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СУТНІСТЬ ТА СОЦІАЛЬНЕ ЗНАЧЕННЯ ІНСТИТУТУ УСИНОВЛЕННЯ ДИТИНИ В РЕСПУБЛІЦІ УЗБЕКИСТАН

Анотація. Відповідно до Цивільного процесуального кодексу Республіки Узбекистан усиновлення неповнолітніх дітей здійснюється лише судовим органом, який відповідає нормам Конституції Республіки Узбекистан, міжнародного права, а також міжнародних договорів Республіки Узбекистан. Узбекистан та світова практика усиновлення дітей, що відповідає інтересам дитини. Водночас зростає потреба у докорінному вдосконаленні інституційно-правової бази, що гарантує захист законних і законних інтересів дітей та захист їх прав. Метою статті є аналіз правових норм з питань усиновлення дітей. Наукове дослідження базується на сукупності таких приватних методів, як формально-логічний, системно-структурний, порівняльно-правовий, історичний тощо, що дозволило виявити та обґрунтувати поняття, сутність та соціальне значення інституту усиновлення дитини. в Республіці Узбекистан. У результаті дослідження встановлено, що в науці сімейного права усиновлення визначається у таких формах: як правовий акт; як виховання дітей в опікунах, що забезпечують умови проживання, прірівняні до умов проживання біологічних дітей; як пристрій для неповнолітніх, які залишилися без піклування батьків. У статті розглянуто поняття, сутність та соціальне значення усиновлення, особисті та майнові права усиновлених, інтереси дитини у здійсненні, процесуальні питання усиновлення

Ключові слова: неповнолітня дитина, батьки, сімейне право, суперечка, виховання

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ESSENCE AND SOCIAL SIGNIFICANCE OF THE INSTITUTE FOR ADOPTION OF A CHILD IN THE REPUBLIC OF UZBEKISTAN

Abstract. *According to the Civil Procedure Code of the Republic of Uzbekistan, the adoption of minor children is carried out only by a judicial body that meets the norms of the Constitution of the Republic of Uzbekistan, international law, as well as international agreements of the Republic of Uzbekistan and world practice of adopting children, which is in the best interests of the child. At the same time, there is a growing need for a radical improvement of the institutional and legal framework that guarantees the protection of the legal and legitimate interests of children and the protection of their rights. The purpose of the article is to analyze the legal norms of issues on the adoption of children. Scientific research is based on a set of such private methods as formal-logical, system-structural, comparative-legal, historical, etc., which made it possible to identify and substantiate the concept, essence and social significance of the institution of child adoption in the Republic of Uzbekistan. As a result of the research, it was established that in the science of family law adoption is defined in the following forms: as a legal act; as the upbringing of children in an adoptive family, providing living conditions equivalent to the living conditions of biological children; as a device for minors left without parental care. The article discusses the concepts, essence and social significance of adoption, personal and property rights of adopted children, interests of the child in implementation, procedural issues of adoption*

Keywords: *minor child, parents, family law, dispute, upbringing*

INTRODUCTION

According to Art. 64 of the Constitution of the Republic of Uzbekistan [1], the country and the public guarantee to comprehensively provide maintenance, education for orphaned children, support charity for these children. As the President of the Republic of Uzbekistan Sh.M. Mirziyoyev [2] noted that one should always remember the wise sayings of great mentor Abdurauf Fitrat: “Will the people move towards a specific goal, prosper, will it be happy, respected and strong, or will it be weak, live in need, unhappiness, oblivion and submission? Others – it all depends on what kind of upbringing the children receive from their parents, in the family”. The family is the basic unit of society and has the right to be protected by society and the state [3]. Children are the mainstay of the family, the joy of parents, the successor of a generation, its upbringing is above all. Well-bred children in the families of country are a force that directly determines the future of the state. Thus, the full-fledged and harmonious upbringing of adult children has become one of the priorities of the state since the first days of independence [1]. Today's life appeal is this: “Our children should be stronger, smarter, wiser and, of course, happier than us!” [2].

For various reasons in Uzbekistan in recent years, many children have been left without parental care, but this phenomenon is not ignored by the state, and all minors, despite the circumstances, are obligatorily assigned to orphanages or adopted. The growth rate of cases related to the refusal to adopt a child (hereinafter referred to as “adoption”) proves that there are gaps in the pre-trial stage of adoption cases by the guardianship and guardianship authorities and obliges the legislator to develop effective legal measures in this area and the importance of adoption as a priority for children deprived of parental care. Adoption is the most preferable form of placement for children who have lost parental care, when a child is fully equal by law to his own children, acquires his own family in the person of adoptive parents, and a feeling of parental love arises from them.

In accordance with the Law of the Republic of Uzbekistan No. ZRU-352 “On amendments and additions to certain legislative acts of the Republic of Uzbekistan” [4] a judicial procedure was introduced for the consideration of applications for adoption by courts in civil cases. Previously, adoption was carried out on the basis of decisions of the khokims of cities (districts). According to the current Civil Procedure Code of the Republic of Uzbekistan [5], approved by the Law of the Republic of Uzbekistan No. ZRU-460 “On approval of the Civil Procedure Code of the Republic of Uzbekistan” [6] and which entered into force on April 1, 2018, the implementation of the adoption of minor children in court is established by Chapter 29 of the Civil Procedure Code of the Republic of Uzbekistan [5]. Currently, there is a procedure for the adoption of minors only by a judicial body that meets the norms of the Constitution of the Republic of Uzbekistan [2], international law, as well as international agreements of the Republic of Uzbekistan and world practice of adopting children, which is in the best interests of the child. This is a guarantee of respect for his rights and legitimate interests. The purpose of the article is to analyze the legal norms of issues on the adoption of children.

1. THEORETICAL OVERVIEW

There is a growing need for a radical improvement of the institutional and legal framework that guarantees the protection of the legal and legitimate interests of children and the protection of rights. In an effort to fully comply with the conditions of the Convention on the Rights of the Child [7], guaranteeing the legal interests of minors, as required by the Constitution of the Republic of Uzbekistan [3] and the laws of the Republic of Uzbekistan, raising a generation that is physiologically, mentally, morally and intellectually mature, in addition, in accordance with the problems predetermined in the conduct of influences. The Strategy of Action for five priority areas of development of the Republic of Uzbekistan in 2017-2021 [8] established that minor children left in the absence of parental care receive all types of social security services, regardless of their location [9].

In the period 2016-2019, the courts of the Republic of Uzbekistan considered more than 200 000 adoption cases, and 250 000 children were transferred for adoption based on a court decision [10]. This indicates that the legislation on adoption in the Republic of Uzbekistan is of particular social importance. In accordance with the Convention on the Rights of the Child [7], each country is obliged to guarantee children's rights to life and upbringing in a “healthy” family, especially at home in their homeland. According to the General Prosecutor's Office of the Republic of Uzbekistan [11], numerous violations of the law are committed when adopting children, and priority is not given to placing children in Uzbek families. The guardianship and trusteeship authorities, some according to the law, must organize the placement of minor children in Uzbek families, they are unattractive, they have many formalities, without justified rejections for citizens who want to adopt (adopt) a minor, and they were not informed about children who can be transferred to foster families.

In these conditions, the role of the court increases significantly when making a decision. It is the court that can block the path of illegal admission (adoption) in order to establish the ratio of adoption not only to legislation, but also to the wishes of a given minor. The judicial authority can reveal why the child, especially the small and literally healthy one, did not find a family in Uzbekistan, what specific steps were taken to find this family at the local, regional and republican degree. Careful consideration by the judicial authority of general factors, along with the medical adequacy of adoptive parents, in many cases predestines the future of a minor child. In addition, cases of adoption, by virtue of their specificity, are especially complex, require careful preparation and strict observance of the law at any stage of the proceedings in this category of cases, so that adoption issues are resolved in the public interest, as well as the orphans themselves. The questions formulated are an integral part of a huge and urgent problem that has state, public, and nationwide significance and therefore requires, in addition to a legal solution, also social and organized constant attention.

2. MATERIALS AND METHODS

In solving the set tasks, the author relied on various general scientific principles and methods. Among them: general scientific principles (systemic-structural, comparative-legal, formal-logical, analysis and synthesis, induction and deduction); special legal methods (method of legal modeling, historical and legal, legal and dogmatic methods). Scientific research is based on a set of such private methods as formal-logical, systemic-structural, comparative-legal, historical, etc., which made it possible to identify and substantiate the concept, essence and social significance of the institution of child adoption in the Republic of Uzbekistan. According to statistical data, in the Republic of Uzbekistan, adoption cases were considered in 2014 – 2576 cases, of which 2533 were satisfied, 43 were refused, in 2015 – 3663 cases, of which 3589 were satisfied, 74 were refused, in 2016 – 3846 cases, of which 3763 were satisfied, 83 were refused, in 2017 – 4130 cases, of which 4049 were satisfied, 81 were refused, in 2018 – 4195 cases, of which 4112 were satisfied, denied – 833 [12].

In the period 2017-2019, the majority of children in Uzbekistan who were classified among those without parental care are in the Samarkand region – 1172, in the Tashkent region – 979 children. The smallest number of minors who were left without parental care in Jizzakh region is 187 children and in Navoi region – 247 children.

Having analyzed the circumstances due to which minors are deprived of parental care, it should be noted that the most common reason for depriving minors of parental care is that “parents who are temporarily unable or physically unable to raise a child” – 31.9% and “other reasons” – 26.4%, “abandonment or abandonment of a child by parents” accounts for 15.8%, “orphans without parental care” – 15.5% and “deprivation of parental rights” – 10.4%. A more unpleasant situation is noted in the Bukhara region as “other reasons” – 89.3% and “parents who are temporarily unable or physically unable to raise a child” in the Kashkadarya region, as “other reasons” include not a small list of parents who leave for other countries and leave their children without proper care and attention from their grandparents, relatives and friends is – 82.2% [13]. Uzbek jurists I. Zokirov and M. Baratov [14], M. Baratov [15], R. Matkurbanov [16] studied the adoption of a child on a general basis from a civil legal point of view. In scientific research of civilists F. Otakhuzhaev [17], G.S. Inomzhanova [18], A.Yu. Azizova [19], Sh.R. Yuldasheva and F.M. Otaxujaev [20], N.A. Ashurova [21] highlights some aspects of the adoption of a child.

Zh.A. Dadaboeva [22] comprehensively studied the problematic issues of adoption from the point of view of family law and established the concept, the historical stages of adoption, the requirements of the adoptive parent, the procedure for registering the adoption, legal consequences, the rights and obligations of the adoptive parent, forms of responsibility, legal consequences of invalidating the adoption of a child. Z.N. Esanova [23] studied the procedural features of consideration of claims related to the upbringing of children and substantiated proposals for the consideration of cases on the adoption of a child in court. E. Trabing [24] in his dissertation explored the options for adopting a child between countries, as well as the prospects for political culture and noted that in the United States, adoption is carried out in the following forms. Firstly, this is the adoption of children from the state system of foster families, secondly, through private adoption agencies or independently of each other, and thirdly, the category of adoption of infants and children from other countries. Determined that states that had an individualistic political culture have different adoption outcomes and laws than those states that reported moralistic and traditionalist.

E. Turkheimer [25] explored adoption issues in Colorado and Texas and developed findings from classic adoption studies and genetically weighed findings on biological parenting relationships, the opposition between individual and group methodologies to compromise according to important genetic and environmental impacts. A.L. Fry, in her work, defined that adoption should be viewed as a lifelong event, and not just a legal proceeding, the implementation of the adoptees in relation to their adoption, the scope of socialization and evaluation, as well as the general concept of adopted [26].

3. RESULTS AND DISCUSSION

Over the years of independence, the Republic of Uzbekistan joined seventy basic documents on human rights and became part of six major international treaties adopted by the United Nations (UN), including the Convention on the Rights of the Child [7], which contributed to the formation of Uzbek states' policy in the field of protecting the legal interests of minors. The provisions of the Convention on the Rights of the Child [7] and other international documents in the field of protecting the legal interests of minors have been embodied in the norms of the Constitution of the Republic of Uzbekistan [3] and national legislation, Constitution of the Republic of Kazakhstan [27] and national legislation. More than 100 laws regulate the rights and freedoms of the child and ensure reliable protection of the rights of the child. In particular, the Civil Procedure Code of the Republic of Uzbekistan [5], in the Family Code of the Republic of Uzbekistan [28], in the Law of the Republic of Uzbekistan No. ZRU-139 “On guarantees of the rights of the child” [29], Law of the Republic of Uzbekistan No. ZRU-444 “On protection of children from information harmful to their health” [30], Law of the Republic of Uzbekistan No. ZRU-364 “On guardianship and trusteeship” [31], Law of the Republic of Uzbekistan No. ZRU-406 “On state youth policy” [32], Law of the Republic of Uzbekistan No. 265-I “On protecting the health of citizens” [33] and others.

Thanks to the large-scale implementation of public, state social programs, including “Mother and child” [34], “Year of health” [35], “Year of social protection” [36], “Year of youth” [37], “Year of a harmoniously developed generation” [38], “Year of the family” [39], “Year of a healthy child” [40], “Year of a healthy mother and child” [41], “Year of dialogue with the people and human interests” [42] all the necessary circumstances are created in the state in order to protect social, financial and human rights, and first of all for minor children, young people and their broad all-round development. In 800 years ago, in Movaraunnahr, great attention was paid to the rights and interests of the child. In particular, the work of Majuddin Ustrashani,

written on July 28, 625/1228, “Jami' ahkom as-sigar” is the first major source on the rights of the child. The collection of hadiths on the rights of the child is the work “Tuhfat al-mavdud bi ahkom al-mavdud” written by Shamsuddin Muhammad ibn Abi Bakr ibn l-Qayim al-Javzia (691-751/1292-1350). These works discuss issues related to the fair solution of issues related to the rights of the child, protection of children's rights and immunity, fundamental rights in public life [43].

According to the President of the Republic of Uzbekistan Sh.M. Mirziyoyev [2], “Our children should be better, smarter, wiser and, of course, happier than us!” – these words of the First President of Uzbekistan are forever entrenched in the minds of all of us. He oversaw the work to improve and implement the latest educational structure, which radically changed the worldview of youth, which is becoming a key force in the country today and tomorrow. Adoption is the most appropriate form of upbringing in the interests of the child, left without parental care, therefore the Family Code of the Republic of Uzbekistan [28] and the Code of the Republic of Kazakhstan No. 518-IV “On marriage (matrimony) and family” [44] designates it as a priority form of the placement of children. According to B.A. Dzhandarbek [45], legal concepts are being created in the upbringing of minors in a family atmosphere, which include the transfer of minors to foster care, to educational institutions, and the exercise of custody of children. Of these, adoption is of primary importance and place, and in some cases it solves the problem of the non-existence of family upbringing. Adoption is fully consistent with the humanistic orientation of customary law, but modern reality requires careful legal regulation of adoption and ensuring the rights of children.

On the issue of the concept of adoption, there is no uniformity in legislative approaches to solving the problem. For example, the German Civil Code [46] does not define the concept of “adoption”, it only says that adoption is allowed if it takes place in the interests of the minor, and it is expected that such a relationship will be established among the adoptive parent and the adopted child, who are among the parent and child. The Adoption (Scotland) Act [47] specifies adoption under adoption – the proper order of parental rights and responsibilities that establish the relationship between the adoptive parent and the child who create a family. As E.A. Tatarintseva [48] correctly points out adoption, as a complex social phenomenon, reflects generally recognized constitutional (general legal) principles, as well as sectoral principles [49] – the principles of family law of each of the states, with their inherent national characteristics. “Adoption” is used in legal science in several terms. Numerous researchers, in particular F. Otakhuzhaev [17], Sh.R. Yuldasheva and F.M. Otaxujaev [20]. It is fact that adoption is a form of arrangement for children who are left without parental care, as a legal act and a fact of legal significance. In this context, adoption is considered as a legal act with equal legal consequences in terms of the rights and obligations of relatives of origin. For many childless families or single citizens, adoption is the only opportunity to realize unspent parental feelings, to feel the happiness of motherhood and fatherhood [50]. This explains the peculiarity of adoption: unlike other forms of upbringing, the relationship of adoption does not end with the achievement adopted by the age of eighteen; it is like a lifelong legal relationship between the adopted child and the adoptive parent and his relatives [51].

As other authors argue, adoption is established among the adoptive parent and his relatives as well as the adopted child and his children, legal relations, such as personal and property, in a similar relationship among parents and blood children [45]. They also consider adoption as a form of placement for minors who are left without parental care, and as a fact of legal significance. According to Z.N. Esanova [52], with the adoption, the adopted child is equal in personal and property rights with the biological children of the adoptive parent. Children who are adopted and their biological parents to each other lose all personal and property rights and are also exempt from mutual obligations. In particular, their parents lose their right to inheritance, alimony and other rights. Even between adoptive parents and adopted children, de facto relationships of kinship arise. For example, in cases where inheritance under the law, the adopted child and his children and the adoptive parent and his relatives become equal to blood relatives [53]. In accordance with Art. 147 of the Family Code of the Republic of Uzbekistan [28], the payment of alimony for a child, which is collected through a judicial authority, stops with the adoption of a minor, alimony was paid for maintenance. At the same time, despite the fact that the relationship between them is not a biological, but a legal factor, in accordance with Art. 16 of the Family Code of the Republic of Uzbekistan [28], marriage between an adoptive parent and adopted children is not allowed [52].

Adoption is also understood as a social relationship, the essence of which is to adopt an outsider child into the family in order to support him and raise him as his own son or daughter [54]. According to B.A. Dzhandarbek [45], adoption means as a legal mechanism, which is a set of basic legal norms, the task of which is to ensure the formation of relations between the adoptive parent and the adopted child, which are almost identical to the relationship between parent and child, and with the actual (material) and legal (formal) parties ... These standards include those that establish the reasons and objectives of adoption, whose children

can be adopted, adoptive parents and the rights arising from adoption. The Family Code of the Republic of Uzbekistan [28], the Civil Procedure Code of the Republic of Uzbekistan [5], the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan No. 21 “On the practice of the application of legislation in adoption cases by the courts” [55] does not provide a concept and explanation of what should be understood by “in the interests of the child”. Joining with the opinions of F. Otakhuzhaev [17], Sh.R. Yuldasheva and F.M. Otaxujaev [20], B.A. Dzhandarbek [45] and Z.N. Esanova [23; 52] “the interests of the child” should be understood as the adoption of minor children for the purpose of accounting the possibility of ensuring full physical, mental, spiritual and moral development, as well as a legal agreement that adoption is allowed for children, the date of birth is registered in the manner specified in the Family Code of the Republic of Uzbekistan.

Taking into account the above, authors consider it expedient to amend Art. 151 of part one of the Family Code of the Republic of Uzbekistan [28] in the following edition: “Adoption is allowed in relation to minor children whose birth is registered in the manner prescribed by this Code, and only in the interests, taking into account the possibilities of ensuring full physical, mental, spiritual and moral development”. Despite all the variety of definitions of adoption, D.M. Korakhodzheva, T.M. Kochergina, U.Sh. Shorakhmetova [56] admit that the concept of adoption should be considered as a legal act through which the adoptive parent and the child establish the same relationship that exists among parents and children of biological origin. At the same time, adopted children lose their legal relationship with their parents and gain them with strangers – adoptive parents, without differences in rights and obligations towards them from their own child [57]. Z.Z. Alieva [58] identified the following significant features of adoption: 1) adoption is a legal relationship; 2) the voluntary will of the adoptive parent and the desire of the adoptee (over 10 years old); 3) the relationship between the adoptive parent and the child is associated with the relationship between biological children and parents; 4) the emergence of legal relations under a judicial act. In accordance with Art. 164 of the Family Code of the Republic of Uzbekistan [28], all the necessary changes in the registration book of the date of birth of the adopted person must be made by the registry office. Despite the fact that in Art. 165 of the Family Code of the Republic of Uzbekistan [28], whose children have been adopted are equal in personal and property legal relations to the biological children of the adoptive parent, there are also some differences in the legal status of parents and adoptive parents.

Firstly, the reasons for deprivation of parental rights are specifically indicated in the legislation [28] and cannot be expanded. In case of cancellation of the adoption, the court has the right to cancel the adoption of the child not only for the reasons specified in the legislation [28], but also for other reasons based on the interests of the child, taking into account his opinion. Secondly, the court may cancel the deprivation and restriction of the parents' rights and their restoration if the parents changed their behavior, lifestyle and relationship to the child, but when canceled or invalidated, the rights and obligations of the adoptive parents cease and are no longer restored. Thirdly, the law does not provide any conditions for parents. Only the entry into legal marriage or the establishment of paternity between spouses creates legal obligations among parents and minors. As for adoptive parents and adopted children, the law contains several conditions (with some exceptions, such as the recommendation of the guardianship authority, the desire of the minor to be adopted, a medical certificate, etc.). Fourth, the relationship between parents and children is based on fertility (the biological unit of blood). The adoption is based on a court decision. Fifth, if the parents do not fulfill their parental rights and obligations in the proper order, then the deprivation of parental rights provided for by the Family Code of the Republic of Uzbekistan [28] is applied. If the adoptive parents do not fulfill their obligations, then, according to the legislation, the adoption is canceled or invalidated.

Legal doctrine also seeks to establish a unified concept of adoption. Therefore, from these positions it is proposed to understand how: all uniting legislative institution, which contains rules for various industry relations aimed at regulating the relationship of adoption and relationships among the adoptive parent, adopted child and other entities; a complex system of legal relations of various legal nature, in which the adoptive parent and the adopted child remain in legal relations with each other and with other entities [59]. According to Art. 151 of the Family Code of the Republic of Uzbekistan [28], Art. 298 of the Civil Procedure Code of the Republic of Uzbekistan [5] – adoption is carried out by a judicial authority in consequence of the filing of an application by persons claiming the role of adoptive parents. The study and consideration of issues on the adoption of children is carried out by the judicial authority in a special order in accordance with the rules provided for by the civil procedure law. The legislator classifies adoption cases as special proceedings, predetermining the need to study the possibility and expediency of such permission.

Researchers, in particular Sh.Sh. Shoraxmetov [60], D.Yu. Xabibullaev and M.M. Mamasiddikov [61], Z.N. Esanova and S.I. Sobirova [62], S.A. Maripova [63] defining the concept of special proceedings, emphasize that the parties do not participate in cases of special proceedings, since there are no legal disputes

in these cases, but the fact and legal conditions are determined as the subject of special proceedings, the indisputable nature of cases referred to special proceedings, protecting the legal interests citizens. But not all researchers, in particular E. Egamberdiev [64] shares this point of view as the application of adoption cases to the categories of special proceedings. According to B.A. Dzhandarbek [45], Z.Z. Alieva [58], E.E. Tereshchenko [65], V.V. Kustova [66] believe that in cases of adoption there is a claim in nature and is justified by the fact that not only the state of a legal fact is studied, but also in the context of cases of adoption, subjective rights and obligations are determined. The legal obligations of the adoptive parent are established by the judicial authority, sometimes, contrary to the wishes of the parents, their legal relationship to a minor child. In the context of the litigation, the further behavior of the adoptive parent and other subjects is determined. A similar action is characteristic of the plaintiff in the proceedings. In addition, it is assumed that a dispute about the right will arise when the relatives of a minor child enter the process, in cases where he is adopted by other people, and declare their objection to the upcoming adoption.

According to E.V. Buyanova [67], the legislator correctly considered the adoption cases as a special procedure, since this civil procedure was adapted at the national level for the maximum possible resolution of cases of adoption in the interests of a minor child. But, in some cases of adoption, a legal dispute arises when they are considered. These disputes include, as in which some relatives of the adopted child, applying for adoption themselves, cannot settle the issue with other relatives; when the child's parents shy away from upbringing, but also do not consent to adoption, etc. In such cases, a lawsuit seems to be more acceptable, in which the rules of competition and dispositions fully work, which guarantees more and more reliable compliance with the legal interests of the adoptee, parents and adoptive parents. G.I. Vershinina [68] thinks that, at the very beginning of the trial, one should not get involved with a legal dispute. This is due to the fact that any contradictory relationships and conflicts do not have the best effect on the mental and psycho-emotional state of a minor child, since the fate of the minor is being decided. With this in mind, it would be a good option not to create contradictions in these categories of cases. However, the words of G.I. Vershinina [68] on the position of family law, the conditions for the emergence of a legal conflict are balanced by various legal means, it is unlikely that it should be recognized as convincing. On the contrary, a lot of subjectivity in adoption cases, a difficult and lengthy stage of pre-trial preparation for adoption, is considered unique and requires special attention. For this reason, the legal circumstances are often insufficient to resolve the dispute or do not apply to all situations. Therefore, one cannot join with the opinions of G.I. Vershinina [68] that none of the participants in the adoption cases is involved in the disputed legal relationship, therefore, does not have a material interest in the outcome of the case and therefore is not considered a party. The above analysis of various conflict situations that arise and may arise in practice when considering such cases refutes this opinion.

Consequently, the opinion of G.I. Vershinina [68] on the non-manifestation of a different legal situation in the emergence of a dispute about the right in the considered adoption cases, then how should the norm of paragraph 7 of part 1 of Art. 122 of the Civil Procedure Code of the Republic of Uzbekistan [5], clause 13 of part 1 of Art. 279 of the Civil Procedure Code of the Republic of Kazakhstan [69], potentially allowing the emergence of a dispute about the right in special proceedings. It turns out that this rule does not apply in the case of adoption? It seems that in this case, the legislator would directly enshrine in the Civil Procedure Code of the Republic of Uzbekistan [5] and the Civil Procedure Code of the Republic of Kazakhstan [69] the rule that the provisions of clause 7, part 1, Art. 122 of the Civil Procedure Code of the Republic of Uzbekistan [5], clause 13, part 1, Art. 279 of the Civil Procedure Code of the Republic of Kazakhstan [69], and do not apply to adoption issues. However, such a clause does not appear in the Civil Procedure Code of the Republic of Uzbekistan [5] and, as the above study shows, a dispute may arise about the right in cases of adoption.

CONCLUSIONS

Having analyzed the practice and theory it should be concluded that in the science of family law, adoption is defined in the following forms: as a legal act; as raising children in the adoptive parent's family, providing living conditions that are equated with the living conditions of biological children; as devices for minors who are left without parental care. Chapter 33 "Proceedings on applications for the adoption of a child" of the Civil Procedure Code of the Republic of Kazakhstan specifies the procedural issues of adoption and adoption. Chapter 29 "Adoption of a child" of the Civil Procedure Code of the Republic of Uzbekistan provides for procedural rules for considering applications for adoption only. However, the Code of Civil Procedure of the Republic of Uzbekistan does not provide for the issue of adoption, since many articles of the Family Code of the Republic of Uzbekistan, in particular Art. 16, 147, 150 and others, provide for adoption, as well as Chapter 20 "Adoption" of the Family Code of the Republic Uzbekistan provides not only adoption, but the adoption of a child.

Based on the above and taking into account the current legislation, authors consider it expedient to make changes and additions to the Civil Procedure Code of the Republic of Uzbekistan and change the title of Chapter 29 in the following edition: Chapter 29 “Proceedings on applications for the adoption of a child”. In addition, the author proposes to amend the Civil Procedure Code of the Republic of Uzbekistan to amend Art. 297¹ in the proposed edition: “Article 297¹. Adoption of a child. Adoption and adoption of a child (hereinafter referred to as adoption) is a legal act based on a court decision, by virtue of which the same rights and obligations arise between the adoptive parent and the adopted child as between parents and children and the form of raising children in the adoptive parent's family in which the child is provided with conditions that meet every day, psychological, spiritual closeness that exists in families of origin”.

In order to resolve the dispute when considering cases on the adoption of a child, it is necessary to make additions to the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan dated December 11, 2013 No. 21 “On the practice of applying legislation by courts in cases of adoption” with the following content: “Clause 61. In the event that a dispute about the right, subordinate to the courts, is established during the consideration of the case on adoption in the procedure of special proceedings, the court shall issue a ruling on leaving the application without consideration, in which it explains to the applicant and other interested parties their right to resolve the dispute in the manner of a claim production”. An adoption in a litigation process should not get involved in legal disputes from the outset. In this regard, it is proposed to supplement Art. 302 of the Civil Procedure Code of the Republic of Uzbekistan with part four of the following content: “The court leaves the case on the adoption of a child without consideration if a dispute about the right arose during the proceedings”. Proceeding from this, the legislation correctly defined the cases of the adoption of a child for special proceedings, since this type of civil proceedings is the most suitable for resolving the case of adoption in the best interests of a minor child.

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