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Procedural Features of Consideration of Cases on Adoption and Cancellation of Adoption of a Child in the Russian Federation

Abstract

Despite the Dima Yakovlev Law, there are still many children adopted by foreign citizens in Russia. Taking into account the special importance of the issue of the adoption of a child, the Russian legislator has established special procedural rules for the adoption of Russian children and the cancellation of adoption. The presented article has not only scientific but also, more, practical significance, in which the authors analyze the norms of positive law, as well as judicial practice related to the adoption of a child or the cancellation of adoption. The purpose of the study: to analyze not only the norms of positive law governing the relationship of adoption of a child or the cancellation of adoption but also to identify gaps in the legal regulation of this issue. To assess the Dima Yakovlev Law based on the system analysis and the number of children left without parental care. Results: The dynamics of the growth of children left without parental care over the past 9 years, i.e. after the adoption of the Dima Yakovlev Law in Russia has been proved, the problems of legal regulation of adoption of a child in the Russian Federation, including by foreign citizens, have been revealed, the procedural difference between adoption and cancellation of adoption has been shown.

Keywords: Adoption, Cancellation of Adoption, The Judicial Procedure of Adoption, Grounds for Cancellation of Adoption.

Introduction

The issue of the adoption of a child is not only of scientific but also of great applied importance since the social situation in the country depends on its prudential resolution. To date, no country has developed a more effective

legal mechanism that, on the one hand, facilitates the procedure of adoption of a child, on the other hand, increases the level of protection of an adopted child from his/her unscrupulous adoptive parents. Until 2012, many Russian children, and especially children suffering from congenital diseases (for example,

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cerebral palsy), were adopted by foreign citizens, most of whom were US citizens. After the tragic death of Dima Yakovlev in the United States in 2012, who was adopted by US citizens and died in a car because of heat, where his adoptive father left him in a heat of 50 degrees, a law was passed in Russia, called the Dima Yakovlev Law, which prohibited US citizens from adopting Russian children. In addition, the requirements for the procedure of adoption of a child by other foreign and Russian citizens have been tightened in Russia. The consequence of the adoption of this law was that a much larger number of children began to wait for their turn for adoption, and first of all, it affected children suffering from diseases.

Methods

General scientific methods of cognition were used in the course of the research, including the principle of objectivity and consistency. Private scientific methods were used along with general scientific methods of cognition: theoretical analysis, comparative law, technical and legal analysis, concretization, interpretation). The methodological basis of the study was the method of the theory of knowledge.

Results

Researchers have revealed that as of October 1, 2020, according to the federal_data bank, 42,607 children in Russia are waiting for their families (Adoption in the Russian Federation). Moreover, the number of orphans is increasing every year. According to statistics, the number of abandoned children in Russia currently exceeds the indicator of the post-war period (the time after 1945) (Vorobeva, 2013). Also, since the 1990s of the last century, an annual increase in the number of children who have lost parental care has been recorded.

According to official statistics, in Russia, the number of children left without parental care and entitled to receive social support from the budget in 2011 was 297,329 as of 2011, for 2016 – 463,986, for 2018 – 481,284 (Family, motherhood and childhood). For comparison, we note that according to the "Усыновите.ру" website, only 62,972 children in 2014 were transferred to the families of Russian citizens, including 6,616 children for adoption, 56,356 children for guardianship, including 23,464 children for a paid form of guardianship. Until 2012, a larger number of children were adopted by US citizens, but several cases of deaths of Russian children in the United States determined the ban on adoption by US citizens and an increase in administrative barriers for adoption

by EU citizens, while Russian official statistics do not give figures of dead children adopted by Russian citizens.

According to Rosstat statistics, the number of families wishing to adopt a child into a family at the end of the year as a percentage of the previous year is, as of 2014 – 132.01, as of 2017 – 103.0, as of 2019 – 99.1 (Family, motherhood and childhood, n.d). Thus, the figures convincingly show that the Dima Yakovlev Law determined a sharp decrease in the number of people wishing to adopt a child. The figures given in Table 1 show the rate of decline in the number of families wishing to adopt a child in the Russian Federation.

Table 1.

The rate of decline in the number of families wishing to adopt a child into a family.

	2018	2019	2020
Percentage compared to the previous year	99.3	99.1	89.5

The growing trend towards an annual increase in the number of orphans in Russia was determined by a special report of the Chairman of the Supreme Court of the Russian Federation in February 2020 at a meeting of judges that indicates a reduction in cases of adoption of children to 10.9. The number of adoptions by foreign citizens has decreased to 202 decisions per year (The Chairman of the Supreme Court of Russia summed up the results of the activities of the judicial system in 2019, 2020). Therewith, it should be noted that the majority of children adopted by foreign citizens are children who have burdened heredity, mental disorders, social neglect, and therefore, unfortunately, are not of particular interest to Russian adoptive parents. The adoption procedure itself and the subsequent legal, technical, organizational, administrative, control, and other procedures associated with it also do not contribute to the development of adoption in Russia.

There is a judicial procedure for the adoption of a child following the norms of the current positive law of Russia. The existing judicial procedure for adoption in the Russian Federation appeared with the beginning of article 125 of the Family Code of the Russian Federation, i.e. from September 27, 1996. Until that time, only a decision of a local self-government body was required for the transfer of children for adoption by a citizen of Russia, and foreign citizens adopted Russian children based on a decision of the executive authority of a constituent entity of the Russian Federation.

The introduction of the judicial procedure of adoption in Russia was designed to strengthen control over the situation in this area of family relations and to guarantee as much as possible the rights of participants in the adoption procedure: adoptive parents, biological parents of the child, and most importantly — the rights of a minor child when transferring him/her to the adoptive family.

The judicial procedure allows investigating all the most significant moments of the adoption process: verifying the authenticity of the documents submitted by the adoptive parents, the sincerity of their intentions, giving the natural parents a chance to preserve their parental rights (in cases where parental consent to adoption is required), keeping the secret of adoption under the threat of criminal punishment, avoiding unnecessary red tape when resolving this issue, etc.

In addition, the court must check such circumstances as the possibility of financial support for the child, the motives for adoption, the absence of a criminal record, psychological and pedagogical training, the state of health of the child and the adoptive parents. Investigation of the above circumstances is within the scope of the subject of proof outside the court session is not possible.

In the Russian procedural doctrine, cases of child adoption are not cases of claim, but special proceedings. At the same time, consideration of cases on child adoption by citizens of the Russian Federation is subject to the jurisdiction of the district courts at the place of residence of the child.

While the citizens of the Russian Federation permanently residing outside the territory of the Russian Federation, the foreign citizens or the stateless persons wishing to adopt a child who is a citizen of the Russian Federation shall lodge an application for the adoption, to a higher court, i.e. to the court of a constituent entity of the Russian Federation.

Since the application submitted to the court is a procedural document, the law imposes certain requirements on it, enshrined in Articles 131, 270, and 271 of the Civil Procedure Code of the Russian Federation. When accepting an adoption application, the judge shall check the compliance of the form and content of the application for adoption with the requirements of the law. The form and content of the adoption application are also regulated by paragraph 2 of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 8 of April 20, 2006 "On the application of legislation by courts when considering cases of adoption of children". If the plaintiff fails to comply with the requirements for such an application, the judge leaves the application without progress and

gives the plaintiff a reasonable time to correct the deficiencies.

All documents are submitted to the court in two copies.

The application for the adoption of a child is not subject to payment of the state duty, since, by subparagraph 14 of paragraph 1 of Article 333.36 of the Tax Code of the Russian Federation, adoptive parents are exempted from paying it in cases of this category.

To consider an application for the adoption of a child, it is necessary to have a conclusion on the validity and compliance of the adoption with the interests of the adopted child, which is submitted to the court by the guardianship and trusteeship body at the place of residence or location of the adopted child.

By virtue of the provisions of Article 273 of the Civil Procedure Code of the Russian Federation, cases of child adoption should be considered with the obligatory participation of the following persons:

1. Adoptive parent(s),
2. Representative of the guardianship and trusteeship body,
3. Prosecutor,
4. Child who has reached the age of 14.

Other persons may also be involved in the process of adopting a child, for example, the child's parents in cases where their consent to adoption is required, the child's guardian or trustee, the child's actual educator, the head of the institution where the adopted child is located, the child himself/herself aged 10 to 14 years, since by virtue of the provisions of Article 57 of the Family Code of the Russian Federation, the child has the right to be heard during any court proceedings, except for cases when this contradicts his/her interests, and other interested persons.

Adoption cases are considered by the court in the order of special proceedings under the rules of Chapter 29 of the Civil Procedure Code of the Russian Federation and need careful preparation for the trial, including the need to check the presence of many conditions of adoption and the participation of a large number of adoption participants, checking the absence of obstacles to adoption, etc.

The adoption of a child entails vital legal consequences, both for the child himself/herself and for the adoptive parent and his/her relatives, which consist in the full equalization of the adopted child in personal and property rights and obligations to relatives by origin (Pchelintseva, 2020).

Such an equalization in the rights and obligations of the adopted child and the adoptive parent ensures the emergence of a whole complex of relations between them, regulated along with the norms of family legislation, the

norms of civil, housing, labor, and other branches of law. When inheriting by law, adopted children concerning adoptive parents, and adoptive parents concerning adopted children, are the instant heirs.

After the entry into force of the court decision, the adoptive parents become legal representatives of minor children, and by virtue of this, they make civil transactions on behalf of children under the age of 14 (minors) or consent to transactions by children aged 14 to 18 years.

Parents (adopters) or guardians shall be liable for the injury inflicted by minors who have not attained 14 years of age unless they prove that the injury has been inflicted not through their fault (Article 1073 of the Civil Code of the Russian Federation). In the case where a minor at the age of 14 to 18 years has no income or other property sufficient to redress injury, the latter shall be redressed in full or in the lacking part by his/her parents (adopters) or the guardian (Article 1074 of the Civil Code of the Russian Federation).

Adopted children are released from their obligations towards their biological parents and relatives, lose their non-property and property rights. Although the court may decide to preserve the relationship of the adopted child with one of the parents or with the relatives of the deceased parent if this is in the interests of the child. Thus, when a child is adopted by one person, personal non-property and property rights and obligations can be preserved at the request of the mother, if the adoptive parent is a man, or at the request of the father if the adoptive parent is a woman.

If one of the parents of the adopted child has died, then at the request of the parents of the deceased parent (the child's grandfather or grandmother), personal non-property and property rights and obligations towards the relatives of the deceased parent can be preserved. Thus, a child who, at the time of his/her adoption, has the right to a pension and benefits due to the death of his/her parents, retains this right even during adoption. The right to a pension (benefit) remains even when the pension (benefit) was not assigned, but the death of the parents occurred before the adoption, which means that the child had the corresponding right even before the adoption.

The current legislation of Russia provides for the preservation of the secrecy of adoption. The secret of adoption should be kept primarily by officials – judges, employees of tutorship and guardianship authority, employees of civil registry offices, etc., who are involved in the preparation, making a decision, and its subsequent registration. To preserve the secrecy of adoption, not only the norms of family legislation are aimed at changing the surname,

first name, and patronymic of the child; the date and place of his/her birth, but also the norms of labor legislation that grant a woman who has adopted a newborn child the right to paid postpartum leave. Keeping the adoption secret is in the interests of both adoptive parents and adopted children, but if the adoptive parent does not consider it necessary to hide the adoption, and the adopted person also knows about his/her adoption and remembers his/her parents, then, in this case, it should be assumed that the adoptive parent has shown his/her will and does not want to keep the adoption secret.

Persons participating in the consideration of the case should be warned about the need to keep secret the information about the adoption that has become known to them. It should be noted that persons who have divulged the secret of adoption can be brought to criminal responsibility under Article 155 of the Criminal Code of the Russian Federation since disclosure of the secret of adoption can seriously injure the child, complicate and even make it impossible to further normal upbringing in the family of the adoptive parent of the adopted child.

Thus, the legal consequences of adoption occur from the moment the court decision enters into legal force. Within three days from the date of entry into force of the decision, the court must send an extract from this decision to the registry office, since adoption is subject to mandatory state registration.

When satisfying the request for adoption, the court recognizes the child as adopted by specific persons (person) and indicates all the data about the adopted person and the adoptive parents in the court decision (adopter) necessary for state registration of adoption in the civil registration authorities.

The court decision enters into legal force after the expiration of the term for cassation appeal, if it is not justified. If an appeal is filed, the decision of the justice of the peace shall enter into legal force after consideration of this appeal by the district court, unless the appealed decision is canceled (Article 209 of the Code of Civil Procedure of the Russian Federation)

Since there is no dispute about the right during adoption, the consideration of this issue takes place in the order of special proceedings. However, following the provisions of Article 275 of the Civil Procedure Code of the Russian Federation, consideration and resolution of cases on cancellation of adoption is carried out according to the rules of action since parties with opposite interests participate in this process and a dispute about the right is considered (Svirin, 2019). The case on the cancellation of the adoption of a child is also considered with the participation of the tutorship and guardianship authority and the prosecutor. Judicial

proceedings require the presence of really convincing reasons for the cancellation of the adoption, and the primary importance is attached to the observance of the interests and rights of the child.

The reasons for the cancellation of adoption are most often as follows:

- Parents evade their duties or abuse their rights;
- The child is subjected to violence, ill-treatment;
- Adoptive parents suffer from drug addiction or alcoholism in a chronic form.

The court may also cancel the adoption of a child on other grounds that are not related to the illegal behavior of the adoptive parent, for example, when such conditions of life and upbringing of the child are created that do not correspond or contradict his/her interests. For example, the psychological incompatibility of the adoptive parent and the adopted child, the lack of mutual love and respect, difficulties with raising a child are associated with the illness of the adoptive parent. There are also situations when the relationship between the child and the adoptive parents (the adoptive parent) did not develop as a result of objective reasons (the child remembers his/her parents, relatives, treats the family members of the adoptive parent unkindly, etc.).

Sometimes adoptive parents go to court with a request to cancel the adoption since the child suffers from a serious illness that prevents normal upbringing in the family. In this case, the court is obliged not only to find out the cause of the disease but also to establish whether the adoptive parents (the adoptive parent) were aware of the child's illness at the time of adoption and how they provided his/her treatment. It is worth noting that the law does not contain any instructions on this matter, however, if the child's illness occurred after his/her adoption, then it cannot be a reason for canceling the adoption. If the adoptive parents believed that they had adopted a healthy child, and subsequently a congenital or hereditary disease was detected in the child, the court may decide on the claim of the adoptive parents, taking into account the medical opinion and the conclusion of the tutorship and guardianship authority on the expediency of canceling the adoption, but only in the interests of the child.

The right to demand the cancellation of adoption is recognized for the adoptive parent of the child and in the case when their relationship has not developed, and as the child grows up, the adoptive parent can only feel a sense of hostility towards him/her. In such cases, both the adoptive parent and the child experience serious moral suffering.

Also, the child may have symptoms of severe hereditary diseases that do not allow him/her to develop normally in the family, and all the hopes of the adoptive parent for a change in the situation fail.

The court is guided by several criteria in cases of cancellation of adoption, but one of the determining criteria for the cancellation of adoption is, of course, the interest of the child. It is necessary to understand normal relations with the adoptive parent under his/her interests of the child, which cannot be forcibly established.

Adoption is canceled on the grounds provided for in paragraph 2 of Article 141 of the Family Code of the Russian Federation, only if the court concludes that the cancellation of the adoption is in the interests of the child. Therefore, as noted by N.I. Baturin, cases of refusal to cancel adoption are possible (Baturina, 2005). This is confirmed by the data of judicial statistics. Thus, in 2013, out of the total number of 499 considered cases on cancellation of adoption with a refusal to satisfy the demand, 87 court decisions were made in 2014, out of 500 cases – 99 court decisions; in 2015 – out of 420 cases – 92 court decisions, respectively (Judicial Department at the Supreme Court of the Russian Federation, n.d.). In such situations, a complex set of various problems arises for both the adopted person and the adoptive parents (from psychological to criminological), the mechanisms for resolving which are not yet available.

Let us consider in detail each of the grounds for cancellation. One of them is considered to be the evasion of adoptive parents from fulfilling the duties assigned to them by parents. It is important to point out that this circumstance is also the basis for the deprivation of parental rights.

The evasion of adoptive parents from fulfilling their duties is always manifested in the form of inaction, which is expressed in the fact that adoptive parents do not pay due attention to the upbringing of adopted children, do not take care of them, do not provide the child with everything necessary, often wasting the funds due to him/her. The adoptive parent's refusal to live together with the child without valid reasons is also an evasion from fulfilling his/her duties.

Illegal behavior of adoptive parents can be expressed in the abuse of their parental rights, in dynamic actions, and characterized by an intentional form of guilt.

The most common cases of abuse are forcing children to work, prohibiting them from attending school, involving children in criminal activities, introducing them to drugs, etc. Illegal spending of the adopted child's property, including his/her pension, benefits, or alimony, will also be an abuse of rights.

As practice shows, it is not always possible to determine and subsequently prove the abuse of the adoptive parent, for example, whether he/she forces the child to do something that adversely affects his/her health, mental state (for example, involving the child in a religious sect). Therefore, in such situations, it is necessary to assess both the general physical and mental state of the child as a whole.

Child abuse, which is also the basis for the cancellation of adoption, most often appears in the form of dynamic actions, but abuse is also possible in the form of inaction.

Ill-treatment should be understood as both physical violence against a child (beating, torture, deprivation of liberty) and mental (humiliation, intimidation). The attempt of adoptive parents on the sexual integrity of the child should also be considered as ill-treatment. Ill-treatment can also be in the form of inaction, for example, leaving a child without food, heat. Therefore, very often when considering a case on the cancellation of adoption on this basis, the composition of a criminal offense is found in the behavior of adoptive parents. In such cases, the court is obliged to notify the prosecutor, who shall initiate a criminal case against the adoptive parent.

It is worth noting that the problems associated with bringing such persons to justice are very often due to the lack of effective mechanisms for identifying facts of child abuse. Since children who have been abused by their parents or persons who replace them are reluctant to talk about it because of fear of reprisals.

The reasons for the manifestation of violence in the family are the spread of domestic drunkenness, unemployment, property disputes, and, as a result, the growth of conflict situations in the family. Almost every third crime is committed based on alcohol abuse and more than half of the persons committing such crimes do not have a permanent source of income.

The reason for cancellation is also chronic alcoholism and drug addiction. Alcoholism and drug addiction are not legal terms, but it is necessary to qualify the actions of a person who is under the influence of alcohol or drugs following the current law. According to the definition of these terms, there is a medical, not a legal aspect. Since alcoholism and drug addiction are diseases caused by the use of psychotropic substances that have a common mechanism of development, clinic, dynamics, accompanied by the development of physical and psychological dependence, leading to severe medical and social consequences of the patient himself/herself, his/her offspring, family, society as a whole. On the one hand, chronic alcoholism and drug addiction are a disease, so

it is impossible to talk about the guilty behavior of adoptive parents. In this case, we can only raise the question of medical intervention. On the other hand, alcoholism or drug addiction arises as a result of consciously bringing oneself to such a state; in this case, there is guilty behavior. Usually, illegal actions against children are committed by adoptive parents in a state of alcohol or drug intoxication, when they are not able to be aware of their actions and guide them.

To cancel the adoption on this basis, in principle, it is sufficient to state the fact that the adoptive parents have such a disease in a chronic form. It is not necessary for them to commit any illegal actions against a child, because in itself raising a child by a chronic alcoholic or drug addict, living next to him/her is already dangerous for the child.

The court may also cancel the adoption of a child on other grounds that are not related to the illegal behavior of the adoptive parent, for example, when such conditions of life and upbringing of the child are created that do not correspond or contradict his/her interests. For example, the psychological incompatibility of the adoptive parent and the adopted child, the lack of mutual love and respect, difficulties with raising a child associated with the illness of the adoptive parent, the appearance of parents declared dead, or the restoration of their legal capacity. There are also situations when the relationship between the child and the adoptive parents (the adoptive parent) did not develop as a result of objective reasons (the child remembers his/her parents, relatives, treats the family members of the adoptive parent unkindly, etc.).

The right to demand the cancellation of the adoption of a child is held by his/her parents, the adoptive parents of the child, the adopted child who has reached the age of 14, the tutorship and guardianship authority, and the prosecutor. It is obvious that only interested persons have the right to make such a claim, and this interest can be of a personal nature (parents, adoptive parents of a child, an adopted child who has reached the age of 14), and follow from the functions of state bodies (the prosecutor, the tutorship and guardianship authority). Thus, the parents of the child have the right to demand the cancellation of the adoption, but in this case, it is necessary to prove that the return of the child to the parents corresponds to his/her interests.

The right to demand the cancellation of adoption is recognized for the adoptive parent of the child, since their relationships may not develop, and as the child grows up, the adoptive parent can only feel a sense of dislike for him/her. In such cases, both the adoptive parent and the child experience serious moral suffering.

Also, the child may have symptoms of severe hereditary diseases that do not allow him/her to develop normally in the family, and all the hopes of the adoptive parent for a change in the situation fail.

In cases of cancellation of adoption, several questions arise for trial, but one of the determining criteria for the cancellation of adoption is the interests of the child. Therewith, speaking about the interests of the child, it is necessary to take into account that normal relations with the adoptive parent, which cannot be established forcibly, correspond to his/her interests.

The decision of April 24, 2019, in case No. 2-2151/2019 of the Vidnovsky City Court of the Moscow region. The plaintiffs appealed to the court with an application to cancel the adoption of a minor. Motivating the cancellation of the adoption by the fact that the adoptive parents were not fully acquainted with the information about the health status of the adopted person and his/her heredity before the adoption. Subsequently, they learned that the child's mother was a drug addict. Throughout the entire period of cohabitation, the defendant behaved aggressively, did not recognize the authority of the adoptive parents, did not perceive them as relatives. In February 2018, the child was sent for an outpatient mental examination, according to the results of which it was established that the deviations are hereditary. The defendant, who was interviewed by the court for claims, objected to the cancellation of the adoption, explained to the court that he/she loves his/her parents and wants to maintain family relations with them. From the conclusion of the Department of tutorship and guardianship, it followed that the cancellation of the adoption is contrary to the interests of the child and will not contribute to the protection of his/her legal rights, in connection with which the cancellation of the adoption may cause further irreversible consequences to the mental health of the minor.

Taking into account the conclusion of the tutorship and guardianship authority, the evidence presented in aggregate, the court refused to satisfy the claims (Decision No. 2-2151, 2019).

The cancellation of adoption, regardless of the grounds for making a court decision, entails the same legal consequences, which consist in the termination of mutual personal non-property and property rights and obligations of the adopted child and the adoptive parents (relatives of the adoptive parent) with the restoration of the rights and obligations of the child and his/her biological parents (relatives of the parents).

Due to various objective reasons, as well as the need to protect the rights and interests of a minor child, it is not always possible to restore

the legal relations of a child with his/her parents. For example, the parents have died, are unknown, are deprived of parental rights or refuse to take the child for upbringing after the adoption is canceled, or are chronic alcoholics, drug addicts. In any case, the court, deciding on the future fate of the child, should be guided only by his/her interests and the actual circumstances of the case.

It is important to note that when the adoption is canceled, the court resolves the question of whether to keep the name, patronymic, and surname assigned to the child in connection with his/her adoption. It is impossible to change the name, patronymic, and surname of a child who has reached the age of 10 without his/her consent. The opinion of the adoptive parent about the preservation of the child's last name and patronymic does not matter.

The court has the right to collect alimony from the former adoptive parent for the maintenance of the child. The amount of alimony can be determined in shares of earnings, other income, or a fixed amount of money. Therewith, the court does not have the right to oblige the former adoptive parent to pay funds for the maintenance of the child adopted by him/her, if the adoption is canceled at the request of the parents to whom he/she was transferred for upbringing. In this case, the parents themselves shall fulfill their parental duties, including the obligation to maintain their child.

It should be noted that the adoptive parent has no right to demand either from the adopted person who has reached the age of majority or from his/her parents, compensation for the expenses incurred for the maintenance of the adopted child since this contradicts the nature of these relations. Personal non-property relations, as is known, are immaterial, do not have a monetary value, therefore, it is impossible to determine, for example, the cost of education. Therefore, with the cancellation of the adoption, the adoptive parent is deprived of all parental rights concerning the adopted child. Accordingly, the adopted child himself/herself loses the legal connection not only with the adoptive parent but also with his/her relatives. As for the property consequences, it is necessary to indicate that with the cancellation of the adoption, the child does not have the right to inherit according to the law concerning the property of his/her adoptive parent.

The court is obliged to send an extract from this court decision to the tutorship and guardianship authority at the place of making the decision and to the civil status registration authority at the place of state registration of adoption within three days from the date of entry into legal force of the court decision on the cancellation of the adoption of a child.

According to the provisions of article 46 of the Federal Law "On Acts of Civil Status", based on a court decision on the cancellation of adoption, information about the cancellation of adoption is entered into the record of the adoption act, while the previously issued birth certificate is canceled and a new birth certificate is issued, taking into account the changes made to the record of the birth certificate.

According to the general rule, the cancellation of adoption is possible only until the child reaches the age of majority. After all, the purpose of adoption is, as is known, the upbringing of minor children in the family who have lost parental care for one reason or another. It is obvious that when the goal is achieved — the child has received a proper upbringing and has reached adulthood, there are no grounds for canceling the adoption. Nevertheless, the need for such cancellation may arise, therefore, the legislator provides for an exception, but only in cases where there is the mutual consent of the adoptive parent and the adopted child, as well as the parents of the adopted child, if they are alive, are not deprived of parental rights or are not recognized by the court as incapacitated. If at least one of the parties objects, it is impossible to cancel the adoption in respect of an adult adopted child.

Conclusion

The following conclusions were made as a result of the study:

1. The experience of almost 10 years, since the adoption of the so-called Dima Yakovlev law by the Russian state in 2012, has proved the lack of reliable positive dynamics in the development of the adoption institution. The number of children left without parental care and waiting for their foster family remains at a high level. First of all, this applies to children suffering from various diseases.
2. The procedural law establishes various rules for the adoption of a child and the cancellation of the adoption of a child. Thus, issues related to the adoption of a child are resolved in the order of special proceedings, while the cancellation of adoption occurs in the order of claim proceedings.
3. According to Russian legislation, the adoption of a child entails vital legal consequences, both for the child himself/herself and for the adoptive parent, which consist in the full equalization of the adopted child in personal and property rights and obligations to relatives by origin. Thus, the rights and obligations between

the child and the adoptive parent become identical to the rights and obligations between the child and the parents by origin.

4. The cancellation of adoption, regardless of the grounds for making a court decision, entails the same legal consequences, which consist in the termination of mutual personal non-property and property rights and obligations of the adopted child and the adoptive parents (relatives of the adoptive parent) with the restoration of the rights and obligations of the child and his/her biological parents (relatives of the parents).
5. The evasion of adoptive parents from fulfilling their duties always manifests itself in the form of inaction, when adoptive parents do not pay due attention to the upbringing of adopted children, do not take care of them, do not provide the child with everything necessary, often wasting the funds due to him/her. From the point of view of Russian judicial practice, the refusal of the adoptive parent to live together with the child without valid reasons is also an evasion of the adoptive parent from fulfilling his/her duties.
6. When the adoption is canceled, several questions arise before the court, one of the defining issues of the adoption cancellation is the question of how to take into account the interests of the child. The interests of the child should include appropriate normal relations with the adoptive parent, which, in principle, cannot be established in a compulsory (judicial) order. Such interests are formed in fact and are subjective.

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