

DISCLAIMER: This document was produced in 2005 and is a summary of the laws of Azerbaijan that appertain to international parental child abduction, contact and relocation as they were at that time. **reunite** International Child Abduction Centre cannot vouch for the accuracy of this information for use in litigation and it is not intended to provide case specific advice.

AZERBAIJAN

Overview

Azerbaijan gained independence from the former Soviet Union in 1991. Although the majority of the population are Muslims Azerbaijan is a secular state, as established in the 1995 Constitution. The sources of law are the Constitution, legal acts adopted by referendum, laws, presidential decrees, resolutions of cabinet ministers and the by-laws of the central executive authorities. According to Article 148 of the Constitution international treaties to which Azerbaijan is a party take precedence as a source of law over all domestic legislation except the Constitution. A Family Code was introduced in 2000 and the Law on the Rights of the Child in 1998.

Foreign Orders

According to the Civil Procedural Code promulgated in 2000, foreign orders can be enforced if they are not contrary to Azerbaijani law, public policy or legal order. Enforcement of foreign orders can be approved by the Supreme Court. However, in practice it is difficult to enforce the order of a foreign court in Azerbaijan.

Court Structure

The courts in Azerbaijan are divided into three tiers. The first level is the Court of First Instance, which is where family matters are initially heard. At the second level is the Court of Appeal and at the highest level is the Supreme Court. These courts are divided into courts of general jurisdiction, Economic Courts and Military Courts. In addition a Constitutional Court was established in 1998. According to the Law of the Constitutional Court that was adopted on December 23rd 2003 by the Milli Majlis (Parliament) the Constitutional Court became the court of last instance for the bringing of appeals by individuals.

Filiations

The children of unmarried parents are illegitimate. However this does not affect their rights, except in matters of inheritance. Paternity is established by the application of both parents to the appropriate state agency. If the father does not consent the mother may still apply to have paternity established. Cases relating to claims of paternity or maternity are heard according to the law of the country in which the child was born.

Custody & Guardianship

According to Article 56 of the Family Code the parents are equal in their rights and duties regarding their children. A parent can be deprived of their parental rights if they abuse or neglect their children, if they fail to maintain them or if they are alcoholics or drug addicts.

If the parents are absent or deprived of their parental rights the children are cared for by a custodian if they are under fourteen or by a guardian if they are between the ages of fourteen and eighteen. Eighteen is the age of majority. Custodians and guardians are appointed by the court or respective state agency.

In the event of divorce the person to have physical care of the children is decided by mutual agreement of the parents or in the best interests of the child by the court.

Access

The parents cannot be restricted from having contact with their children, unless this is contrary to the best interests of the children. Access can only be restricted by a court order in accordance with Article 71 of the Family Code of 2000.

Non-Muslim Family Law

Azerbaijan is a secular state and the Family Code is applied to all citizens regardless of religious affiliation and also to foreign nationals.

Nationality

According to the Constitution and Law no. 527 on Citizenship (1998), citizenship is acquired by those born in Azerbaijan and those with at least one parent of Azerbaijani nationality.

Leaving the Jurisdiction

A minor may travel abroad with a parent or guardian and can be included in their passport on application to the Ministry of Internal Affairs. One of the parents may not take a minor out of the country without the written and notarised consent of the other parent.

International Law

Azerbaijan signed the UN Convention on the Rights of the Child in 1994. The norms and provisions of this treaty were incorporated into the 1998 Law of the Azerbaijan Republic on the Rights of the Child.

Parental Child Abduction

The Criminal Code of Azerbaijan is unclear as to the criminality of parental child abduction. However, kidnapping is a crime punished by imprisonment of five to ten years according to Article 144.1 the kidnapping of two or more persons is punishable by eight to twelve years imprisonment. A person who voluntarily releases the person they had kidnapped may be released from criminal liability.

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