

**COMPARATIVE LEGAL ANALYSIS OF THE NATIONAL
LEGISLATION OF THE POST-SOVIET COUNTRIES
AND INTERNATIONAL LEGAL ACTS IN THE FIELD
OF FOREIGN ADOPTION**

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Foreign adoption in the Republic of Belarus and other post-Soviet countries is regulated not only by acts of national legislation, but also by international legal acts. The most important document in this area is the Convention on the Protection of Children and Cooperation in the Field of Intercountry Adoption of 29.05.1993. According to this Convention, "the participating States recognize that a child for the full and harmonious development of personality must grow up in a family environment, in an atmosphere of happiness, love and understanding; interstate adoption can give the benefits of a permanent family to a child who cannot find a suitable family in his or her home country." The main purpose of the Convention is to create guarantees that interstate adoption is carried out only in the interests of the child and with respect for his or her fundamental rights, as recognized by international law [1]. Based on the above, the purpose of this work is to conduct a comparative legal analysis of the NPA of some post-Soviet countries with international treaties on this issue. The relevance of this topic is due to the presence of factors preventing international adoption, the absence of regulatory legal acts in the legislation of the post-Soviet countries regulating the necessary conditions for foreign adoption.

Material and methods. The research is based on the Convention on the Protection of Children and Cooperation in Respect of International Adoption, the Convention on the Rights of the Child, as well as acts of national legislation of the post-Soviet countries. Formal legal and comparative legal methods were used in the work.

Findings and their discussion. The national legislation of the Republic of Kazakhstan in the field of interstate adoption fully complies with the Convention on the Protection of Children and Cooperation in Respect of International Adoption. According to paragraph 2 of Article 27 of the Constitution, "taking care of children and their upbringing is a natural right and duty of parents" [2]. Also, according to paragraph 5 of Article 84 of the Code "On Marriage (Matrimony) and Family", the adoption of children by foreigners is allowed only to citizens of a country that has international obligations equivalent to the Republic of Kazakhstan in the field of protecting the rights and interests of children. In p. 4 of the same article stipulates: "children who are citizens of the Republic of Kazakhstan may be transferred for adoption to foreigners only if the child cannot be adopted by relatives or citizens of the Republic of Kazakhstan residing in

the territory of the Republic and beyond its borders" [3]. This provision complies with the Convention on the Rights of the Child and implements the child's right to preserve his identity, including citizenship, name and family ties, as provided by law, without allowing illegal interference (Article 8) [4].

Similar norms are also enshrined in the national legislation of the Russian Federation. Thus, Article 38 of the Constitution stipulates: "motherhood and childhood, the family are protected by the state, and the care of children, their upbringing is an equal right and duty of parents" [5]. Also, paragraph 4 of Article 124 of the Russian Family Code stipulates: the adoption of children by foreign citizens or stateless persons is allowed only in cases where it is not possible to transfer these children to the families of citizens of the Russian Federation" [6]. The Russian Federation stands for the priority of traditional family values, as well as for the upbringing of children by their own parents. So, Senator Elena Mizulina, together with colleagues on the Federation Council, submitted to the State Duma a bill proposing to change the rules of the guardianship authorities and the removal of children from the family. The bill has been prepared taking into account the amendments to the Constitution. The authors of the document propose to proceed from two principles – the presumption of good faith of parents and the right of the child to live in his own family. So, it will be possible to withdraw a child from parents only on the basis of a court decision on the deprivation or restriction of parental rights, which has entered into force. The document also establishes the deprivation and restriction of parental rights as a measure of family legal responsibility. It is assumed that they will not apply to innocent parents, for example in case of illness [7]. This norm corresponds to the one fixed in art. 9 of the Convention on the Rights of the Child: "States Parties shall ensure that a child is not separated from his parents against their will, except in cases where the competent authorities, according to a court decision, determine in accordance with applicable law and procedures that such separation is necessary in the best interests of the child" [4].

The Constitution of the Republic of Azerbaijan also stipulates that the family, as the basic unit of society, is under the special care of the State (Article 17). Taking care of children and their upbringing is the duty of parents. The State exercises control over the fulfillment of this duty. It is noted that children without parents or guardians, deprived of parental care, are in the care of the state [8]. Also in art.116 of the Family Code of Azerbaijan states that children deprived of parental guardianship can be transferred to family upbringing (for adoption or guardianship), and in the absence of such an opportunity - to social protection institutions, educational, medical and other similar institutions provided for children deprived of parental guardianship, or orphans. It is important to note that paragraph 3 of the same article stipulates: "when placing a child, his ethnic origin, belonging to a certain religion and culture, native language, the most favorable conditions for his education and upbringing must be taken into account." Paragraph 5 of Article 117 states: "the adoption of children by foreigners or stateless persons is permitted in the absence of the possibility of trans-

ferring these children to the families of citizens of the Republic of Azerbaijan permanently residing in the territory of Azerbaijan, or if their relatives, regardless of citizenship or place of residence, refused to adopt them" [9].

Conclusion. Thus, during the study of this topic, it was determined that the fundamental principles of international adoption, enshrined at the national level in the countries of the post-Soviet space, are similar to each other. They also comply with the norms of international law enshrined in the Convention on the Rights of the Child and the Convention on the Protection of Children and Cooperation in Respect of International Adoption.

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LAW ENFORCEMENT SYSTEM: CONCEPT AND CONTENT

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The functioning of the state is connected with the presence of certain agencies that ensure the vital activity of the population, the protection of public order, the protection of the rights and freedoms of citizens provided for by the Constitution. Law enforcement agencies are one of the main institutions of state power that help in achieving such goals. They are an attribute of any state.