

J. Y. Interpretation No.58 (February 10, 1956) *

ISSUE: Where the substantive elements of termination of an adoption are present but the formal elements thereof are nonetheless missing, can a petition be filed with the court for a ruling in favor of termination of the adoption at issue?

RELEVANT LAWS:

Article 983, 1080, and 1081 of the Civil Code (民法第九百八十三條、第一千零八十條及第一千零八十一條) .

KEYWORDS:

adopted child (養子女), adoptive parents (養父母), mutual agreement (雙方合議), in writing (書面), adopted daughter (養女), other serious reasons (其他重大事由) .**

HOLDING: Article 1080 of the Civil Code states that the relation between an adopted child and his/her adoptive parents might be terminated by mutual agreement of the parties in writing. If an adopted daughter marries the biological son of adoptive parents with their approval, the marriage arrangement changes

解釋文：查民法第一千零八十條終止收養關係須雙方同意，並應以書面為之者，原係以昭鄭重。如養女既經養親主持與其婚生子正式結婚，則收養關係人之雙方同意變更身分已具同條第一項終止收養關係之實質要件。縱其養親未踐行同條第二項之形式要件，旋即死亡，以致踐行該項程式陷於不能，則

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the adoption status, which substantially matches the requirement of mutual agreement to terminate the adoptive relationship between an adopted daughter and her adoptive parents. Appropriately, where enforcement of the termination of the adoptive agreement in writing is impossible because the adoptive parents both died before the completion of the change in the adoptive status procedure, the adopted daughter, therefore, is able to apply to the court for approval to terminate the adoptive agreement based on Article 1081, Subparagraph 6, of the Civil Code of which other serious reasons exist to terminate an adoptive relationship.

該養女之一方自得依同法第一千零八十一條第六款聲請法院為終止收養關係之裁定，以資救濟。