



CC Art. 16

Declaration of Absence

TITLE 01 — PERSONS · CHAPTER 05 — ABSENCE AND PRESUMPTION OF DEATH

- 1** Where a person has disappeared from their domicile or last known residence and no reliable information of their existence has been received for a continuous period of one year, any interested party or a public officer designated by law may apply to a competent authority for a declaration of absence.
 - 2** Before making a declaration of absence, the competent authority shall:
 - a. Cause inquiries to be made through all reasonably available channels, including communications to the person's last known domicile and to any known contacts or associates.
 - b. Where practicable, cause public notice to be given inviting the missing person or any person with knowledge of them to come forward, allowing a reasonable period, not less than three months, for response.
 - c. Consider any evidence submitted by the applicant or by other interested parties.
 - 3** A declaration of absence does not extinguish the legal personality of the absentee; the absentee remains the holder of all rights and subject to all obligations.
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- 4 The effects of a declaration of absence on the personal relationships of the absentee are as follows:
- The marriage of the absentee subsists. The spouse of the absentee may apply to a competent authority for such provisional measures as are necessary for the protection of the family's interests, including authority to act alone in matters ordinarily requiring the consent of both spouses.
 - Parental authority exercised by the absentee is suspended. The other parent exercises parental authority alone, or, in the absence of another parent, a guardian shall be appointed for the children.
 - Contractual obligations of the absentee remain in force. The other parties to such obligations may apply to the competent authority for such relief as is equitable, including suspension of performance where the absentee's personal participation is essential.
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- 5 A declaration of absence shall be recorded in the civil status register.
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- 6 A declaration of absence may be revoked at any time if the absentee reappears or if reliable information of their existence is received. Revocation restores the status quo ante, subject to the validity of acts lawfully performed during the absence.
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DOCUMENT INFORMATION	
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