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THEME:

**ADOPTION IN THE MUNICIPALITY OF PRISHTINA AFTER 2006**

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## INTRODUCTION

Adoption, as practiced today, embodies a deep sense of social purpose, the main aim of which is the attempt to provide a stable home for a child. As such, adoption is a legal and social institution through which between adopters and adopted children establish a parental relationship depending on the type of adoption is identical to the parental relationship established by a legal act, which means on the artificial road and not on the natural road. Adoption is still relatively uncommon in society and many people still do not have clear the importance of this institution, types, conditions for adoption procedure and the exercise of parental rights established by adoption; moreover social stigma are still faced associated with it. However, the attitude of society towards this institute is evolving constantly, so the statement about adoptive parents is fading away being not called as "true parents" or that adopted children are not as good as biological children because of their past unknown genetic. Such negative attitudes that see adoption as unacceptable, are changing, because everyday it is understood that through adopting the interests of children are provided and also through it we can provide necessary parental care, but also interests of adoptive parents are provided, both in biological and emotional terms of meeting their need to have children and to be parents. But the establishment of adoption is in the interest of the parents, if alive and known, because their interest wants to achieve by adoption the conditions for the care and development of children, which they cannot offer it to them. Thus, adoption is a legal process which includes adoptive parents who are looking to adopt children, the child that will be adopted and the biological parents of the child to be adopted. Adoption, in its essence, is guided by the principle "Adoptionaturamaimitatur", which means the aim to create a family connection that offers security and a sense of identity for the child being turned into a "natural environment for the child's growth and well-being." This is also reflected in national and international laws, in which family refers to as the basis of society, in which individual is born and by which the individual emerges in society and become part of it. Also, it's sanctioned that every child born has the right to live in a family, but for some reason when such a relationship is not available, society must provide systems and resources to maintain the welfare of the child. It is often said that exactly the way we treat our children is a measure of social sensitivity to the categories in need such as: children who need the help of society to offer parental care, therefore adoption can be termed as a process by which society offers a substitute family for a child, whose natural parents are unable or unwilling to care for the child.

Considering what was said above and in function of the adoption institute treatment to all its importance and forms of regulation in domestic legislation, this paper is structured in three chapters:

- In the first chapter is treated the historically development of adoption institute, starting from its appearance in ancient Eastern countries, or in different religious confessions, of which specific elements of this institute are identified, to continue with adopted codes at that time, its regulation in the Roman Empire, in the Middle Ages and in the new regulation that this institute takes in modernity, in light of the developments of this time.

- The second chapter deals with the conditions required for adoption and the procedure through which it passes for its establishment, the role of each body from the moment of identification of the child without parental care, until the conclusion of proceedings in which the court decides for the establishment of adoption between the child without parental care and prospective adoptive parents.
- 3. The third chapter analyzes the adoption in Pristina municipality, namely the characteristics of this process in terms of the number of adoptive parents, their age, ethnicity, duration of procedure for adoption from the moment of application by the adoptive parents, the request for access to the adoptive file information, number of adoptees in other countries. Presentation of data is associated with the analysis made in explaining their function within the social context and in correlation with other elements, to enable their understanding in their current condition.

### **Objectives and research questions**

The main purpose of this paper is to explore the institution of adoption in the historic, theoretical and practical field, through a treatment and accompanied with practical dimensions through the data that deal with the adoption localized spatially, in one place, as it is the municipality of Pristina and in terms of time since 2006. The paper will be guided by the following objectives:

- Description of the historic journey of the institution of adoption, since the original forms of his appearance, to the current regulation forms of this institute, it regards domestic legislation and international law.
- Analysis of the conditions and procedure of adoption in Kosovo, addressing the special role of bodies that are involved in this procedure.
- Analysis of adoption in the municipality of Pristina since 2006, explaining the characteristics of this process and the presentation of data graphically in features of the parties involved in the procedure of adoption.

The work has been guided by the following questions

- What are the stable elements, through which the adoption institute is identified, regardless of its presentation forms, beyond periods, along the historical development and the principles on which it is implemented?
- In its present form, is the establishment of adoption based on the principle of the best interest of the child and whether there is legislation in force that in the best way is to implement this principle?
- Under current conditions, do the actors involved in the process of have all necessary preparing for the realization of responsibility that should have during the development of this procedure?

- What are the characteristics of adoption in Pristina, in terms of the number of adopted, their age at the time of adoption, nationalities, international adoptions and other characteristics?

## **Method**

This thesis will be mainly based on qualitative research, although quantitative data will be included to provide an overall perspective regarding the institute of adoption as the legal aspect of its regulation, in necessary conditions for the establishment and procedure to be followed also in practical terms, by localized application of this legal institute in Prishtina, through the presentation of data that help define its applicability and special features that it follows. Primary sources and secondary sources are used, referring mostly to official documents, Family Law of Kosovo, Law on Social and Family Service, administrative instructions that regulate specific aspects of the mechanisms involved in this process and books that address adaptation in all of its dimensions. In all of its content, this paper urged to achieve a balance between the descriptive presentation of the conditions and procedures and analysis, associated with first-hand data relating to adoption in a particular municipality. The comparative method is also used, referring to specific elements of the procedure of adoption as they are regulated in other countries, because it gives us more opportunities to understand the regulation of this institute in other legislation, some of which have served as a model when drafting our legislation. Also, in this paper it is also used the historical method, which makes it possible, starting from analyzing the performance or the historical evolution of the institution of adoption, to review all its importance, from the appearance to the legal arrangements that are found nowadays.

As it will be seen in Chapter III of this paper, the data provided for the period are incomplete, which has prevented this paper to become a comprehensive treatment. However, this is a limited exploratory research by a number of factors, which in essence manages to create a general perception of adoption trends in its main features.





## **Recommendation:**

I. Capacity building of centers for social work, with the goal of building a professional staff with experience in consulting and training specialized in adoption, as well as the conditions provided in the Family Law and the advisory role of social work centers. The delicate nature of adoption and the sensitivity of the parties involved in the procedure necessitates a specific preparation in terms of access to the child without parental care, the child's mother, to which it should be explained with all necessary effects of its actions and, also to prospective adoptive parents, to which the whole process has to be explained from the beginning.

II. Shortening the length of waiting from 12 to 6 months to find a biological parent. The current duration is unreasonable in two directions: first, here we have a case of abandoning of child and not his loss and custody of children is a sufficient indication of the inability or unwillingness to care for, so consent in this case would be advisable, if possible, but the goal of consent should not be paid at the price of damaging the interests of the child who needs parental care, given the time that must pass to start the procedure of establishment of its adoption. Of course, the shortening of the period to find the biological parents should be compensated by increasing their efforts to find them, providing a better coordination with other bodies that may assist in this process.

III. Requests for adoption from Kosovo's family living abroad are treated as domestic demand and not international families, since they come from the same cultural context and have a sufficient connection with the child's country of origin. But in this case it is recommended that as an element of the evaluation will include the sustainability of their ties with Kosovo, estimating the duration of leaving from Kosovo.

IV. With the amendments to the Family Law is necessary to clarify the situation regarding with access to data for adoption. The legislator should clarify whether the notification of the adoptee about the fact of being adopted if it's an obligation or not of adoptive parents, or any other body. In practice, such cases have been identified when the biological parents, who by law are excluded from the possibility of access to this information, have requested notification of the adopted / their biological children to the fact of being adopted.

V. When talking about the difference between prospective adoptive parents and the child without parental care, the smallest difference is assessed as a priority, so to be fluid in each concrete case by not exceeding 50 years, as it is now. However, in the case of children with special needs, such limitation shall not be applied, given their situation and immediate needs in order to provide the necessary conditions, which goes beyond the risk that such a report not in all cases to resemble the parent-child.

VI. The probationary period in cases of international adoptions and when the child without parental care is with special needs cannot be the current duration but remains at the discretion of the competent court, which in each specific caseshould consider this circumstance in the support

of principle of the best interests of the child. Also, to have an increased commitment in the evaluation of prospective adoptive parents, through increased cooperation with the countries from which they come from, to achieve a pursuant of the need for providing these children with the care needed, on the one hand, and on the other hand to ensure the establishment of adoption is in the interest of the child and adoptive parents to meet all the legal requirements to enter into this relationship.