

**February 2020**

**In this issue:**

1. Presidential Decree on approval of the Rules on adoption of children deprived of parental care, including adoption of children by citizens of the Republic of Azerbaijan, by foreigners and stateless persons.
2. The Decision of the Plenum of the Constitutional Court of the Republic of Azerbaijan on interpretation of some provisions of Articles 1134, 1146, and 1252 of the Civil Code of the Republic of Azerbaijan

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1. The Decree dated February 27, 2020 was signed by the President in order to execute Law on amendments to the Family Code of Azerbaijan Republic.

The main purpose of this Rule is to define the rules for the adoption of children deprived parental care, as well as the registration, selection, training and probation of a parent-candidate. At the same time, this Decree determines the procedure for adoption of children by foreigners and stateless persons. The registration of foreigners and stateless persons wishing to adopt a child who is a citizen of the Republic of Azerbaijan should comply with the Hague Convention of 29 May, 1993 on "Protection of Children and Co-operation in Respect of Intercountry Adoption".

The registration is made either directly or through an accredited body by submitting required information in paper or electronic form to Ministry of Labour and Social Protection of Population of the Republic of Azerbaijan (hereinafter the Ministry).

In particular, the submission must be made after the documents confirming the information stated in this Rule have been drawn up. In addition to other documents noted in this Rule, foreigners and stateless persons wishing to adopt a child, who is a citizen of the Republic of Azerbaijan must submit a document confirming the existence of fund not less than the minimum living standards in accordance with the relevant legislation of the country where they reside. Foreigners and stateless persons living outside the Republic of Azerbaijan should meet with children in institutions for a total of 40 hours within 2 weeks. At the same time, by this Rule, rules of the adoption of children who are not nationals of the Republic of Azerbaijan, but who are registered in accordance with

this Rule are determined. The adoption of these children by foreigners and stateless persons who are not their relatives shall be allowed after 1 year the following registration.

When the adoption by foreigner or stateless person is terminated, the Ministry should take action for taking back the child to the State or give information to the foreigner's state. If there is no other rule in international treaties which the Republic of Azerbaijan is a party, the child is registered again in the Republic of Azerbaijan. Also, there are some prohibitions of the adoption, noted below:

- Adoption of children by single foreigners and stateless persons (except for the adoption of a child with close relatives);
- Adoption of children deprived of parental care by their parents;
- Adoption of a parent-candidate for one of the diseases identified by the Cabinet of Ministers of the Republic of Azerbaijan;

**2.** By this Decision, the Constitutional Court of the Republic of Azerbaijan (hereinafter the Court) gave an explanation to the Articles of Civil Code on inheritance (1134), opening time of inheritance (1146), transmission of inheritance (1252).

The Plenum of the Court considers it is necessary to clarify the provisions of Article 1134 of the Civil Code to investigate the matter raised in the appeal. The Court determined exact meaning of the "moment" in Article 1134 by relying on the language of the Republic of Azerbaijan.

Nevertheless, if the inheritor who survives at the time of the death of the heir, dies without exercising his right to inheritance until the inheritance is accepted, the right of inheritance of the latter shall be passed on to his heirs.

In the event that if it is impossible to determine the moment of death, persons who die on the same day and who have the right to be heir of the other, shall be considered to have died at the same time and their inheritance should be excluded in accordance with the provisions of Article 1134.1 of the Civil Code. An inheritance should be made separately for each of the heir who is believed to have died at the same time, and their inheritors should be duly summoned the inheritance. Thus, from the point of view of the essence and content of legal inheritance, the word "moment" in Article 1134.1 of the Civil Code refers to a specific moment.

The date of opening of the inheritance shall be considered the day on which the court judgement on declaration of a physical person's death comes into force.

It is worthy to note that the implementation and protection of civil rights is closely related to the category of time. Periods play an important role in the legal regulation of real-estate and non-property relations.



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