

DISCLAIMER: This document was produced in 2005 and is a summary of the laws of Algeria 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.

UZBEKISTAN

Overview

Uzbekistan was formerly part of the USSR and gained independence in 1991. Consequently, the legal system has been significantly influenced by Soviet legal traditions. Family law in Uzbekistan is considered to be a sub-branch of civil law and is governed primarily by the Family Law Code of 1998, as amended. This code is not based on the Sharia. The 1992 constitution does not specify a State religion, although the majority of the population are Muslim with a significant Christian minority.

Karakalpakstan is a sovereign republic constituting a part of the territory of the Republic of Uzbekistan.

Foreign Orders

Foreign court orders are not enforceable in Uzbekistan.

Court Structure

The courts of first instance in Uzbekistan are the District Courts. These are subdivided into District Courts on Civil Cases and District Courts on Criminal Cases. At the next level are the Interregional and Regional courts. These have jurisdiction over all matters and also hear appeals from the District Courts. There are two supreme courts, the Supreme Court of the Republic of Uzbekistan and the Supreme Court of the Republic of Karakalpakstan. These are the courts of final appeal. The jurisdiction of the Supreme Court of the Republic of Uzbekistan and the Supreme Court of the Republic of Karakalpakstan is established by articles 13 and 30 of the Law of the Republic of Uzbekistan on Courts, 2nd September 1993. Article 13 states that the Supreme Court of Uzbekistan shall be the highest judicial authority with regard to civil, criminal and administrative matters. This

court also supervises the Supreme Court of Karakalpakstan and all other courts. The Supreme Court may also consider cases as a court of first instance. These cases can be further considered by this court in appellate or cassational proceedings.

The jurisdiction of the Supreme Court of Karakalpakstan extends only to the territory of the Republic of Karakalpakstan. Article 30 of the Law on Courts states that the Supreme Court of Karakalpakstan can consider cases as a court of first instance or in appellate or cassational proceedings. The court also has supervisory powers over the minor courts within Karakalpakstan.

Filiation

A child born to unmarried parents shall have the same rights and obligations towards his or her parents as a child born to married parents, if the father recognises paternity by the procedure set out in Articles 61-2 of the Family Code. According to Articles 61 and 62 paternity is established by a mutual application by the mother and father to the Civil Registry Office, or by the father alone if the mother is deceased, her whereabouts are unknown, she has been deprived of parental rights or if she lacks dispositive legal capacity as determined by a court of law due to mental illness. If the father is judged by a court to lack dispositive legal capacity the application for paternity can be made on his behalf by his guardian. A child may also make this application once he or she has reached the age of majority (eighteen). If this application is not made then an illegitimate child will have a legal relationship with the mother only.

Custody and Guardianship

Article 1168 of the Civil Code reads that the personal law shall be considered with regard to the law of the country whose citizenship a person has. When a person has two or more nationalities, the personal law shall be considered to be the law of the country with which the person is most closely connected.

According to Articles 72-4 of the Family Code, the rights of the parents include the right to live with their child, to communicate with him or her, and to participate in the child's upbringing. The duties of the parents

include looking after the physical and mental welfare of the child, educating the child, protecting the child's best interests and safeguarding the child's intellectual and moral development.

In the event of divorce the choice of who should have physical care of the children is usually decided by the mutual agreement of the parents. If the parents are deprived of parental rights (the rights and obligations of parents towards their child) then a custodian or a guardian will be appointed. A custodian is appointed for minors who are under the age of 14 by the decision of the *Khokim* (the chief of a municipal authority) of the district or city. A guardian is appointed for minors between the ages of 14 and 18. 18 is the age of majority, although a 16 year old in employment may be declared to have full legal capacity.

Custodians and guardians must fulfil certain conditions. They must have full legal capacity, must not have been deprived of parental, custodial or guardianship rights and must not have been convicted of a criminal offence.

Access

According to Article 66 of the Family Law, the right of children to have contact with their parents should not be affected by the divorce or separation of their parents, even if they reside in different countries. A parent may be prevented from having access to their child if they have been deprived of parental rights by the court. Article 79 of the Family Code reads that a parent may be deprived of their parental rights if they neglect their duties, including the payment of alimony or the refusal to collect the child from a hospital, school, social services or any similar institution. A parent can also lose parental rights if they are proved to have abused the child, are alcoholics or drug addicts, or if they have committed an intentional crime against the life or health of their child or spouse.

Non-Muslim Family Law

The Uzbekistan Family Law is applicable to Muslim and Non-Muslim citizens.

Nationality

According to Article 10 of the 1992 Law on Citizenship, a person who is a citizen of the Republic of Uzbekistan cannot be recognized as a citizen of a foreign state. A child shall be an Uzbekistan citizen if both parents, at the time of the child's birth, are citizens of the Republic of Uzbekistan. A child shall also be an Uzbekistan citizen when his/her parents are from different countries if one of the parents is a citizen of the Republic of Uzbekistan at the date of the child's birth and the child was born within Uzbekistan. A child who has one parent with Uzbekistan citizenship but is born outside Uzbekistan will be eligible for citizenship provided that one or both parents had permanent residence in Uzbekistan at the time of the child's birth. A child may also be eligible for citizenship of Uzbekistan if he or she was born in the country to unknown or stateless parents.

Leaving the Jurisdiction

The travel rights of a child and his or her parents are governed by the 'Exit Procedure for Citizens of the Republic of Uzbekistan' and the 'Instruction on the Procedure for Issuing Exit Permits to Citizens of the Republic of Uzbekistan by the Bodies of Internal Affairs of the Republic of Uzbekistan and Permits for Entering the Republic of Uzbekistan'.

According to these procedures in order to obtain a temporary exit visa citizens of Uzbekistan must apply to the bodies of internal affairs at their place of residence by completing an application form and submitting their passport or other identification document. If granted this visa is valid for temporary exit for a period of two years and allows the holder to go abroad any number of times within the prescribed two-year period without re-applying.

A minor must have the consent of both parents or the custodian or guardian in order to be granted an exit visa. When a minor is accompanied by his or her legal representative, who may be a parent, a custodian or a guardian, the minor's personal data and the minor's photo shall be inserted in the passport of the child's representative. This must then be stamped with a seal and signed by an officer of the competent authority.

International Law

In 1998 Uzbekistan ratified the Hague Convention, which is in force between Uzbekistan and the United Kingdom. Uzbekistan is not bound to

assume any costs referred to in paragraph 2 of Article 26 and resulting from the participation of legal counsel or from court proceedings.

Uzbekistan is a party to the Treaty on Rendering Legal Assistance and Establishing Legal Relations in Respect of Civil and Family Cases, which was signed with the Ukraine (1998), and also is a party to the Treaties on Rendering Legal Assistance and Establishing Legal Relations in Respect of Civil, Family and Criminal Cases, which are signed with Latvian Republic (1996), Turkmenistan (1997), Kyrgyzstan (1997), Lithuania (1997) and Azerbaijan (1997).

Uzbekistan also ratified the United Nations Convention on the Rights of the Child in 1992.

Parental Child Abduction

Currently the law regarding abduction of minors is silent on abduction of minors by parents specifically. The Criminal Code establishes abduction of a minor by any person as a criminal offence punishable by imprisonment for five to ten years.

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