seiner Arbeit oder seinen Gewerbe erworben hat. Die Handlungen gewöhnlicher Verwaltung werden vom Kind vorgenommen, das die Zustimmung der Eltern für solche benötigt, die sie überschreiten.

Artikel 165

Stets gehören dem nicht aus der elterlichen Gewalt entlassenen Kind die Früchte seiner Güter sowie alles das was es mit seiner Arbeit oder seinem Gewerbe erwirbt.

Desungeachtet können die Eltern diejenigen des Minderjährigen, welcher mit ihnen oder mit einem allein von ihnen lebt, zu dem Teil, der ihm obliegt, dem Bestreiten der familiären Lasten zuweisen, und sie sind nicht verpflichtet, Rechnung über das abzulegen, was sie bei solchen Geschäften verbraucht haben.

Zu diesem Zweck werden den Eltern im angemessenen Umfang die Früchte der Güter übergeben, die sie nicht verwalten. Ausgenommen sind die Früchte der Güter, auf die sich die Nummern 1 und 2 des vorangegangenen Artikels beziehen, sowie die von denjenigen, die den Kindern für ihre Erziehung oder Ausbildung besonders geschenkt oder überlassen worden sind, aber wenn die Eltern keine Mittel haben, können sie beim Richter beantragen, dass ihnen der Teil übergeben wird, der der Billigkeit entspricht.

Artikel 166

Die Eltern dürfen weder auf Rechte verzichten deren Inhaber die Kinder sind, noch ihr unbewegliches Vermögen, ihre Handels- oder Gewerbebetriebe, kostbaren Gegenstände oder Wertpapiere veräußern oder belasten mit Ausnahme des Bezugsrechtes von Aktien, ausser aus gerechtfertigten Gründen der Nützlichkeit oder Notwendigkeit und nach vorheriger Ermächtigung des Richters des Wohnortes nach Anhörung der Staatsanwaltschaft.

Die Eltern müssen um gerichtliche Ermächtigung nachsuchen, um Erbschaften oder Vermächtnisse auszuschlagen, die dem Kind übertragen worden sind. Verweigert der Richter die Ermächtigung, dann kann die Erbschaft nur unter Beschränkung der Erbenhaftung angenommen werden.

Eine gerichtliche Ermächtigung ist nicht erforderlich, wenn der Minderjährige das sechzehnte Lebensjahr vollendet hat und in öffentlicher Urkunde zustimmt, und auch nicht für die Veräußerung von Wertpapieren, sofern ihr Betrag in sicheren Gütern oder Werten wieder angelegt wird.

Artikel 167

Bringt die Verwaltung der Eltern das Vermögen des Kindes in Gefahr, so kann der Richter auf Antrag des Kindes selbst, der Staatsanwaltschaft oder eines Angehörigen des Minderjährigen die Vorkehrungen treffen, die er zur Sicherheit und Erhaltung der Güter für notwendig hält, eine Kautions- oder Bürgschaft für die Fortführung der Verwaltung fordern oder sogar einen Verwalter ernennen.

Artikel 168

Bei Beendigung der elterlichen Gewalt können die Kinder von den Eltern Rechnungslegung über die Verwaltung verlangen, die sie über ihr Vermögen bis dahin ausgeübt haben. Der Anspruch, die Erfüllung dieser Verpflichtung geltend zu machen, verjährt in drei Jahren.

Im Falle des Verlustes oder der Verschlechterung der Güter durch Vorsatz oder grobe Fahrlässigkeit haften die Eltern für die erlittenen Schäden und Nachteile.

Kapitel IV: Vom Erlöschen der elterlichen Gewalt

Artikel 169

Die elterliche Gewalt endet:

1. durch den Tod oder die Todeserklärung der Eltern oder des Kindes
2. durch die Emanzipation
- 3 durch die Adoption des Kindes

Artikel 170

Dem Vater oder der Mutter kann ihre Gewalt ganz oder teilweise entzogen werden durch ein Urteil, das sich auf die Nichterfüllung der Pflichten, welche mit derselben verbunden sind, gründet oder das in einer Straf- oder Ehesache ergangen ist.

Die Gerichte können zum Wohl und Interesse des Kindes die Wiederherstellung der elterlichen Gewalt anordnen, wenn der Grund der den Entzug veranlasst hat, weggefallen ist.

CATALAN LAW
The Family Code, Act 9/1998 of 15th July

Title VI The paternal power of the father and the mother

Chapter I. General provisions

Article 132. Determination

Juridically established filiation determines the paternal power of the father and the mother over minor non-emancipated children, or over major incompetent children, if the paternal power has been extended or rehabilitated.

Article 133. Exercise

1. Paternal power constitutes an inexcusable duty and, in the framework of the general interest of the family, this is exercised personally and invariably for the benefit of the children, so as to facilitate the full development and evolution of their personality.
2. Before making decisions that affect the children, the father and mother must always inform and listen to the son or daughter of twelve years of age or over, and their children who are under the cited age, provided that they are sufficiently knowledgeable.
3. The limitations on the capacity to act of minor children shall be interpreted and construed in a restrictive manner.

Article 134. Judicial intervention

1. The judicial authority, in any proceeding, may adopt the measures it deems appropriate in order to avoid any harm to the children. If the management carried out by the father or the mother turns out to be harmful for the child's patrimony or interest, the judicial authority may request that sufficient securities are furnished, limit the faculties of disposition or management of the father and mother, and even appoint a judicial defender.
2. The children, the father and the mother, even if they do not exercise the paternal power, the remaining relatives up to the fourth degree of consanguinity kinship and up to the second degree of affinity kinship and, in any case, the attorney general, shall be legitimated to require that the measures specified in paragraph 1 hereto are adopted.
3. Before dictating any of the resolutions determined by this Law, the judicial authority shall listen to the child aged twelve or over, or the child under that age if such child is knowledgeable enough.

Article 135. Personal relations

1. The father and mother, even if they do not exercise the paternal power, are entitled to relate personally with the son or daughter, except when the son or daughter have been adopted, or unless the law or a judicial dictum provide otherwise.

2. The father and mother shall facilitate the relationship of their child with relatives, especially with the grandparents, and other persons. The father and mother may only prevent the child from relating to other relatives when there is a fair cause for such action.
3. The judicial authority shall be entitled to suspend, modify or refuse the right to maintain the cited personal relations, even when the child's father and mother fulfil their duties, and in any case if the relations might damage the minor child or the incompetent major child, or if another fair cause concurs. The judicial authority shall also be entitled to adopt the measures that are necessary in consideration of the effectiveness of these personal relations.

Article 136. Deprivation of paternal power

1. The father and mother may only be deprived of their paternal power by a final sentence, on grounds of serious non-fulfilment of their duties, or by a sentence pronounced in a penal or matrimonial cause. The deprivation does not affect the duty to do whatever may be necessary to assist minor children, or to provide support and sustenance to them, in the broadest sense.
2. The judicial authority shall grant, for the benefit and in the interest of the children, the re-establishment of the paternal power, whenever the cause that has produced the deprivation terminates.

Chapter II. Exercise of paternal power

Article 137. Joint exercise

1. The father and mother exercise jointly the paternal power over the children, or else one of them exercises the paternal power with the consent of the other parent. Yet, any of the parents may perform the acts that, in accordance with the social use or the family circumstances, are normally performed by just one of them, or the acts involving an urgent need.
2. In the acts of regular administration and with regard to third parties acting in good faith, it shall be presumed that the father acts with the mother's consent, or that the mother acts with the father's consent. As for acts of extraordinary administration, that is, those that require the judicial authority, in compliance with article 151, the father and mother must act jointly.
3. The paternal power is exercised exclusively by the father or the mother in cases of impossibility, absence or incapacity of the other progenitor, or due to any other cause that prevents this joint exercise.

Article 138. Disagreements

1. In case of occasional disagreement, the judicial authority, acting upon request of the father or the mother, and further to having listened to both of them and the children aged twelve or over or younger children if they are knowledgeable enough, may attribute either partially or totally the

exercise of paternal power to the father or mother, separately, or temporarily distribute the duties between them, for a maximum period of two years, when the disagreements are reiterated or whenever any cause that seriously impairs the joint exercise of the paternal power concurs.

2. Through joint agreement of the father and the mother, duly formalised and legalised in a public instrument, the judicial intervention may be substituted by agreement of the two closest relatives to the child to which article 149 of the Succession Code refers. This agreement shall also be formalised on a public deed. For these purposes, the siblings of the child in question may not intervene as the closest relatives to the mentioned child. If the closest relatives failed to reach an agreement, the judicial intervention may be requested, in compliance with the provision contained in paragraph 1.

Article 139. Separate lives of the father and the mother

1. In the event the father and mother should lead separate lives, by common agreement formalised on a public instrument, they may delegate, also by common agreement formalised in the same manner, the exercise of the paternal power to the person who cohabits with the children. On the other hand, they may agree on that this exercise is jointly carried out by both of them, or distribute the performance of duties between them. At any time the father or the mother, separately, may leave without effect that delegation or this distribution, by means of a notarial notice.
2. In case of disagreement on the exercise of the paternal power, the judicial authority shall make a resolution, after having listened to the father, the mother and the children of twelve years of age or over, and children under that age if they are knowledgeable enough.
3. In any case, guardianship duties shall be exercised and performed by the one of the two, either the father or the mother, that has the minor child with him or her, either because the usual family residence has been assigned to such parent, or because the minor is cohabiting with such parent as a result of the communication, relation and visitation rights that have been established.
4. Unless the judicial authority provides otherwise, the father or mother who exercise the paternal power over the child needs the express or tacit consent of the other parent when it comes to deciding on the type of learning, of changing the domicile of the minor child in such way that the latter is set apart from his or her usual environment, or for disposing of the minor child's patrimony beyond what is necessary for attending to the child's regular needs. It shall be deemed that the consent has been tacitly granted once the period of thirty days has lapsed from the notice issued in order to obtain such consent has been delivered and that the father or mother who does not exercise the paternal power does not submit his or her disagreement, in compliance with the provisions contained in article 138.

Article 140. Duty to inform

When the exercise of the paternal power is attributed to the father or mother, or whenever such exercise is shared by both parents, the parent who has such exercise attributed shall inform the other parent immediately of any relevant fact regarding the care of the child and the patrimony thereof and, in a general way, information shall be provided to the other parent at least every three months.

Article 141. Minor father and mother

1. When the father or the mother are minors, they shall exercise their paternal power with no need for further assistance, in the following cases:
 - a) When they are married to a major person, in respect of their common children.
 - b) If they are emancipated and, if they are on grounds of marriage, if they are at least sixteen years of age or if they have been wedded to a fully capacitated person.
2. In cases that have not been determined and in the cases excluded by paragraph 1 hereto, the minor father or mother need, in order to exercise their paternal power, the assistance of their own father or mother, or of that of their parent who exercises the paternal power over them or, if such parents are lacking, the assistance of their tutor or guardian.
3. In cases of disagreement between the persons who have to provide assistance, or between these and the minor who has the paternal power over his or her own child, and also in case of impossibility to render the assistance, a judicial authorisation or dictum shall be required. This authorisation may be substituted by agreement of the two parents of the minor, as indicated in article 138.2, in compliance with the requirements established in the above-cited article.

Article 142. General consents

In order to facilitate the exercise of paternal power in the cases determined by article 140, the father and the mother may confer each other general or special consents. Such consents shall be formalised on a public instrument. The above-cited consents shall be revocable at any time by means of a notarial notice, unless the law or a final judicial dictum provide otherwise. For this consent to be valid, it is required that both its concession and the acceptance of the spouse to whom the consent is delegated are reliably stated.

Chapter III. The contents of paternal power

Article 143. Duties of the father and the mother

1. By virtue of the paternal power, the father and the mother must take care of their children and have, with regard to them, the duties of cohabitation, provision of support and sustenance in its widest and

broadest scope, and the duty to provide an integral education to their children.

2. The father and the mother, when they have sufficient motives to do so, may decide that the children should reside in a different location than the family dwelling.
3. The father and the mother shall be entitled to correct the children over whom they have paternal power, in a proportionate, reasonable and mild manner. Such corrective and disciplinary measures shall be applied by the parents with full respect for their children's dignity and the parents shall refrain from imposing humiliating sanctions that attempt against their children's rights. For this purpose, the parents may exceptionally request the assistance and the intervention of public powers.

Article 144. Duties of the son or daughter

While the children are under the paternal power of the father and the mother, they must obey these, unless the parents intend to impose contemptible or censurable conducts onto their children, and they must all respect each other mutually.

Article 145. Administration of the assets

1. The father and the mother who exercise their paternal power must administer the assets owned by their children with the same diligence that would be required to an administrator, in compliance with the nature and the characteristics of the assets.
2. The fruits and revenues of their own assets and rights belong to the children, who in addition also own the earnings of their own activity and the assets or rights that might derive thereof.

Article 146. Contribution to family expenses

1. It is the duty of the children to contribute fairly and reasonably to family expenses, while they cohabit with the family, with the earnings that they obtain from their activity, with the revenue of the assets and rights and with their work in the interest of the family. Therefore, the father and mother may appoint and earmark the revenues of the assets and rights that they administer to the sustenance of family expenses in the relevant fair and reasonable manner.
2. Should the child own assets and rights that are not being administered by the father and mother, the administrator of such assets and rights shall deliver to the above-cited parents, or to the parent who has the paternal power over the child, in the relevant portion, the revenues and earnings of such assets and rights. The fruits and revenues from the assets and rights that have been especially appointed for the child's education are excepted from the above, and shall only be delivered in the exceeding portion thereof, or else if the father and mother lack any other resources, in the portion that is determined by the judicial authority in accordance with the equity of such assets and rights.

Article 147. Exercise of the administration

1. Upon exercising the administration of the assets and rights of their children, the father and mother are exempted from making an inventory and are responsible for any damage produced in the administrated interests due to deceit or to their own negligence.
2. The father and mother are not entitled to receive any remuneration in exchange for the administration. However, they are entitled to be compensated, with charge to the administered patrimony, and if the compensation may not be obtained in any other way, for the expensed incurred and the damages that such administration might have caused to such parents, if such damages are not imputable to the parents' deceit or negligence.

Article 148. Cessation of the administration

1. At the end of the administration, the father and mother shall have to reimburse the administered patrimony. The restitution expenses shall be met by the father and mother.
2. It is the duty of the father and mother to render accounts and report on their administration if the son or daughter or, if this applies, their legal representative request them to do so. In such case, the rendering of accounts shall be made within the period of six months from the date at which the request is made. This period may be extended by the judicial authority, on grounds of a fair and reasonable cause, for an additional period of three months at the most.
3. The action to demand the compliance with the duty to which paragraph 2 refers expires at the end of two years.

Article 149. Assets excepted from the administration

In addition to the case of judicial administration determined by article 134.1, the following assets and rights are excepted from the administration to be carried out by the father and mother:

- a) The assets and rights acquired by the child through donation, inheritance or legacy, whenever the donor or principal has expressly submitted the relevant instructions, in which case the will expressed on the administration of such assets and the earmarking of their revenues shall need to be strictly abided by.
- b) The assets and rights acquired through succession, if the father, the mother or both have been disowned or disinherited on grounds of a fair and reasonable cause, or if they have been excluded from the succession on grounds of indignity.
- c) The assets and rights acquired by the children aged over sixteen by means of their profit-generating activity, in respect of whom it shall be necessary to act as if such children were emancipated.

Article 150. Special administration

1. The assets and rights specified in letters a) and b) of article 149 must be the object of a special administration at the charge of the person who has been appointed by the donor or principal. Should no appointment be made the assets or rights shall be administered by the father or the mother that has not been excluded, if this is the case, or else, in the last instance, by a person appointed by the judicial authority for this purpose.
2. The assets and rights specified in letter c) of article 149 shall be administered by the son or daughter, who will need the assistance of the father and the mother, in the assumptions determined by article 159.

Article 151. Judicial authorisation

1. The father and the mother or, if this applies, the special administrator, in respect of the assets or rights of the children, shall need a judicial authorisation in the following cases:
 - a) To alienate real estate and landed property, to encumber these or to subrogate in a pre-existing encumbrance or lien if they do not imply the simultaneous acquisition of the encumbered real estate for a price in the fixation of which the existence of the encumbrance is taken into account, to alienate or encumber ships or planes that may be registered, trade or industrial establishments or essential elements thereof; intellectual and industrial property rights (copyright), patents or marks, personal property of an extraordinary value and art or precious objects and pieces, and to alienate or renounce to death duties on the mentioned assets, with the exception of redemption of mortgages or leaseholds.
 - b) To alienate or encumber securities, shares or social shares. However, it is not necessary to have an authorisation to alienate, at least for the value of the quotation price, of the shares listed on the stock exchange or to alienate the right of priority taking up of shares.
 - c) To renounce credits and loans.
 - d) To renounce donations, inheritances or legacies; to accept modal or onerous legacies and donations and to accept inheritances without profit of inventory.
 - e) To donate money and take it with interest or other accessory duties.
 - f) To grant leases on real estate and landed property for a period of over fifteen years.
 - g) To guarantee or furnish security or to constitute guarantee rights for alien duties.
 - h) To constitute or to acquire the status of a shareholder in companies that do not limit the liability of the persons that are a part of such companies.

- i) To compromise in questions relating to the assets or the rights indicated in this paragraph or submit such questions to arbitration.
2. The judicial authorisation is granted in the interest of the children, in case of usefulness or need that are duly justified, and with the previous hearing of the attorney general.
3. The judicial authorisation may be granted for a plurality of acts of the same nature, or which refer to the same business or company, even if these are future, whenever it is convenient for the interests of the children. The characteristics of such acts shall be taken into consideration, which shall need to be specified together with the fundamental circumstances. In no case can this authorisation be generic.

Article 152. Refusal of the renunciation to free acquisitions

The refusal of the judicial authorisation for the renunciations of letter d) of article 151 implies the acceptance of the transmission. If it is the case of an inheritance, it shall always be understood that such inheritance is accepted in profit of inventory.

Article 153. Alternative authorisations

1. No judicial authorisation shall be necessary in respect of the assets and rights acquired through donation or succession, if the donor or the principal have expressly excluded the cited authorisation.
2. The judicial authorisation may be substituted by the consent of the act, expressed in a public instrument:
 - a) Of the son or daughter, provided they are, at least, sixteen years old.
 - b) Of the two closest relatives to the son or daughter, in the form established in article 138.2.

Article 154. Lack of authorisation

The acts specified in article 151.1 may be annulled if they had been carried out without the judicial authorisation or without the requirements provided in article 153. The action to impugn such acts shall expire four years from the date at which the children come of age.

Article 155. Legal representation

1. The father and mother who are the bearers of the paternal power on minor non-emancipated children are the legal representatives of such children.
2. The following shall be excepted from the legal representation attributed to the father and the mother:
 - a) The acts relating to personality rights, unless the laws that govern such acts provide otherwise.
 - b) The acts that, in compliance with the laws and depending on the age and natural capacity, the child may perform by himself or herself.

- c) The acts in which there is a conflict of interests between the father or the mother or the parent who exercises the paternal power, and the children.
- d) The acts in respect of the assets excluded from the administration of the father or the mother.

Article 156. Personal benefits

For any act implying any personal rendering from the children, their consent shall be required if they are twelve years of age or over, or if, although under twelve, they are sufficiently knowledgeable.

Article 157. Conflict of interests

In the event there should be a conflict of interests in any issue between the children and the father or the mother, when the paternal power is exercised by both, the child shall be represented by either the father or the mother with whom there is no conflict of interests. Whenever the conflict affects jointly the father and the mother, or with the parent that is the holder of the paternal power, a judicial defender shall be appointed, as established under title VII.

Chapter IV. Termination of paternal power and the effects of emancipation

Article 158. Causes for the termination

Without prejudice of what is set forth under article 136, the paternal power of the father and mother shall terminate for the following causes:

- a) The death or death statement of the father and mother or of the son or daughter.
- b) The adoption of the son or daughter, unless they are adopted by the spouse or the person of different gender with whom the adopter cohabits matrimonially in a stable manner.
- c) The emancipation or coming of age of the children.
- d) If the father, the mother or the children are pronounced to be absent or missing.

Article 159. Performance of the emancipated son or daughter

1. The emancipated children are entitled to act, in respect of themselves, their assets and rights, as if they were major and of age. Yet, they need that the father and the mother or, if both are missing or if they are disabled to exercise the assistance that the law determines, the guardian or, if they are married to a major person, the spouse, complements their capacity in the following acts:
 - a) The acts specified in article 150.2
 - b) The acceptance of administrator positions in all kinds of Companies.

- c) The acts that exceed the regular administration in respect of assets acquired by the son or daughter of over sixteen years of age through their profit-yielding activity.
3. The complementation of capacity may not be awarded in a general manner. However, it may be granted for a plurality of acts of the same nature, or those referring to the same business, activity of company, even when these are future, whenever this is convenient, bearing in mind the circumstances of such acts. Yet, it shall be necessary to specify the fundamental circumstances of such acts.
4. In cases of disagreement or of impossibility, the complementation of capacity shall be substituted by the judicial authority or by agreement of the persons mentioned in article 138.2, with the requirements demanded by such article.

Chapter V. Extension and rehabilitation of paternal power

Article 160. Extension

The judicial declaration of incapacity of minor non-emancipated children implies the extension of the paternal power of the father and the mother when such children reach their majority, in the terms that result from that statement.

Article 161. Rehabilitation

The judicial dictum of incapacity of major or emancipated children, if there is no appointment of tutor made by them, in compliance with the provisions contained in article 172, or else if the constitution of the tutorship is not made in favour of the spouse or of the person of a different gender with whom the said children cohabit matrimonially as a stable couple, or of the descendants, and if the father or the mother who were the holders of the paternal power are still alive, implies the rehabilitation of this paternal power which must be exercised, in accordance with the exceptions that might be established by the judicial dictum, as if the children in question were minors.

Article 162. Constitution or the tutorship and guardianship

Notwithstanding what is provided by articles 160 and 161, the judicial authority, upon taking into account the personal and social situation of the father and the mother, the degree of deficiency or disability of the incompetent son or daughter and the personal relations thereof, may not grant the extension or rehabilitation of the paternal power and instruct the constitution of the tutorship or the guardianship.

Article 163. Termination or extinguishment

1. The extended or rehabilitated paternal power of the father and the mother terminates due to the following:
 - a) The causes established by letters a, b and c of article 158.
 - b) The judicial dictum ordering the cessation of disability of the son or daughter.

- c) The subsequent constitution of the tutorship in favour of the spouse or the person of a different gender with whom the child cohabits matrimonially in a stable manner or the descendants thereof.
 - d) The marriage of the incompetent person with a capacitated major person.
 - e) The application made by those who exercise the extended paternal power, judicially approved, if the personal and social situation of those and the degree of incapacity of the child prevent the accurate and proper fulfilment of their duty.
2. If, upon the termination of the extended or rehabilitated paternal power, the incapacity subsists, it shall be necessary to constitute a tutorship or guardianship.

Chapter VI. Abandonment

Article 164. Abandonment and assumption of tutorship duties

1. The abandonment resolution of the minor person who is in a situation de facto and who is lacking the essential elements for the integral development and evolution of their personality involves the automatic assumption by the public entity of the tutorship duties on the minor person, as long as such minor person is not reintegrated to whom, in principle, exercises the paternal power or tutorship on the minor, or a tutorship is constituted in accordance by means of the ordinary rules, or the minor is not adopted, or becomes emancipated or comes of age.
2. The assumption of the tutorship functions or duties implies the suspension of the paternal power or of ordinary tutorship during the period of time for which the measure is applied.

Article 165. Guardianship

If the abandonment is due to a provisional or temporary force majeure or Act of God, the public entity shall exercise the guardianship while the situation persists.

Article 166. Protection measures

The public entity shall adopt the measures and steps that are necessary to achieve an effective protection of abandoned minor persons, in compliance with the principles and the procedure established by the law in matters of protection of minor persons, in application of the rules of title VII, in whatever does not oppose to the rules of the public entity.