

THE ANSWERS OF THE REPUBLIC OF BELARUS

on a polling sheets on practical realization of provisions of the Convention on civil aspects of the international abduction of children signed in Hague October 25, 1980, and also opinion concerning the prepared recommendations.

(1) The role and functioning of the Central body.

Answering to questions of polling sheet section (1), we guess to explain the following.

At the given stage in the Ministry of Justice of the Republic of Belarus any inquiries or reference from other Central bodies of the state-parties to the Convention did not act according to provisions of Article 7 of the Convention on civil aspects of the international abduction of children October 25, 1980, signed in Hague and in this connection to speak about difficulties arising in practice at the relations or cooperation with other Central bodies now is prematurely.

On examining a question put in item 2 it might be noted, that in practice, the Ministry of Justice, as the Central body, has not experienced problems in course of realization any duties stipulated by Article 7 of Convention, as inquiries have not been submitted till present.

At the same time there were difficulties by consideration of a question about an opportunity of addressing to the Central body of Federal Republic Germany within the framework of the Convention, as the reference of a body of trusteeship and guardianship to the Ministry of Justice of the Republic of Belarus about returning the child who has been taken out for its health improvement in 1996, i.e. before accession of the Republic of Belarus to the Convention, has made in 1998 – before the entry in force of this Convention between the Republic of Belarus and the Federal Republic of Germany.

In this connection, there is a question, whether it is possible to address to the Central body of a state-party with the request for returning the child taken out and retained in territory of this state, before validation of the Convention between the two states?

As no requests were submitted the Ministry of Justice of the Republic of Belarus, as the Central body, did not undertake any measures to ensure voluntary returning of the child or peace settlement of a problem.

Answering to provision of **item 9**, about the statement of support, we guess to confirm the support to those conclusions, which were achieved on first, second and third Special Commission meetings, as it appears in **footnote 11**. However, in the Republic of Belarus such powers are not delegated and cannot be delegated at the given stage to the Central body, a sort of which is the Ministry of Justice. As to **footnote 12** is concerned, we guess to support provisions which are stated in it, taking into account the reservation made by the Republic of Belarus at the time of accession to the Convention on civil aspects of the international abduction of children.

Answering on **item 10**, we could support any other recommendations in observance of specific functions, which Central bodies, could carry out, and

especially in view of said measures in **items 6 and 7**, under condition of due equipment and maintenance by the information concerning measures, undertaken in other states with use of specific functions.

(2) Legal proceedings, including appeals and both measure of compulsion and questions of interpretation

To make comments on provisions stated in **items 1-6 of section (2)** polling sheets, it is not obviously possible, as the judicial practice on such cases in the Republic of Belarus is absent at present.

However, we guess to support some recommendations stated in **item 7** of the polling sheet.

So, it would be desirable to have an opportunity to consider positive experience of the state, in which jurisdiction on such is concentrated at the limited quantity of courts (**item a**)).

We also support an appeal designated in **item d**) to firm and strict observance of the laws, both on judicial, and at an appeal level at progress of the petitions about returning.

At the same time, we consider expedient, to support an appeal contained in **item e**), to the state-parties to execute the court's decisions on returning directly and effectively.

It is worth to note, that the recommendations stated in **item I**), concerning interpretation "**of significant risk**" according to Article 13, in narrow sense, are deserved theirs support.

At the given stage to offer any other measures to improve efficiency and efficiency of consideration of the petitions on returning and execution of the decision on them, it is not obviously possible because of absence of addresses and consequently of experience of deliberations on such cases and appeals.

(3) Questions concerning safe and immediate returning of the child (to his/her trustee or guardian, where it's necessary)

The questions concerning safe and immediate returning of the child (to his/her trustee or the guardian, where it is necessary), stated in **section (3)**, in their basic part will stay without comments, as we have no judicial experiences on such cases.

(4) Procedures to ensure trans-border access/contact between the parent and child. For the above-stated reasons it is not obviously possible to answer questions stated in **section (4)**.

As to provisions stated in **section (5) Maintenance of the consent of the states with the obligations, stipulated by the Convention**, it is obviously possible to note only, that any measures are not undertaken to decide positively or negatively question connected to accession of a new state (in accordance with Article 38) so in order to receive satisfactory proofs that a new state-party will observe commitments stipulated by the Convention.

However, we guess to support idea of drawing up of a standard questionnaire,

which the state-parties would present for consideration to the new accessing state, so that they could assist in the decision of a question on the consent or disagreement with its accession.

We stand also to support necessity to increase quantity of the Special commissions sessions (or similar sort of meetings) to make assessments and to analyze realization of the Convention. We also support the stated idea, that the Special Commission examines particular aspects of realization of the Convention, i.e., those one specified in a polling sheet.

We would like to offer, that the special cases were examined, at which the application of the Convention's provisions was caused with the special difficulties, and the measures undertaken as an exit from inconvenient situations, were reported to the Central bodies of the state-parties of the Convention to take them into consideration.

(6) Different and general.

Answering on questions reflected in **section (6)**, we guess to note, that it is reasonable to submit the reports on the forms then, when it's so requested, and in that case, when during an year of the requests did not act, on our view, it is enough to direct the letter-information on the absence of any references within the framework of the Convention.

We support an idea to analyze statistics submitted by the state-parties to the Convention and to publish them annually or to place on web-site of the Hague Conference.

The clause of **item 7** (*the Courts will apply various approaches on removing cases, which are most frequently arisen, which were taken into account in 1980 during drafting the Hague Convention on civil aspects of the international abduction of children. The courts should become aware of, that extremely limited approaches to the removing could adversely affect realization of the Hague convention on civil aspects of the international abduction of children*) it is not obviously possible to comment, as we do not have information, what has been discussed in the course of preparation of the Convention for its signing. However, we believe, that it is valid, that during legal proceeding, the courts should have in mind and be aware of, that the extremely limited approaches to removing could adversely affect realization of the Hague convention on civil aspects of the international abduction of children.