

**Short questionnaire**

Therefore, States are respectfully requested to provide responses to the following questions which relate to the recognition in one State of a domestic adoption granted in another State:

<b>Name of State:</b>	The Republic of Belarus
	Dear candidates for adoptive parents! If you are planning to start the procedure of adoption of the child-citizen of the Republic of Belarus on the territory of a foreign state, please note that before beginning this procedure, you must obtain the permission of the competent authority of the Republic of Belarus. For proper implementation of the procedure you should apply to the establishment of "The National Adoption Centre of the Ministry of Education of the Republic of Belarus."
	And then our contact information: Minsk, Platonava str., 22 e-mail: 7651042@tut.by tel. +37517 331 06 17, 37517 292 67 01.
<b><u>Information for follow-up purposes</u></b>	
Name and title of contact person:	Elena Mihaylovna Voytehovich, lead counsel
Name of Authority / Office:	The National Adoption Centre of the Ministry of Education of the Republic of Belarus" (hereinafter - NCA)
Telephone number:	+37517 331-46-54
E-mail address:	7651042@tut.by

**A. RECOGNITION IN YOUR STATE OF DOMESTIC ADOPTIONS GRANTED PREVIOUSLY IN OTHER STATES**

***The law and procedure in your State***

1. Please briefly outline the **law** (legislation or other rules) in your State concerning the recognition of a domestic adoption granted previously in another State.

The procedure for the recognition of domestic adoption granted previously in another state, is set out in the Code of the Republic of Belarus on marriage and family (article 233 and Chapter 13) and the Regulation on the procedure of international adoption and the establishment of international guardianship, custody of children trusteeship over the children, approved by the Decree resolution of the Council of Ministers of the Republic of Belarus No. 122, dated 31.01.2007.

According to the requirements of the legislation of the Republic of Belarus, the adoption of a child who is a citizen of the Republic of Belarus, residing outside of the Republic of Belarus made by the competent authority of a foreign state of the adopter's citizenship or where he resides even if he is a stateless person, is recognized as valid in the Republic of Belarus, provided the written consent to the adoption of the Minister of Education of the Republic of Belarus in the order established by the Government of the Republic of Belarus.

This procedure provides that for getting the written permission of the Minister of Education of the Republic of Belarus for the adoption it is necessary to submit documents to NCA through a foreign establishment of the Republic of Belarus. First of all, they are documents that show the applicant's possibility to be an adoptive parent (including a medical health certificate, proof of permanent income, the availability of housing and related facilities for the child's upbringing, the lack of criminal record and restrictions on parental rights for the improper

performance of parental duties ., etc., a complete list is provided in article 125 of the Code of the Republic of Belarus on marriage and family), as well as:

the application for issuing a written permission for international adoption of a child who is a citizen of the Republic of Belarus,

the document-conclusion of the respective competent bodies (organizations) of the state of habitual residence of the applicants on the applicants' social and psychological readiness to perform the duties on education of children,

the application for issuing a written permission for international adoption of a child who is a citizen of the Republic of Belarus,

the document-conclusion of the respective competent bodies (organizations) of the state of habitual residence of the applicants on the applicants' social and psychological readiness to perform the duties on education of children,

a copy of the marriage certificate of the applicants for international adoption by the stepfather;

copies of the documents confirming the relationship between the applicants and the child for international adoption of the child by his close relatives;

a copy of the birth certificate of the child;

copies of the documents confirming the absence of the child's parents (the death certificate, the court decision on deprivation of parental rights, the recognition as missing, etc.)

a written consent of a child who has reached the age of 10 for international adoption,

the document-guarantee of the competent authority of the applicant's state of residence that reports NCA the living conditions and upbringing of the adopted child annually within five years after the international adoption (except in cases of international adoption by the stepfather (or the stepmother) of the child).

In particular, please specify whether your State applies different rules to the recognition of domestic adoptions made in certain States or regions and, if so, why.

The procedure is slightly different depending on whether the adoption of the child is made by the stepfather (the stepmother), or other relatives. For example, the guarantee document of the competent authority (organization) of the applicant's (s') State of residence that reports NCA the living conditions and upbringing of the adopted child annually within five years after the international adoption but it isn't provided in the child's adoption cases by the stepfather ( the stepmother).

2. Please briefly outline the **procedure** which must be followed in your State by persons seeking the recognition of a domestic adoption granted previously in another State.

Briefly the procedure is as follows:

The recognition procedure is possible only in respect of the children who are citizens of the Republic of Belarus and they will be adopted on the territory of a foreign state.

In such cases, as a rule, we are talking about adoption of a Belarusian child by the stepfather (the stepmother) or relatives of the child residing outside the Republic of Belarus.

Before the establishment of the adoption by the competent authority of a foreign state, the prospective parents must submit to NCA duly legalized and translated into Russian or Belarusian language documents according to the list provided by the legislation of the Republic of Belarus (given above in p. 1, through the foreign office of the Republic of Belarus to obtain the written permission of the Minister of Education.

NCA checks the documents submitted by the applicant and sends the information about him to the Department (division) of Education at the last place of residence (location) of the child to obtain the written consent of the guardianship authorities for recognition of international adoptions in the Republic of Belarus.

Next, based on the written consent of the guardianship authorities of the last place of residence (location) of the child and the documents submitted by the applicant, NCA prepares for further legalization and to the competent authority of the state of residence of the applicant (applicants) through the conclusion about advisability of the international adoption of the child, receives the written permit for international adoption of the child and submits them to the Ministry of Foreign Affairs for further legalization and transmission to the competent authority of the state of residence of the applicant (s) through the respective foreign establishment of the Republic of Belarus.

Further, the adoption is established on the territory of a foreign state, all the necessary documents are made there, including a new birth record of the child is committed.

Then the adoptive parent applies to the bodies of civil status on the territory of the Republic of Belarus to carry out the exequatur procedure, i.e. the bodies of civil status make changes in assembly record about a birth of the child on the basis of a foreign judgment.

The procedure is completed.

In particular, please specify what legal or administrative steps are required for recognition.

The authorization of the Minister of Education of the Republic of Belarus for the establishment of adoption in the territory of a foreign state.

3. What is the competent authority in your State for such matters?

The Minister of Education of the Republic of Belarus

**Cases which have arisen in your State**

4. Has your State been asked to recognise domestic adoptions granted previously in other States? If so:

- (a) How many such cases have arisen in the past year?

in 2016- we had 5 cases

Past three years?

from 2014 to 2016 - 8 cases

- (b) In such cases, why was recognition of the domestic adoption sought?

First, it is a requirement of the law, both international and Belarusian.

And secondly, to resolve a number of issues: for example, the preservation of the child's citizenship of the Republic of Belarus after the adoption, as well as achievement uniformity in the documents on the territory of two states, namely, in the assembly record about a birth of a child on the territory of the Republic of Belarus and the foreign state where the adoption has been established.

- (c) What type of document was presented for recognition?

A package of documents is required in accordance with the legal requirements (listed in para. 1 of the questionnaire).

- (d) Was recognition permitted?

Resolution of the Minister of Education of the Republic of Belarus has been received.

- (e) In cases where recognition was refused, what were the reasons?

We haven't had such cases.

In particular, have there been any cases in which recognition was refused by your State on the basis that jurisdiction had been inappropriately assumed by the foreign authority?

Please insert text here

- (f) Where recognition was refused, what actions, if any, were taken with respect to the status of the child?

Please insert text here

- (g) Has there been any cross-border co-operation / communication between your State and any State(s) which granted the adoption(s) in these cases?

Please insert text here

5. In your State's experience, do (some or many) families with an adopted child move to your State without having the child's adoption formally recognised in your State?

Yes. There are a lot of such cases. Families entering the Republic of Belarus with adopted children have a new birth certificate of the child, where they are recorded as the child's parents, as well as a new passport for the child, where he has a common surname with the adoptive parents. In such cases, the legal status of the adopted child is no different from the legal status of a biological child. And the recognition of the adoption in the Republic of Belarus is not required.

Does this create any problems for the family?

No. According to the Belarusian legislation, foreigners on the territory of the Republic of Belarus enjoy the rights and freedoms and fulfill the same obligations as citizens of the Republic of Belarus.

## **B. RECOGNITION IN ANOTHER STATE OF DOMESTIC ADOPTIONS GRANTED PREVIOUSLY IN YOUR STATE**

### ***The law and procedure in your State***

6. In relation to the granting of domestic adoptions in your State:

- (a) Are any special rules or procedures followed when a case involving a domestic adoption has an international element (*e.g.*, it involves a foreign national child and / or foreign national prospective adoptive parents, despite the fact that they are all habitually resident in your State)?

If the prospective parents is a foreign citizen or a person without citizenship and permanently resides in the territory of the Republic of Belarus to him as well as the candidates for adoptive parents who are citizens of the Republic of Belarus is necessary to apply for a certificate survey of living conditions of prospective parents and to submit the documents showing the ability of the applicant to be an adoptive parent (including a medical health certificate, proof of permanent income, the availability of housing and related facilities for the education of the child) to the department (division) of education at the place of residence.

the statement; the passport or another identity document; the certificate of marriage; medical health certificate

The department (division) of education at the place of residence or the authorized organizations within one month from the day of the request carry out surveys on the conditions of the life, learn the traits of the personality, lifestyles and family traditions, interpersonal relations in the family, assess the readiness of all the members of the family to meet the vital needs of children, carry out or organize training and psychological diagnosis.

After one month from the date of applying to the department (division) of education with the necessary documents, the candidates for adoptive parents received a survey certificate, which indicates the readiness to carry out duties on education of children, as well as the information about presence or absence of criminal records of the prospective adoptive parents; restrictions on parental rights and capacity, and others.

Next NCA selects a child among the children who are at least one year on a centralized accounting in the national data bank, and gives prospective parents the direction to meet a child for international adoption. This is a special rule for adoptive parents who are not citizens of the Republic of Belarus.

Within a month you need to make a decision on the proposed adoption of the child.

In the case of consent to international adoption of the offered child the prospective parents within a month provides to NCA a statement on international adoption of the child addressed to the appropriate regional or Minsk city court. NCA receives the written permission of the Minister of Education for the international adoption. This is also a special rule for adoptions with a foreign element.

If permission is given NCA sends documents on the international adoption to the relevant regional court or the Minsk city court for consideration and decision.

In the case of a written refusal of the Minister of Education on the international adoption of the child NCA returns the application with all the documents to the prospective parents.

If we talk about a child with foreign citizenship, unless otherwise stipulated by international treaties of the Republic of Belarus, the written permission of the competent authority of the state of the child's nationality must be legalized and translated into the Russian (Belarusian) language, and, if it's required, in accordance with the laws of a foreign state, the consent of the child for international adoption.

- (b) What type of document is issued for domestic adoptions granted in your State?

The decision of the regional (Minsk city) court, a certificate of adoption.

7. Are there any special rules or procedures which are followed when your State is made aware that another State has been requested to recognise a domestic adoption originating from your State?

There aren't special rules. In case it is requested a specific answer will be given regarding the topic of the inquiry.

### ***Cases which have arisen involving your State***

8. Are you aware of situations in which recognition has been sought in other States of domestic adoptions granted in your State?

No. Requests of foreign states on the issue haven't been received by us.

If so:

- (a) How many such cases have arisen in the past year of which you are aware?

Please insert text here

Past three years?

Please insert text here

- (b) Which competent authorities were addressed in your State? And in the other State(s)?

Please insert text here

- (c) In such cases, why was recognition of the domestic adoption sought?

Please insert text here

- (d) Was recognition permitted by the other State(s)?

Please insert text here

- (e) In cases where recognition was refused, what were the reasons?

Please insert text here

Have you ever had a case where the grounds upon which your State assumed jurisdiction to grant the domestic adoption were challenged by the foreign State?

No

- (f) Where recognition was refused, what actions, if any, were taken with respect to the status of the child?

Please insert text here

- (g) Has there been any cross-border co-operation / communication between your State and any State(s) being asked to recognise the adoption in these cases?

Please insert text here

**C. PRACTICAL PROBLEMS REQUIRING ACTION**

9. In light of the information you have provided in both sections above, overall, are there, in your State's experience, practical problems in this area that need resolving at the international level?

No