Topic 16. Family relations across borders

Topic 16 of 16 · Semester 1

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Chapter

The regulation of international family relations is one of the most pressing areas of modern law. As a result of globalisation processes, increasing migration flows, and the expansion of interstate ties, a foreign element is frequently encountered in family legal relations. In this lesson, we will examine the family legal status of foreign citizens and stateless persons in the Republic of Uzbekistan, the conditions for the recognition of marriages entered into abroad, and their limits. We will also analyse which state's legislation applies in divorce proceedings involving a foreign element, and how the best interests of the child are protected in intercountry adoption. Throughout the lesson, we will consider the determination of the content of rules of foreign family law, the public policy (ordre public) reservation, and the principles of immediate child protection when recognising foreign court decisions. This knowledge serves as a vital foundation for future lawyers in the proper and just resolution of transnational family disputes.

AT A GLANCE

- 10,117 persons — Migration outflow (Those who emigrated abroad in 2025 (National Statistics Committee))
- 1,159 persons — Migration inflow (Those who immigrated from abroad in 2025)
- Article 16 — Impediments to marriage (The key article of the Family Code verified when recognising foreign marriages)

16.1 Family rights and duties of foreign citizens and stateless persons

In family legal relations, a foreign element is primarily manifested in three forms: in the composition of subjects (a husband or wife being a citizen of another state), in property composition (the property of the spouses being located abroad), and in the place where the legal fact occurs (the solemnisation of a marriage abroad). Foreign citizens and stateless persons permanently residing in the territory of the Republic of Uzbekistan enjoy equal rights and bear equal duties in family legal relations with citizens of the Republic

of Uzbekistan (Family Code, art. 234). This rule signifies the non-discrimination of human rights and the operation of the national treatment principle in our state.

A foreign citizen is understood to be a person who does not possess citizenship of Uzbekistan, but possesses proof of their citizenship of another state (for example, a passport). A stateless person is an individual who does not possess any document confirming their affiliation with the citizenship of any state. In Uzbekistan, they hold the same status as local citizens in matters such as entering into marriage, exercising parental rights, paying maintenance (alimony), and adopting children.

Hypothetical example: Jon, a British citizen, holds a permanent residence permit in Uzbekistan. He married Malika, a citizen of Uzbekistan. In their family relations, including the ownership of common property or raising children, Jon's foreign nationality does not restrict his rights. He fully possesses all rights and duties established by the Family Code.

- - Foreigners permanently residing in Uzbekistan enjoy equal rights in family relations (Family Code, art. 234).
- - A foreign element arises through the subject, property, or the location of a legal fact.
- - Citizenship alone cannot serve as a ground for discriminating against family rights.

> **KEY INSIGHT**
> In the Republic of Uzbekistan, national treatment applies to foreigners and stateless persons in family relations; that is, they enjoy equal rights and bear equal duties with local citizens.

16.2 Recognition of marriages contracted outside Uzbekistan

In private international law, the recognition of a marriage means acknowledging its legal validity. Marriages contracted outside the territory of the Republic of Uzbekistan, on the territory of another state in compliance with the legislation of that state between citizens of Uzbekistan, or between citizens of Uzbekistan and foreign citizens, are recognised as valid in Uzbekistan. However, there is a strict prerequisite: there must be no circumstances preventing marriage as provided for by Article 16 of the Family Code (being in another marriage, close consanguinity, legal incapacity) (Family Code, art. 235).

If a marriage was contracted outside Uzbekistan exclusively between foreign citizens, only compliance with the legislation of that state is taken into account, and such marriage is recognised in Uzbekistan (Family Code, art. 235). Furthermore, citizens of Uzbekistan may conclude their marriages abroad in diplomatic missions or consular posts of Uzbekistan. These are referred to as "consular marriages".

Hypothetical example: Rustam, a citizen of Uzbekistan, and Anna, a citizen of Germany, entered into marriage in Berlin in accordance with German legislation. Rustam was not in another lawful marriage in Uzbekistan, and there is no kinship between them. This marriage is fully recognised as valid in Uzbekistan. However, if Rustam had had an undivorced first spouse in Uzbekistan, despite compliance with foreign state laws, this marriage would not be recognised in Uzbekistan (due to the violation of the requirements of Family Code, art. 16).

- - A marriage entered into abroad must conform to the laws of that state (Family Code, art. 235).

• - For a foreign marriage involving a citizen of Uzbekistan, the impediments under Article 16 must not be present.

• - A foreign marriage between foreigners is recognised in Uzbekistan if it complies with the rules of that state.

COMMON PITFALL

Marriages concluded abroad solely on the basis of religious rites (for example, in a church or mosque) but not registered with the official authorities of that state are not recognised as having legal effect in Uzbekistan.

EXAM FOCUS

Remember for the examination: When a citizen of Uzbekistan enters into marriage abroad, they must observe both lex loci celebrationis (the law of the place of celebration) and Article 16 of the Family Code (the absence of legal impediments).

16.3 Dissolution of marriage involving a foreign element

In the dissolution of marriage involving a foreign element, different states apply different conflict-of-laws connecting factors (lex nationalis, lex domicilii). In the Republic of Uzbekistan, however, a unilateral conflict-of-laws rule is strictly established — the law of the forum (lex fori). That is, the dissolution of marriage between citizens of Uzbekistan and foreigners, or exclusively between foreigners, on the territory of Uzbekistan is carried out exclusively in accordance with the legislation of the Republic of Uzbekistan (Family Code, art. 236).

A citizen of Uzbekistan residing outside the territory of the Republic of Uzbekistan is entitled to dissolve their marriage in an Uzbek court with a spouse residing abroad (regardless of what state citizenship they hold). If there are no minor children between the spouses and no property dispute, this process may also be carried out at diplomatic missions or consular posts of Uzbekistan.

Hypothetical example: Pierre, a French citizen, and Laylo, a citizen of Uzbekistan, reside in Tashkent and intend to divorce. Their divorce proceedings will be considered by an Uzbek court on the basis of the provisions of the Family Code. However, this situation may create the problem of a "limping marriage" in international law. That is, this marriage lawfully dissolved in Uzbekistan might still be regarded as valid in France if it fails to meet the requirements of French legislation. Nonetheless, the Uzbek court applies only its own domestic legislation (lex fori).

• - Dissolution of marriage in Uzbekistan is performed exclusively on the basis of Uzbek legislation (lex fori) (Family Code, art. 236).

• - A citizen of Uzbekistan residing abroad is entitled to divorce in an Uzbek court.

• - Divorces executed abroad in compliance with the relevant state's laws are recognised in Uzbekistan.

COMPARE

Whereas lex fori (the law of the forum) applies to divorce in Uzbekistan, many European states apply lex nationalis (the national law) or lex domicilii (the law of the domicile).

16.4 Intercountry adoption

In intercountry adoption, the best interests of the child always stand first and foremost. In the adoption of a child who is a citizen of Uzbekistan by foreign citizens on the territory of the Republic of Uzbekistan, the requirements of Articles 151–167 of the Family Code must be strictly observed. If, as a result of adoption, the rights of the child established by the legislation of Uzbekistan and international treaties would be infringed, adoption is not permitted, irrespective of the citizenship of the adopter (Family Code, art. 237).

There is an important rule regarding the adoption of a child who is a citizen of Uzbekistan and resides abroad: if this process is carried out by an authority of a foreign state, it is recognised as valid in Uzbekistan only if prior permission for adoption was obtained from the National Agency for Social Protection under the President of the Republic of Uzbekistan (Family Code, art. 237). This rule is aimed at preventing child trafficking and abduction.

Hypothetical example: A married couple who are Spanish citizens wish to adopt a child from an orphanage (Mehribonlik uyi) in Uzbekistan. Even though they hold the right to adopt under Spanish law, the Uzbek court will examine their compliance with the requirements of Article 152 of the Family Code (health, income, absence of criminal record). If they fail to meet the requirements of Uzbek legislation, the adoption of the child will be refused.

- - Foreigners are subject to the requirements of the Family Code (arts 151–167) when adopting an Uzbek child.
- - If there is a risk of violation of the child's rights, adoption is prohibited or revoked (Family Code, art. 237).
- - For a foreigner to adopt an Uzbek child residing abroad, prior consent of the National Agency for Social Protection is mandatory.

KEY INSIGHT

Intercountry adoption cases are always heard in closed court proceedings, and the safety of the child along with the protection of their rights remains under strict state control.

16.5 Determining the content of foreign family law rules and public policy

When conflict-of-laws rules require the application of foreign state legislation, courts or civil registry offices face the task of establishing the content of foreign law. According to Uzbek legislation, authorities establish the content of rules of foreign family law in accordance with their official interpretation and application in practice in the relevant foreign state (Family Code, art. 238). For this purpose, inquiries may be addressed to the Ministry of Justice, the Ministry of Foreign Affairs, or experts may be engaged.

Interested parties are also entitled to submit foreign legislative acts to substantiate their arguments. If, despite all measures taken, the content of foreign law cannot be ascertained, the legislation of the Republic

of Uzbekistan is applied. One of the most important aspects is the "public policy" (ordre public) clause. If a rule of foreign family law contradicts the public order, moral principles, or human rights of Uzbekistan, it is not applied.

Hypothetical example: The legislation of a foreign state recognises polygyny or rules severely curtailing the property rights of women as lawful. An Uzbek court hearing a property dispute between citizens of that state refuses to apply the said foreign rule, because these rules fundamentally contradict the public policy (ordre public) of the Republic of Uzbekistan (the principle of equality between women and men). In such an instance, the court applies domestic legislation.

- - The content of foreign law is ascertained according to its official interpretation and application in practice (Family Code, art. 238).
- - Assistance from the Ministry of Justice and experts may be used when ascertaining content.
- - If a foreign rule contradicts the public policy of Uzbekistan, it is not applied.

> **CASE LINK**
> If parties provide an unofficial internet translation of a foreign law, the court will not accept this as sufficient grounds. The valid official text of the law and judicial practice must be confirmed through experts.

16.6 Recognition of foreign judgments and child safety

The recognition and enforcement of foreign judicial acts (for example, recovery of maintenance, determination of a child's place of residence) in Uzbekistan in cross-border family disputes is a complex process. This is primarily executed on the basis of bilateral or multilateral international treaties on legal assistance between states. If no such treaty exists, the principle of reciprocity (retorsion) in international law may be applied.

However, regardless of the existence of any international treaty, where the necessity of immediately protecting the child's safety and interests arises, state authorities of Uzbekistan do not wait for a foreign judgment or automatically enforce it; instead, they take prompt protective measures based on domestic legislation. Particularly where a risk of domestic violence exists, protecting the child takes precedence over international obligations.

Hypothetical example: A court of a foreign state has issued an order granting custody of a child to the father. The father requests enforcement of this judgment in Uzbekistan. However, the guardianship and trusteeship authorities of Uzbekistan discover a risk of domestic violence by the father against the child. In such a situation, the Uzbek court refuses enforcement of the foreign court judgment and adopts protective measures for the child within the framework of Uzbek legislation in order to ensure the safety of the child and prioritise their interests.

- - Foreign court judgments are recognised on the basis of international treaties or the principle of reciprocity.
- - Where a threat to the child's life and health arises, the state takes prompt domestic protective measures.

• - Protection against domestic violence takes precedence over the automatic enforcement of foreign decisions.

> **KEY INSIGHT**
> In international family law, the principle of the "best interests of the child" ranks higher than any foreign court judgment or conflict-of-laws rule. The child's safety is always paramount.

KEY TAKEAWAYS

1. Foreigners permanently residing in Uzbekistan enjoy equal family rights with national citizens.
2. For a marriage concluded abroad to be recognised in Uzbekistan, the impediments under Article 16 of the Family Code must not exist.
3. Divorce proceedings on the territory of Uzbekistan are always conducted on the basis of Uzbek legislation (lex fori).
4. In intercountry adoption, it must be strictly guaranteed that the interests and rights of the child are not violated.
5. For a foreigner to adopt an Uzbek child residing abroad, permission from the National Agency for Social Protection is required.
6. Rules of foreign family law are not applied if they contradict the public policy (ordre public) of Uzbekistan.
7. Ensuring the child's safety and protecting them from domestic violence takes precedence over the enforcement of foreign court decisions.

Summary

In this lesson, we examined the legal foundations of regulating international family relations. Family relations involving a foreign element are complex and require determining which state's legislation is applicable (conflict-of-laws rules). In accordance with the Family Code of the Republic of Uzbekistan, foreigners residing in our country enjoy equality in family rights. For marriages concluded abroad to be recognised, compliance with local laws and Uzbekistan's statutory impediments to marriage is mandatory. In matters of divorce, Uzbekistan strictly applies its domestic legislation (lex fori). Intercountry adoption procedures are grounded in strict rules such as safeguarding the best interests of the child and obtaining consent from state authorities. Furthermore, when applying foreign law, courts determine its content by relying on official interpretations and refuse its application if it contradicts the public policy of Uzbekistan. Most importantly, in any international dispute or the recognition of a foreign judgment, ensuring child safety and protection from violence remains the primary duty of the state.

KEY PRINCIPLES

1. National treatment principle: equality of foreigners in family relations.
2. Application of the lex fori (law of the forum) principle to dissolution of marriage.
3. Obligation to comply with Article 16 of the Family Code when recognising foreign marriages.

4. Ensuring the best interests of the child in intercountry adoption.
5. Public policy (ordre public) clause: rejecting foreign rules contrary to national morals and law.
6. Primacy of immediate child protection over international procedures.

KEY TERMS

Foreign element · Conflict-of-laws rule · Lex fori · Lex domicilii · Lex nationalis · Consular marriage · Limping marriage · Public policy (ordre public) · Retorsion · Apostille

EXAM CHECKLIST

- In what forms is a foreign element manifested in family legal relations?
- Under what conditions is a marriage contracted abroad by a citizen of Uzbekistan recognised in Uzbekistan?
- Under the law of which state is a divorce between foreigners carried out on the territory of Uzbekistan?
- What are the main prerequisites for the adoption of a child who is a citizen of Uzbekistan by foreigners?
- How does the court determine the content of foreign family law rules and when does it refuse to apply them?
- What procedure is followed if child safety is at risk during the recognition of a foreign court judgment?

Cases (IRAC)

Case 1 · Marriage contracted abroad and an impediment to marriage

FACTS

Murod, a citizen of Uzbekistan, contracted a marriage with Anna, a foreign citizen, in accordance with the legislation of that foreign state. Upon returning to Uzbekistan, they presented the marriage certificate and requested that their marital status be reflected in the relevant information systems. An examination revealed that Murod's previous marriage contracted in Uzbekistan had not yet been dissolved at the time of the foreign marriage. Anna stated that she was unaware of this circumstance and that the certificate issued in the state of celebration was sufficient. The civil registry office (FHDYO) official stated that all foreign marriages must be re-contracted in Uzbekistan.

ISSUE

Determining the relationship between foreign legislation and the impediments to marriage under the Family Code of the Republic of Uzbekistan in recognising a marriage contracted abroad by a citizen of Uzbekistan, as well as the lawfulness of the requirements of the civil registry office (FHDYO).

RULE

According to the Family Code of the Republic of Uzbekistan, art. 235, marriages contracted outside the Republic of Uzbekistan on the territory of another state in compliance with the legislation of that state

between citizens of the Republic of Uzbekistan and foreign citizens are recognised as valid in the Republic of Uzbekistan, provided that there are no impediments to marriage specified in art. 16 of this Code. Family Code, art. 16 strictly provides that contracting a marriage between persons of whom at least one is already in another registered marriage is not permitted. Marriages contracted before an authority of a foreign state are not registered a second time in civil registry offices (FHDYO), but rather recognised and acknowledged in the prescribed manner pursuant to the requirements of the said article.

ANALYSIS

1) In recognising a marriage contracted abroad in Uzbekistan, a two-pronged requirement applies. Firstly, the law of the place of celebration, that is, its form and procedure, must be fully complied with. Secondly, since one of the spouses is a citizen of Uzbekistan, the absence of impediments set out in Family Code, art. 16 must strictly be verified. These two requirements are in strict conjunction, and one does not exclude the other.

2) The formalisation, translation into the state language, and verification of the authenticity of a foreign marriage certificate confirm only the formal and procedural validity of the document. However, the proper execution of a document does not automatically confirm the substantive validity of the marriage, namely the absence of legal impediments. Substantive validity depends directly on the legal status of the person and compliance with the requirements of national legislation. The arguments of the civil registry office (FHDYO) official that all foreign marriages must be re-contracted are groundless, as a marriage lawfully contracted abroad is not re-contracted.

3) Anna's good faith and lack of knowledge of the situation do not legally cure the violation of law arising from the existence of Murod's prior marriage. Family Code, art. 16 is a strictly mandatory norm, and until the prior lawful marriage is dissolved, the subsequent marriage cannot under any circumstances be recognised in Uzbekistan. Interested parties, in particular Murod's first spouse, are fully entitled to demand that this marriage be declared invalid.

CONCLUSION

The marriage contracted abroad between Murod and Anna shall not be recognised as valid in the Republic of Uzbekistan, as Murod's prior lawful marriage has not been dissolved (Family Code, art. 16). Although the civil registry office (FHDYO) official's demand to re-contract the foreign marriage is incorrect, due to the presence of a legal impediment, the marriage cannot be recognised in this situation in any event.

DISCUSSION QUESTIONS

1. In what relationship are the law of the place of celebration and the impediments under Uzbek legislation examined when recognising a marriage contracted abroad in Uzbekistan?
2. How do the requirements for the formalisation, translation, and authentication of a foreign marriage certificate differ from the substantive validity of the marriage?
3. Under what legal procedure should Anna's good faith, Murod's prior marriage, and the claims of interested parties be assessed?

Family Code of the Republic of Uzbekistan (30.04.1998) — https://lex.uz/docs/104720

Case 2 · Court judgments in different states and the best interests of the child

FACTS

The ten-year-old child of Zebo, a citizen of Uzbekistan, and Andrey, a foreign citizen, lived abroad for several years. A foreign court dissolved the marriage and ruled that the child should reside with the mother and have contact with the father in accordance with an established schedule. Subsequently, Zebo came to Uzbekistan with the child and stated that she would not return. Andrey sought the recognition and enforcement of the foreign judgment in Uzbekistan. Zebo stated that she had not been properly notified of the judicial proceedings and that the judgment did not take into account new circumstances concerning the child's current safety and health. Andrey demanded the immediate handover of the child to him on the basis of the foreign judgment.

ISSUE

The issue of ensuring a balance between procedural safeguards, the safety of the child, and parental rights when recognising and enforcing a foreign court judgment regarding the child's place of residence in Uzbekistan.

RULE

Pursuant to the Family Code of the Republic of Uzbekistan, art. 236, a dissolution of marriage effected outside the territory of the Republic of Uzbekistan in compliance with the legislation of the relevant foreign state is recognised as valid in Uzbekistan. However, the recognition and enforcement of foreign court judgments are carried out on the basis of relevant international treaties and national procedural legislation. According to the Convention on the Rights of the Child, art. 3, in all actions concerning children, the best interests of the child shall be a primary consideration. Furthermore, where the application of foreign family law would be contrary to the public policy (ordre public) of the Republic of Uzbekistan, it shall not be applied (Family Code, art. 238).

ANALYSIS

1) In recognising and enforcing a foreign court judgment, first and foremost, the existence of an international treaty on legal assistance between Uzbekistan and the state that rendered the judgment is examined. Under procedural legislation, if a person participating in the case (Zebo) was not duly notified of the time and place of the court hearing, this may serve as a ground for refusing recognition of the foreign judgment. The guaranteed right to legal defence must be ensured.

2) A foreign judgment determining that the child is to reside with the mother does not automatically substantiate the father's demand for the immediate handover of the child directly to him. If the judgment merely established contact arrangements, the father's claim exceeds the substance of the judgment. Furthermore, forcible handover of the child could cause serious harm to the child's interests and safety.

3) The issue of recognising a foreign judgment is aimed at confirming a past legal fact, namely the divorce and the status at that time. However, a claim to modify the child's place of residence or contact arrangements is based on entirely new circumstances, such as the child's current safety, health, and new living conditions. If the child's safety and interests in Uzbekistan necessitate a modification, national courts may, in accordance with the Convention on the Rights of the Child and proceeding from the best interests of the child, adopt an independent decision on the new circumstances.

CONCLUSION

Andrey's demand for the immediate handover of the child to him on the basis of the foreign court judgment shall not be satisfied. When recognising the foreign judgment, whether Zebo was duly notified must be verified. If new circumstances regarding the child's safety and health in Uzbekistan are established, the court has the right to reconsider the matter on the basis of the principle of the priority of the child's best interests.

DISCUSSION QUESTIONS

1. How are the relevant international treaty, procedural legislation, and the due notification of a party verified in the recognition and enforcement of a foreign court judgment?
2. Does a judgment determining that the child shall reside with the mother automatically substantiate the father's demand for the direct handover of the child to himself?
3. How does the issue of recognising a foreign judgment differ from a claim to alter the child's place of residence or contact arrangements based on new circumstances?

Family Code of the Republic of Uzbekistan (30.04.1998) — https://lex.uz/docs/104720

Convention on the Rights of the Child (UN, 20.11.1989) — https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child

Case 3 · Adoption of a child who is a citizen of Uzbekistan by foreign citizens

FACTS

Jon and Mariya, who are foreign citizens, applied to the court to adopt Ali, a 5-year-old orphan child who is a citizen of Uzbekistan. They submitted documents confirming that they have the right to adopt in their state. However, the permission of the National Agency for Social Protection under the President of the Republic of Uzbekistan for adoption had not been obtained. Furthermore, the legislation of their state provides that an adopted child's citizenship is automatically revoked and the child's ties with Uzbekistan are entirely severed. The guardianship and trusteeship authority stated that this circumstance could adversely affect the child's future rights.

ISSUE

The issue of complying with the requirements of national legislation and preventing violations of the child's rights in the adoption of a child who is a citizen of Uzbekistan by foreign citizens.

RULE

According to the Family Code, art. 237, when foreign citizens adopt a child who is a citizen of Uzbekistan on the territory of the Republic of Uzbekistan, the requirements of arts 151–167 of this Code must be observed. In addition, the adoption of a child who is a citizen of the Republic of Uzbekistan is recognised as valid only if the permission of the National Agency for Social Protection has been obtained. If, as a result of adoption, the rights of the adopted child established by the legislation of the Republic of Uzbekistan and international treaties are violated, adoption cannot take place, regardless of the citizenship of the adopter.

ANALYSIS

1) When foreign citizens adopt a child who is a citizen of Uzbekistan, alongside the general requirements of the Family Code, the consent of the child's legal representative and the relevant competent authorities is required. In this process, the child's best interests are of paramount priority (Convention on the Rights of the Child, art. 21). The personal law of foreign nationals cannot serve as a ground for circumventing the requirements of Uzbek legislation.

2) In accordance with Family Code, art. 237, the adoption permission from the National Agency for Social Protection under the President of the Republic of Uzbekistan is of essential significance in ensuring the lawfulness of these relations. If this permit has not been obtained, the adoption process cannot be carried out lawfully.

3) Under the legislation of Jon and Mariya's state, there is a risk that the child's Uzbek citizenship will be automatically revoked and his rights curtailed. Under Family Code, art. 237, part 3, if adoption results in a violation of the child's rights established by legislation, adoption is strictly precluded. In this situation, the court must protect the child's future legal safeguards.

CONCLUSION

Jon and Mariya's application to adopt Ali shall not be granted. This is grounded on the absence of permission from the National Agency for Social Protection and the risk of violation of the child's rights established by the legislation of Uzbekistan as a result of the adoption.

DISCUSSION QUESTIONS

1. What special requirements exist for the adoption of a child who is a citizen of Uzbekistan by foreign citizens?
2. What is the significance of the permission of the National Agency for Social Protection?
3. What decision must the court make if there is a risk that the child's rights will be violated as a result of adoption?

Family Code of the Republic of Uzbekistan (30.04.1998) — https://lex.uz/docs/104720

Convention on the Rights of the Child (UN, 20.11.1989) — https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child

Quiz

MULTIPLE CHOICE

1. What is a characteristic feature of an international family relationship?

- A. Family members working in different professions
- B. Spouses retaining different surnames
- C. The presence of a foreign element in the relationship
- D. Spouses living in different districts

> CORRECT: C
> The primary characteristic of international family relationships is the presence of a foreign element in the relationship. A foreign element may be expressed in the composition of subjects (for example, a spouse being a foreign citizen), the location of property abroad, or a legal fact occurring abroad. The other options are ordinary domestic circumstances and lack an international legal character (Family Code, art. 234).

2. What function does a conflict-of-laws rule perform?

- A. It determines which state's law applies to the relationship
- B. It always provides a ready-made resolution to the dispute
- C. It merely calculates the state duty
- D. It only certifies the translation of a document

> CORRECT: A
> A conflict-of-laws rule indicates which state's legislation applies to family relationships involving a foreign element. It does not provide a ready-made resolution of the dispute, but merely resolves the question of choice between national and foreign law. Matters such as state duty or translation are merely procedural acts (Family Code, art. 238).

3. Which legislation determines the form and procedure for contracting a marriage on the territory of Uzbekistan between a citizen of Uzbekistan and a foreign citizen?

- A. Exclusively the legislation chosen by the foreign citizen
- B. Exclusively the rules of the restaurant where the wedding celebration is held
- C. Exclusively the verbal agreement of the parties
- D. The legislation of Uzbekistan

> CORRECT: D
> A marriage contracted on the territory of Uzbekistan, irrespective of the presence of a foreign citizen among the parties, is governed by the legislation of Uzbekistan. That is, registration of the marriage falls exclusively within the competence of the civil registry office (FHDYO). Verbal agreements of the parties or restaurant rules have no legal force (Family Code, art. 236).

4. Which circumstances are examined when recognising a marriage contracted abroad in Uzbekistan?

- A. Only the number of wedding guests
- B. Compliance with the requirements of the relevant legislation and impediments to recognition
- C. Only the colour of the marriage certificate
- D. Only the joint surname of the parties

> **CORRECT: B**
> Marriages contracted outside Uzbekistan are recognised as valid in Uzbekistan if the legislation of that state has been complied with and there are no impediments to marriage specified in Family Code, art. 16. Circumstances such as the number of wedding guests or a surname have no legal significance (Family Code, art. 235).

5. What does the affixing of an apostille to a foreign document NOT signify?

- A. That the official requirement for using the document in international legal transactions has been met
- B. That there is certification of the authenticity of the signature on the document
- C. That all matters in the content of the document are deemed lawful from the standpoint of substantive law
- D. That there is certification of the capacity of the person who signed it

> **CORRECT: C**
> An apostille certifies the authenticity of the signature on the document and the capacity of the signatory, meaning that the formal requirement for use in international transactions has been fulfilled. However, it does not automatically confirm the substantive lawfulness of the document's content or its compatibility with the public policy of Uzbekistan (Family Code, art. 238).

6. What procedure is followed if an international treaty exempts foreign official documents from special certification?

- A. The exemption rule established in the treaty applies
- B. Consular legalisation is required in any event
- C. The document is automatically deemed invalid
- D. A decision is made solely at the discretion of the notary

> **CORRECT: A**
> If an international treaty of the Republic of Uzbekistan establishes rules other than those provided by domestic legislation, the rules of the international treaty apply. Therefore, if a treaty exempts documents from legalisation or apostille, that rule applies directly. Acting according to the notary's discretion or automatically invalidating the document contradicts the law (Family Code, art. 9).

7. How is a foreign court judgment in a family case assessed in Uzbekistan?

- A. It is executed automatically in all cases without any examination
- B. It is rejected in all cases

• C. It is recognised only with the consent of the mahalla

• D. On the basis of the rules of recognition and enforcement in legislation and relevant international treaties

CORRECT: D

Foreign court judgments in family cases are assessed in Uzbekistan on the basis of the rules for recognition and enforcement laid down in legislation and relevant international treaties. They are neither executed automatically without verification nor rejected without grounds. The consent of the mahalla has no relevance to this procedure whatsoever (Family Code, art. 236).

8. What significance may the lack of proper notice to a party in foreign judicial proceedings have?

• A. It affects only the cost of translation

• B. It may be significant in assessing grounds for refusing recognition or enforcement of the judgment

• C. It has no procedural significance

• D. It automatically renders the marriage invalid

CORRECT: B

In recognising foreign court judgments, procedural safeguards, particularly whether the parties were properly notified, are scrutinised. If a party was not notified, this may constitute a serious ground for refusing recognition or enforcement of the judgment. It does not automatically invalidate the marriage (Family Code, art. 236).

9. How is the application of foreign law assessed from the standpoint of the public policy exception?

• A. Any foreign law is automatically rejected

• B. Foreign law is always applied without restriction

• C. The consequences of its application are examined for compatibility with the foundations of Uzbekistan's legal order

• D. Only the nationality of the parties is examined

CORRECT: C

Norms of foreign law are not applied where they are contrary to the public policy (ordre public) of the Republic of Uzbekistan. In such cases, the consequences of applying the foreign law are examined for compatibility with the fundamental foundations of our state's legal order. In the event of a conflict, national legislation is applied instead (Family Code, art. 238).

10. What is the correct approach to assessing the best interests of the child in an international family dispute?

• A. The child's rights, safety, views, and paramount interests are taken into account

• B. Only the wishes of the foreign national parent are taken into account

• C. Only the claim of the citizen of Uzbekistan parent is satisfied

• D. The child's views are not heard due to the presence of a foreign element

CORRECT: A

In international family disputes, particularly in adoption, the priority of the child's best interests must be ensured. The child's rights, safety, views, and best interests always come first. The citizenship or desires of the parents cannot take precedence over the child's best interests (Convention on the Rights of the Child, art. 3; Family Code, art. 237).

11. While working in Russia, Rustam, a citizen of Uzbekistan, contracted a marriage with a Russian citizen at a local civil registry office. However, Rustam had a prior marriage in Uzbekistan that had not been lawfully dissolved. Will this marriage be recognised in Uzbekistan?

- A. Yes, because the marriage was contracted in accordance with Russian legislation.
- B. No, because polygamy is not permitted under Uzbek legislation, which constitutes an impediment to marriage.
- C. Yes, if Rustam's first wife consents.
- D. No, because all marriages contracted abroad are invalid in Uzbekistan.

CORRECT: B

Marriages contracted outside the Republic of Uzbekistan are recognised as valid in Uzbekistan provided that there are no impediments to marriage specified in Family Code, art. 16 (for example, already being in another registered marriage). Since Rustam's prior marriage was not dissolved, the new marriage cannot be recognised (Family Code, art. 235).

12. A married couple who are US citizens wish to adopt an orphan child who is a citizen of Uzbekistan. Is it sufficient for them to comply only with US laws?

- A. Yes, because they are US citizens.
- B. No, they must comply with the requirements of the legislation of the Republic of Uzbekistan and obtain the relevant authorisations.
- C. Yes, if the child consents of their own free will.
- D. No, foreign citizens are completely prohibited from adopting a citizen of Uzbekistan.

CORRECT: B

When foreign citizens adopt a child who is a citizen of Uzbekistan on the territory of Uzbekistan, compliance with the requirements of Family Code, arts 151–167 is mandatory. Furthermore, the best interests of the child must be ensured under judicial supervision (Family Code, art. 237).

13. An Uzbek court must apply rules of foreign family law when hearing a family dispute between foreign citizens. How does the judge determine the content of these rules?

- A. Relies solely on the oral explanations of the parties.
- B. Immediately refuses to apply foreign law and applies Uzbek law.
- C. May apply to the Ministry of Justice, engage experts, and rely on official interpretations.
- D. Resolves the matter at their own discretion using informal translations on the internet.

CORRECT: C

When applying rules of foreign family law, the court establishes their content in accordance with their official interpretation. For this purpose, it may apply to the Ministry of Justice, other competent authorities, or engage experts. If the content cannot be established despite all measures taken, the legislation of Uzbekistan applies (Family Code, art. 238).

14. Malika, a citizen of Uzbekistan, and her spouse (a citizen of Uzbekistan) permanently reside in South Korea. They dissolved their marriage through a local court there. How is this divorce recognised in Uzbekistan?

- A. It is never recognised; they must come to Uzbekistan to divorce.
- B. If the legislation of South Korea was complied with, it is recognised as valid in Uzbekistan.
- C. It is recognised only if they re-divorce at the Uzbek embassy.
- D. It is recognised only if they have no children.

CORRECT: B

A dissolution of marriage between citizens of Uzbekistan effected outside the territory of the Republic of Uzbekistan in compliance with the legislation of the relevant foreign state is recognised as valid in Uzbekistan. This also accords with the principles of mutual agreement and voluntary consent (Family Code, art. 236).

OPEN QUESTIONS

15. Where a marriage lawfully registered in a foreign state contradicts an impediment to marriage under Uzbek legislation, in what relationship should the requirements of foreign law, international treaties, and national law be applied regarding its recognition?

MODEL ANSWER

In recognising a marriage lawfully registered in a foreign state in Uzbekistan, the requirements of foreign law, international treaties, and national law apply on the basis of a strict mutual hierarchy. Under Family Code, art. 235, although marriages involving citizens of Uzbekistan contracted abroad are valid if concluded in compliance with the legislation of that state, there must be no impediments specified in Family Code, art. 16 (for example, polygamy, close consanguinity, lack of legal capacity). That is, foreign law governs only the form and procedure of the marriage, but substantive conditions are restricted by our national law. If an international treaty provides otherwise, the rules of the international treaty take precedence. However, in international practice, the public policy (ordre public) exception applies. Pursuant to Family Code, art. 238, if the application of foreign law is contrary to the public policy of the Republic of Uzbekistan, it shall not be applied at all. As an alternative approach, it may be noted that certain foreign states (for example, common law systems) fully recognise a marriage under the law of the place of celebration (lex loci celebrationis); however, the legal system of Uzbekistan prioritises the protection of the state's moral and legal foundations through the personal law of citizens (lex patriae).

16. Where a child is brought to Uzbekistan after a foreign court has determined the child's place of residence, and new circumstances concerning the child's safety are established, how is the recognition and enforcement of the foreign judgment reconciled with the necessity of immediate protection of the child?

MODEL ANSWER

Reconciliation between the recognition and enforcement of a foreign court judgment and the necessity of immediate protection of the child is resolved on the basis of the principle of the best interests of the child set forth in art. 3 of the Convention on the Rights of the Child. Under Family Code, art. 236 and relevant procedural norms, foreign court judgments are recognised in Uzbekistan within the framework of international treaties. However, if new circumstances posing a direct threat to the child's life, health, or safety (for example, the risk of domestic violence, neglect) are established after the child is brought to Uzbekistan, blind enforcement of the foreign judgment is impermissible. National courts and guardianship authorities must immediately take protective measures for the child. In this event, enforcement of the foreign judgment may be stayed or refused. As an alternative approach, it should be noted that in international law there is a rule of prompt return of the child to the state of habitual residence. Yet even this rule is not absolute: if returning the child would expose them to physical or psychological harm, return is refused. Uzbek law enforcement practice places safeguarding the child's safety above the requirements of any foreign jurisdiction.

17. What legal consequences arise if a court is unable to determine the content of the rules of foreign family law, and how does this affect the rights of the parties?

MODEL ANSWER

Pursuant to Family Code, art. 238, when applying rules of foreign family law, the court or civil registry office (FHDYO) must establish their content in accordance with their official interpretation and practice in the relevant state. To this end, measures such as applying to the Ministry of Justice, engaging experts, or requiring documents from the parties are taken. If, notwithstanding all measures taken, the content of the foreign legal rule cannot be established, the legislation of the Republic of Uzbekistan shall apply. This rule is grounded on the principle of lex fori (law of the forum) and prevents a legal vacuum. For the parties, this situation may give rise to unexpected legal consequences, as they may have planned their relations relying on foreign law. As an alternative approach, it may be noted that in the practice of some foreign jurisdictions (for example, in the US or the UK), if the content of foreign law is not proved, the claim may be dismissed outright. However, Uzbek legislation guarantees the substantive resolution of the dispute through the application of national law in order to ensure the administration of justice and not leave the parties without legal protection.

Glossary

FOREIGN ELEMENT
A legal concept in family law encompassing instances where one party to the relationship is a foreign citizen, property is situated abroad, or a legal fact occurred abroad.

Example: In a marriage contracted between a citizen of Uzbekistan and a citizen of France, there is a foreign element in the composition of subjects.

Related: Conflict-of-laws rule, Lex fori

CONFLICT-OF-LAWS RULE
A special legal rule that resolves the conflict of laws of different countries by specifying which state's legislation applies to civil and family legal relationships of an international character.

Example: The court refers to a conflict-of-laws rule to determine which state's law applies in a dissolution of marriage.

Related: Lex nationalis, Lex domicilii

LEX FORI
The law of the forum, which is one of the primary connecting factors signifying the application of the domestic law of the state where the court hearing the dispute is located.

Example: On the territory of Uzbekistan, divorce proceedings between foreign citizens are heard under the legislation of Uzbekistan pursuant to the lex fori rule.

Related: Conflict-of-laws rule, Foreign element

LEX NATIONALIS
The personal law of an individual, which provides that the legal rules of the state of which the person is a national shall apply to their family relations.

Example: In protecting the rights of an adopted child, the lex nationalis rule is applied based on the child's citizenship.

Related: Lex domicilii, Conflict-of-laws rule

LEX DOMICILII
The law of domicile, which is a connecting factor signifying that, irrespective of nationality, the legal rules of the state where a person permanently resides shall apply.

Example: The conditions of marriage for stateless persons are determined on the basis of the lex domicilii rule of the state of their permanent residence.

Related: Lex nationalis, Lex fori

RETORTION
Reciprocal legal restrictions imposed on the territory of Uzbekistan against citizens of a foreign state where that foreign state adopts measures restricting the rights of citizens of Uzbekistan.

Example: If a foreign state refuses to recognise a marriage contracted at an Uzbek consulate, by way of retortion its consular marriage may likewise not be recognised.

Related: Foreign citizen, Public policy

PUBLIC POLICY
The set of fundamental legal, moral, and social principles of a state, such that the application of foreign law is refused if it conflicts with these principles.

Example: Rules of foreign law discriminating against women's rights are not applied by the court because they are contrary to the public policy of Uzbekistan.

Related: Conflict-of-laws rule, Lex fori

CONSULAR MARRIAGE
A marriage contracted in accordance with national legislation at diplomatic missions or consular posts of Uzbekistan between citizens of the Republic of Uzbekistan permanently or temporarily residing abroad.

Example: Two citizens of Uzbekistan studying in Germany registered their marriage at the Embassy of Uzbekistan in Berlin.

Related: Marriage, Foreign element

INTERCOUNTRY ADOPTION
The process of taking into one's care a child who is a citizen of one state by citizens of another state or stateless persons, in which the paramountcy of the child's rights is ensured.

Example: When foreign citizens adopt a child who is a citizen of Uzbekistan, permission from the National Agency for Social Protection must be obtained.

Related: Guardianship, Trusteeship

APOSTILLE
A special international certifying stamp affixed to an official document executed in one state to ensure its recognition and legal effect on the territory of another state.

Example: For a marriage certificate issued abroad to be recognised in Uzbekistan, an apostille must be affixed to it in the prescribed manner.

Related: Foreign element, Intercountry adoption

Timeline

Chronology of the development of international family law and relations

1989 · CONVENTION ON THE RIGHTS OF THE CHILD

The Convention on the Rights of the Child was adopted by the United Nations. This instrument established the primacy of the interests of the child in international family relations.

Significance: The fundamental cornerstone for the protection of children's rights at the international level was established.

1998 · ADOPTION OF THE FAMILY CODE

The Family Code of the Republic of Uzbekistan was adopted. Section VIII of the Code was directly dedicated to the regulation of family relations involving foreign citizens and stateless persons.

Significance: International family relations were systematically consolidated in national legislation.

2021 · AMENDMENTS TO THE FAMILY CODE

Under the revision by Law of the Republic of Uzbekistan No. ZRU-683 of 21 April, significant clarifications were introduced into Articles 235, 236, 237, and 238 of the Family Code regarding the application of foreign law.

Significance: Procedures for the recognition of foreign marriages and divorce were harmonised with international standards.

2026 · NEW GUARANTEES IN ADOPTION

Under the revision by Law No. ZRU-1174 of 12 September, the requirement to obtain permission from the National Agency for Social Protection when adopting a child living abroad was strictly established in legislation.

Significance: The safety of children and the protection of their interests in intercountry adoption were strengthened.

Mind map

International family relationships

- Legal status: Rights of foreign citizens and stateless persons.
- — Equality of rights: Equal rights and obligations with citizens of Uzbekistan (art. 234).
- — — Permanent residents: Persons permanently residing on the territory of Uzbekistan.
- — — Equality of obligations: Full compliance with the requirements of family legislation.

- — Foreign citizen: A person possessing a document confirming citizenship of another state.
- — — Passport: Primary document confirming citizenship.
- — — Consular registration: Legal assistance through the embassy of one's own state.
- — Stateless person: A person not holding the citizenship of any state.
- — — Residence permit: Document confirming identity and place of residence.
- — — Lex domicilii: Application of the law of the place of permanent residence.
- Recognition of marriage: Recognition of marriages contracted abroad as valid in Uzbekistan.
- — Foreign legislation: Compliance with the legislation of the state of celebration.
- — — Compliance with form: Registration by the local civil registry office or competent authority.
- — — Religious marriage: Only secular registered marriages are recognised.
- — Impediments: The requirements of Family Code, art. 16 must not be violated.
- — — Polygamy: Not being in another registered marriage.
- — — Consanguinity: Marriage between close relatives is prohibited.
- — Consular marriages: Marriages contracted at embassies or consular posts.
- — — Same citizenship: Usually contracted between citizens of the same state.
- — — Principle of reciprocity: Recognised taking into account the rules of retortion.
- Dissolution of marriage: Termination of marriage involving a foreign element.
- — Divorce in Uzbekistan: Conducted on the basis of the legislation of Uzbekistan.
- — — Lex fori: The law of the forum applies.
- — — Court or civil registry office (FHDYO): Heard under general procedure.
- — Divorce abroad: Dissolution in a foreign state under the law of that state.
- — — Condition for recognition: Full compliance with foreign legislation.
- — — Consular divorce: Divorce at an embassy where civil registry grounds exist.
- — Legal consequences: Proprietary and personal consequences of divorce.
- — — Limping legal relations: Risk of recognition in one state and non-recognition in another.
- — — Destiny of children: Matters of child maintenance and place of residence.
- Intercountry adoption: Adoption of a child by foreign citizens.
- — Best interests of the child: Violation of the child's rights is strictly precluded.
- — — Paramountcy: Safeguard under international treaties and national legislation.
- — — Revocation: Revoked through judicial proceedings if rights are violated.
- — Obtaining consent: Consent of legal representatives and state bodies.
- — — Competent authority: Consent of the authority of the state of the child's citizenship.
- — — Child's consent: Views of the child who has attained the statutory age.
- — Special authorisation: Supervision by authorities of the Republic of Uzbekistan.
- — — Social Protection Agency: Prior authorisation of the Agency is required.
- — — Judicial proceedings: Resolved exclusively through court in closed session.

- Content of foreign law: Ascertainment and application of rules of foreign family law.
- — Ascertaining content: Ascertained in accordance with official interpretation and practice.
- — Assisting bodies: Ministry of Justice and experts may be engaged.
- — Public policy: Must not contradict the foundations of national legislation.

Walkthrough and diagram

Intercountry adoption process and safeguards

RELATIONSHIPS IN THIS DIAGRAM

- Foreigner's application ’Initiation ’Preparation of documents
- Preparation of documents ’Request for permission ’Social Protection Agency
- Social Protection Agency ’Consent requirement ’Consent of legal representative
- Consent of legal representative ’Referral to court ’Judicial proceedings
- Judicial proceedings ’Primary criterion ’Best interests of the child
- Best interests of the child ’In case of risk ’Violation of rights
- Violation of rights ’Through court ’Annulment of decision
- Best interests of the child ’Positive resolution ’Judicial proceedings

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