

G.A.Ilyassova

*Ye.A.Buketov Karaganda State University  
(E-mail: G.Ilyassova@mail.ru)*

## **Problems of legal regulation of parents' maintenance obligations in the Republic of Kazakhstan**

The article studies the legal norms of national and international family law governing of parents' maintenance obligations to maintain minor children. Analyzed statistical data, practical cases on recovery of alimony debt in Kazakhstan. The aim of the study is to improve the protection mechanism of the interests of minor children in need of financial support. The author formulated the conclusions and suggestions on improving the existing family legislation of the Republic of Kazakhstan taking into account experience of foreign countries.

*Key words:* maintenance obligations, minors, parents, child support collection.

Maintenance obligations are an important legal institutions of family law. In science Kazakhstan family law until today, problems of legal regulation of maintenance obligations were not sufficient development in the form of comprehensive research. Legal regulation of maintenance obligations in the Republic of Kazakhstan has not been the subject of monographic research; no comparative research of national and international laws; was not carried out extensive research of legal regulation of relations on proceedings in cases concerning the recovery of alimony, on the reasons of non-fulfillment of court decisions and court orders, about the relationship of socio-economic position in society with the laws governing alimony and child support, problems of conflicts in the family. Also, there is a need of the essence of the new provisions in the legislation, to study the effectiveness of practical application of the legislation on marriage and the family, on the Executive production, evaluation of their practical significance.

Problems of legal regulation of maintenance obligations was considered in the works of the following Russian and domestic scientists: M.V. Antokolsky, M.A. Belyakov, E.M. Vorozheykina, I.P. Grishina, S.P. Grishaeva, N.M. Ershova, M. Zhaskayrat, D.A. Jandarbek, E.Y. Kostyuchenko, G.K. Matveeva, L.M. Pchelintseva, V.A. Ryasentseva, A.M. Rebec and others.

Currently, the collection of child support in court is a concern, and therefore requires constant attention by the state. From a just solution of this problem depends the welfare of minor children and people who need social support.

Article 27 of the Constitution of the Republic of Kazakhstan states: «Marriage and family, motherhood, fatherhood and childhood are under the state protection. The care of children and their upbringing are the natural right and duty of parents». The purpose of the state is to protect the rights of minors, improvement of the material situation of children who need parents' help who do not fulfil their constitutional duties. On grounds of this provision, the Code on marriage (matrimony) and family of the Republic of Kazakhstan establishes the duty of parents: «Parents must support their minor children. The manner and form of provision of maintenance to minor children are determined by parents independently» (article 138) [1].

Unfortunately, not all parents voluntarily fulfilling their responsibilities for the children. In this regard, at present the relevance of alimony relations has not lost its relevance. The emergence of such relations contribute to causes of objective and subjective character (for example, the increasing the number of divorce, unemployment, lower material standard of living of the population), resulting in problems with material support for the disabled and needy family members, especially children.

According to paragraph 4 of article 1 of the Code on marriage (matrimony) and family «the child support is a monetary or material support that one person must give another person entitled to receive it». The legislation provides for two procedures for the payment of child support: voluntary (under agreement on alimony payment) and forced (the alimony in the judicial order).

According to article 138 of the Code on marriage (matrimony) and family «Parents are entitled to conclude agreements on the maintenance of their minor children, also children of full legal age, enrolled in the General secondary, technical and vocational, post-secondary education, in higher education full-time form of training (the agreement on payment of the alimony)».

If the parents have not concluded about agreement of the payment of alimony in a judicial order shall be recovered alimony payments for support of minor children. The collecting of the alimony on the mainte-

nance of children is made on the basis of a court decision or court order. «In the absence of agreement about payment of the alimony the alimony on minor children is collected by court from their parents monthly in size: on one child is one quarter, on two children is one thirds, on three and more children is half earnings and (or) other income of parents. The size of these shares can be reduced or increased court taking into account material or marital status of the parties and other noteworthy circumstances» (article 139 of the Code).

Lately in Kazakhstan there are 213 thousand decisions according to the collecting of the alimony, of which 14 thousand are not fulfilled. For various reasons they are not enforced. Moreover, the debtors are hidden not only information about place of the work, but also about their incomes [2].

According to the statistical data of the Ministry of justice of the Republic of Kazakhstan in 2014 has performed more than 3 thousand Executive manufactures about collecting of the alimony [3], in 2015 in Kazakhstan on the execution of judicial officers are 213 thousands of court decisions regarding alimony, of which 122 thousand are periodic execution or executed in force of measures taken part. Approximately 50 thousand Executive documents for alimony repaid by the debtors alone, about 40 thousand of alimony, or 20 percent are problematic, the arrears are not paid more than three months, and more than 14 thousand alimony generally may not be repaid. Behind these figures lie the fate of many disadvantaged children deprived of a normal material content, says Minister [4]

In order to improve the legal mechanism for collecting maintenance changes were made and additions to existing legislation, adopted new provisions. January 15, 2014 was adopted the Law «On amendments and additions to some legislative acts of Kazakhstan on improvement of enforcement proceedings». According to made amendments to the Law of RK dated 2 April 2010 «On enforcement proceedings and status of bailiffs», introduced the "Unified register of debtors is the unified electronic data Bank containing information on debtors on enforcement proceedings" (paragraph 2 of article 1 of the Law). Information about debtors posted on the official web-site.

In accordance with article 99 of the Law, at impossibility of collecting alimony payments from wages or other income during the three months foreclose on the debtor's property, except property which cannot be levied.

If before with a non-performing debtor to collect child support based on minimum wage. For example, in 2013 it amounted to little more than 18 thousand tenge, while counting for 1 child is 25%, it turned out only 4500 tenge. 29 January 2015, if the debtor is not working or has not submitted the documents confirming his salary, the alimony to be recovered will be based on the average monthly salary in Kazakhstan at the time of debt collection (part 3 of article 169 of the Code on marriage (matrimony) and family). In the case of alimony debt as a result of evasion of the debtor from their payment for the amount due will be charged a penalty in accordance with article 353 of the Civil code. This change has reduced the number of defaulters of the alimony behind a lack of work and hiding their income. Average monthly salary in Kazakhstan in 2016 amounted 137043 tenge.

About collecting of debts under the alimony on the basis of the average monthly wage in the Republic of Kazakhstan were discussions. Did not support the provision in relation to different dimensions of average monthly salary (depending on regional pricing permanent) in different regions of the country. Consider that in regions where the average monthly salary is much lower, for the most part debtors are not lifting. This will lead to the fact that «the debtors not to pay child support from the calculation of the average wage in Kazakhstan, get a job, including and formally, with significantly low salaries (from here come and other offenses in the field of labour law, taxation), and a claimant in such cases hard to prove that the debtor actually has more income; or even begin to hide from the bailiffs that creates obstacles in the enforcement proceedings and the creditor, leading to prolonged litigation and unnecessary «hassle». They were asked «to determine child support arrears based on the average monthly wage in the region of residence of the debtor (in the field, the capital or city of Republican significance)» [5].

One of the effective measures introduced by the law is the temporary restriction of the debtor to travel outside of the Republic of Kazakhstan, if the debt is more than the amount of twenty monthly calculation indices, also in default for more than three months of enforcement documents on recovery of periodic payments. Under article 33 of the Act, on application by the claimant, the bailiff shall issue an order on temporary restriction on travel, which must be approved by the court, and directs it to the Border service of Committee of national security of the Republic of Kazakhstan and the debtor for information.

In accordance with subparagraph 3 of paragraph 1 of article 34 of the Law on enforcement proceedings and status of bailiffs, enforcement documents on recovery of alimony in case of formation of debt directs to court representation about the temporary prohibition to issue to the debtor's licenses, permits and special

rights, and the suspension earlier issued to the debtor's licenses, permits and permissions. Such measures are also effective, because it will lead to positive results and the repayment of all existing debts. For example, by results of consideration of representation of Prosecutor's office of Chingirlau district of West Kazakhstan region «by a bailiff in respect of the 11 debtors who have a driving licence, has taken measures to suspend their actions until the debt is repaid in full. Currently the district court represent the judicial officer to suspend the operation of a driver's license the debtors fully satisfied» [6].

However, against the debtor, refuse to pay alimony, measures of administrative influence. In accordance with article 669 of the code of administrative offences, the failure to execute a court decision or other judicial act and enforcement document entails a fine for individuals in the amount of ten monthly calculation indices or administrative arrest for up to five days. For example, since the beginning of 2015 by the Department of justice of Astana city to administrative responsibility according to art. 669 Cao attracted 60 maliciously evading from execution of court decisions, debtors, and it is paying off. For example, gr. E. after bringing to administrative responsibility under article 669 of the code of administrative offences of the Republic of Kazakhstan has fully repaid the existing debt for alimony in the sum of 684 500 tenge [7].

Following a tough measure against the debtor who failed to pay child support is a criminal prosecution in accordance with article 139 of the Criminal code of the Republic of Kazakhstan for «dereliction of duty more than three months by the parent for the payment of funds by court order for support of minor children and incapacitated children under the age of eighteen shall be punished by restriction of liberty for a term up to two years or imprisonment for the same term». The bailiff is entitled to submit to the criminal prosecution body, the idea of bringing to criminal liability of persons who willfully evade the execution of judicial acts (clause 16 of article 126 of the Law).

The tightening of the legislation gave a positive result, since this measure is an effective way of influence on debtors who refuse to pay child support. «Statistics show that after receiving the news about the direction of materials for criminal prosecution of even the most malicious defaulters prefer to pay down their debts. So, for example, the civil servant J. after receiving notice of a criminal prosecution immediately extinguished accumulated since 2003 the debt and paid in advance 9 483 420 tenge. Similar-maturity for the largest amounts produced: citizen M is 1 600 000 and citizen And is 1 200 000 tenge, and 8 other citizens of the capital in the amount of from 950 to 1 000 000 tenge» [8].

In West Kazakhstan region since July 2004, the defendant evaded paying child support without good cause. While warning the bailiff he did not respond, steps to employment is not taken. The indebtedness of the defendant for alimony for the period from 2004 to June of 2015 amounted to 1 381 969 tenge. The sentence of one year of restriction of freedom a man made specialized Interdistrict court on Affairs [9].

To resolve the issue of alimony the state is taking all possible measures taking into account the experience of foreign countries. For example, the General Prosecutor of the Republic of Kazakhstan created by Internet-service «wanted» children, which included the names and faces of citizens who are evading payments to minor children.

The Committee on execution of judicial acts and the territorial Department for the execution of judicial acts often carry out actions, directed on revelation of feeling of conscience debtors who refuse to pay child support, to draw public attention to the problem. For example, from 25 August to 1 September 2013 the Committee carried out the campaign «Former children do not happen!». During this time, demand child support for 6677 cases [10]. Bailiffs of Department for enforcement of judicial acts of the North Kazakhstan region held the shares on alimony called «Alimony is the future of your child!» from 15 February to 15 March 2013. During the action the bailiffs were carried out: reception of citizens on issues of alimony and the clarification of rights and responsibilities; verification of the accounting of the companies with which the debtors under the alimony have an employment relationship, on the correctness of the timely transfer of alimony payments, recruitment of accountants and officials to administrative responsibility; targeted raids along with the mass media by unscrupulous debtors have given notice of appearance to the bailiff; bailiffs have handed down rulings on temporary restriction on departure of the debtor abroad; attracted to administrative responsibility bad debtors [11]. One of methods of influence on malicious defaulters of the alimony is informational support of ongoing activities on collecting of the alimony in the form of the publication of the so-called «black list» of debtors in the regional media, establish banners, posters with photos of children and call: «Time to pay child support». Such promotions help to attract public attention to the problems of upbringing of children [12].

There are difficulties to collect child support from debtors, the parents who left for permanent residence in foreign countries. The problem is aggravated by the fact that with many countries, Kazakhstan has not

concluded an international agreement on legal assistance. In that case, if the debtor lives in another state, then the norms of the Convention on the recovery abroad of maintenance, adopted in the framework of the United Nations on 20 June 1956. Kazakhstan joined the Convention in 1999 [13].

Alimony and child support both parents and children are determined by the laws of the state in whose territory the children reside. Kazakhstan ratified the Convention governing international relations between countries-participants of CIS on collecting of the alimony on minor children. This is the Convention on legal assistance and legal relations in civil, family and criminal cases adopted in Minsk on 22 January 1993 [14], the Convention on legal assistance and legal relations in civil, family and criminal matters, signed in Chisinau on 7 October 2002 [15].

Currently inter-state cooperation on the international recovery of maintenance is governed by the Hague Convention on the international collection of child support and other forms of family maintenance, adopted 23.11.2007, the Hague conference on private international law. The Convention created the possibility for the recognition and execution of court decisions on alimony in foreign countries, also for the treatment of applications for alimony in another state. The advantage is the possibility of using modern technology to facilitate cooperation.

The purpose of this Convention is to ensure the efficient international collection of child support and other forms of family support. A Contracting state shall designate a Central authority to carry out the functions assigned by the Convention on such an authority. The Convention provides for the following effective measures for the enforcement of penalties of child support that should be enshrined in the national legislation of the signatory States to it, that: retention of wages; seizure of Bank accounts and other sources of income; deductions from payments of social insurance; a lien or forced sale of property; the retention of recoverable taxes; withholding or attachment of pension benefits; the transfer of information in the service loans; the refusal to issue, suspension or deprivation of the different licenses (e.g. driver's license); the use of mediation, conciliation or similar processes to achieve voluntary compliance (article 34) [16].

We consider it appropriate to Kazakhstan's accession to the Hague Convention on international collection of child support and other forms of family support, because at the present time in the Republic, we are, however, provided for in the Convention, effective measures for implementation. Thanks to this Convention to the citizens of our Republic will find it easier to make payments of child support from parents living abroad.

#### *The international experience.*

Despite the above measures of influence on persons who evade payment of alimony, the existing mechanisms of legal regulation cannot completely solve the problem. If we consider the foreign experience, the same measures are applied in the post-Soviet countries. For example, in Belarus since 2012 is applied a temporary restriction of the right to drive a vehicle of the debtor, refuse to pay alimony. Practice has shown that 41 per cent are prosecuted, almost, immediately is calculated for the debts of [2].

In Russia to protect children living below the poverty line, one of whose parents don't pay child support, the experts of the legislation, MPs voted for the establishment of a single grant in the amount of 25 % of the subsistence minimum of the child (1,700 rubles); expansion measures the recovery of maintenance. Such measures include suspension of driver's licenses, rights of navigation, failure in reception of the credit; the introduction of an additional administrative penalty for failure to pay child support under the garnishment is not in favor of the state, and in favor of the child [17]. In accordance with part 6 of article 113 of the Family code, in the case of locating a parent who failed to pay child support, during the period of investigation appointed a monthly allowance for the child. After establishing the location of parent debtor's full recovery amount of the local budget.

Commissioner for human rights of the Russian Federation proposed to establish the concept of «minimum alimony amount», the amount of which shall not be less than 25% of the official subsistence level in the region. Practitioners believe that applying to persons guilty of committing crimes under article 157 of the Criminal code, criminal sanctions in the form of correctional labor, forced labor and seizure is inconsistent with the goal of criminal punishment. It is proposed to encourage lawful behavior of the debtor held criminally liable, according to his employment for the performance of these obligations and acts of the debtor may be taken into account by the court when sentencing on probation. To these ends it was proposed «to amend part 5 of article 73 of the criminal code, granting the court the right to appoint probation is to be imposed on a conditionally convicted person the duties: to carry out material support of the family» [18].

In Ukraine will be indexed the child support (to increase proportionally to inflation). Now the amount of fixed child support will need to be indexed. Its size is determined in hyenas and not in percentage of the

income of the spouse. According to the current legislation, the amount of support today cannot be lower than 30% of the subsistence minimum for a child of appropriate age from 291,60 to 363,00 hryvnas per month [19].

In the legislations of far foreign countries there is no concept of «alimony», is used instead of the notion of «content», «food». For example, according to article 305 of the French civil code of 1804, in the case of divorce the father and mother retain the use of half of common ownership to adulthood, their children, with the laying on of a father and a mother duties to take care of the sustenance, the maintenance and education of the children in proportion to the status and situation of parents. A minor is a person who has not reached 21 years (article 388) [20].

In Book 10 of the Civil code of the Netherlands alimony obligations and the content are also identified and referred to as «subtitles» [21, 9].

The German Civil code defines age as «the end of the twenty-first year of life» (§ 1305). Legal regulation of the mechanism of alimony in German law are regulated in more detail. According to § 1570, a divorced spouse may demand another spouse to pay maintenance in connection with the needs of the child or his upbringing until, while unable to do any gainful activity. If income is not enough for the full content, he is entitled to require payment of amount constituting between his income and full content. Relevant is an activity that is suited by training, ability, age and health status, and living conditions of the spouses; in determining the living conditions of the spouses should be taken into account duration of marriage, duration of care for common child and his upbringing (§ 1574).

In developed countries the amount of alimony depends on the income of the parent who lives separately. The income of the parent with custody of a child are not taken into account. For example, in Germany the amount of alimony is determined by considering the total life needs. Life needs to include the cost of reasonable health insurance, and the cost of school or professional education, advanced training or retraining (§ 1578) [22]. Also the amount of alimony is determined based on the child's age and the amount of child support may be revised as the needs of the growing child.

Feature of legal regulation of alimony on the maintenance of minor children in foreign countries is the establishment of vicarious liability of the debtor and his heirs. For example, under German law the obligation to pay alimony does not lie solely with the parent of the child, but also to the family members of the parent obliged to pay child support in that case, if the liable person is insolvent (§ 1584 German civil code) [22]. In Italy in case of inability of parents to support their children of their obligations other relatives in the ascending line. Unfair to the parent can be sentenced to a moral and emotional damage suffered by the child from scarcity of content [23].

Alimony obligations terminate only in connection with the death of eligible person, i.e. the child. In case of death of the obligated person the duty to pay child support passes to his heirs as a debt (§ 1586b. [Death the obligated person] of the German civil code; articles 384-385 French civil code) [22; 20].

In many foreign countries (USA, Italy, France, Germany, etc.) in connection with the continued education of the child, the parent living separately is obliged to compensate his expenses on the teaching profession (for example, § 1610 German civil code).

The analysis of theoretical and practical problems of legal regulation of alimony obligations of parents under the legislation of the Republic of Kazakhstan allows to draw the following conclusions:

1. The problematic situation of non-fulfillment of decisions or orders of the court is the lack of information about the place of work of payers of alimony. One of the effective ways to solve this problem is to create a single database of information, components of information about employees bound by an employment contract with employers.

2. In connection with the increase in the number of defaulters of the alimony the same number of children discriminated against on the content material of their parents. This problem can be solved by applying the experience of foreign countries (Government Executive Agency to provide maintenance for children in the UK, the Guarantee Fund in Latvia, the Federal office of child support in the Netherlands, etc.) to establish a Republican state alimony Fund. The Fund will extinguish the debt under the alimony to the children and the state in turn will require payments from debtors.

3. In order to protect the interests of minor children who need financial support, given the experience of foreign countries, you should make changes and additions to the article 176 of the code of RK on marriage (matrimony) and family: in paragraph 1, delete the words «and with the death of one of the parties»; in subparagraph 5 of paragraph 2, delete «or of the person obliged to pay alimony». Supplement article 176-1 «Transition alimony obligations inherited»: «In case of death of the obligated person the duty to pay child

support goes to his heirs. The payment or alimony will be made from the inherited property of the person obliged to pay alimony».

## References

- 1 Кодекс Республики Казахстан «О браке (супружестве) и семье» от 26 декабря 2011 г. № 518-IV. — [ЭР]. Режим доступа: <http://adilet.zan.kz/rus/docs/K1100000518>
- 2 *Шакинова М.* Лишать водительских прав задолжников по алиментам предложили в Казахстане. 9.04.2015 г. — [ЭР]. Режим доступа: <http://www.zakon.kz/4702458-lishat-voditelskikh-prav-zadolzhnikov.html>
- 3 За невыплату алиментов казахстанцев будут привлекать к уголовной ответственности // Источник: Информационная система «ПАРАГРАФ», Дата: 10.02.2016.
- 4 *Нурсеитова Т.* Берик Имашев рассказал об уголовной ответственности за неуплату алиментов по новому закону // Информационная система «ПАРАГРАФ», Дата: 10.02.2016.
- 5 Алиментные обязательства неработающих родителей. 04.05.2014 г. — [ЭР]. Режим доступа: [https://i-news.kz/news/2014/05/04/7520525-alimentnye\\_obyazatelstva\\_nerabotayuschih.html](https://i-news.kz/news/2014/05/04/7520525-alimentnye_obyazatelstva_nerabotayuschih.html)
- 6 По представлению прокуратуры приостановлено действие водительских прав должников за неуплату алиментов // Информационная система «ПАРАГРАФ», Дата: 10.02.2016.
- 7 *Мамышев Ж.* В Астане госслужащий выплатил 10 млн тг алиментов. 24.07. 2015 г. // Информационная система «ПАРАГРАФ», Дата: 10.02.2016.
- 8 *Жакеев М.* Почти 10 млн. тенге алиментов оплатил наперед госслужащий в Астане, опасаясь уголовной ответственности. 24.07.2015 г. // Источник: Информационная система «ПАРАГРАФ», Дата: 10.02.2016.
- 9 Житель ЗКО осужден за миллионный долг по алиментам. 04.08.2015 г. // Источник: Информационная система «ПАРАГРАФ», Дата: 10.02.2016.
- 10 В Казахстане взыскали алименты с более 6 тысяч уклонистов. 2.09.2013 г. // Источник: Информационная система «ПАРАГРАФ», Дата: 10.02.2016.
- 11 В Северо-Казахстанской области проводится акция по взысканию алиментов. 21.02.2013 г. // Источник: Информационная система «ПАРАГРАФ», Дата: 10.02.2016.
- 12 *Аманжолова Г.* Время платить алименты // Источник: Информационная система «ПАРАГРАФ», Дата: 10.02.2016.
- 13 Закон Республики Казахстан «О присоединении Республики Казахстан к Конвенции о взыскании за границей алиментов» от 30 декабря 1999 года № 33-П. — [ЭР]. Режим доступа: [http://adilet.zan.kz/rus/docs/Z990000033\\_](http://adilet.zan.kz/rus/docs/Z990000033_)
- 14 Закон Республики Казахстан «О ратификации Конвенции о правовой помощи и правовых отношениях по гражданским, семейным и уголовным делам» от 10 марта 2004 года N 531. — [ЭР]. Режим доступа: [http://adilet.zan.kz/rus/docs/Z040000531\\_](http://adilet.zan.kz/rus/docs/Z040000531_)
- 15 Постановление Верховного Совета Республики Казахстан «О ратификации Конвенции о правовой помощи и правовых отношениях по гражданским, семейным и уголовным делам» от 31 марта 1993 года. — [ЭР]. Режим доступа: [http://adilet.zan.kz/rus/docs/B930005100\\_](http://adilet.zan.kz/rus/docs/B930005100_)
- 16 Конвенция о международном порядке взыскания алиментов на детей и других форм содержания семьи. — [ЭР]. Режим доступа: <http://www.adilet.gov.kz/ru/node/60649>
- 17 Разрабатываются меры по решению проблем выплаты алиментов (Российская Федерация) 13.11.2013 г. // Источник: Информационная система «ПАРАГРАФ», Дата: 10.02.2016.
- 18 Вопросы совершенствования алиментного обязательства. — [ЭР]. Режим доступа: <http://www.jk.ru/analiticheskaja-informatsija/alimenty-2009/>
- 19 Верховный суд привязал алименты к уровню инфляции (Украина). 22.11.2013 г. // Источник: Информационная система «ПАРАГРАФ», Дата: 10.02.2016.
- 20 Французский гражданский кодекс 1804 года. — [ЭР]. Режим доступа: [http://pnu.edu.ru/ru/faculties/full\\_time/uf/igip/study/studentsbooks/histsources2/igpzio49/](http://pnu.edu.ru/ru/faculties/full_time/uf/igip/study/studentsbooks/histsources2/igpzio49/)
- 21 К. Буле-Woelki и Д. ван Итерсон. Голландская кодификация международного частного права: принципы, задачи и возможности. — [ЭР]. Режим доступа: <http://pandia.ru/text/78/300/48842.php>
- 22 Германское Гражданское уложение от 18.08.1896 года. Книга четвертая. Семейное право. — [ЭР]. Режим доступа: <http://www.studfiles.ru/preview/3799709/page:27/>
- 23 Анализ алиментных обязательств по зарубежному праву. — [ЭР]. Режим доступа: [http://knowledge.allbest.ru/law/2c0b65635b2bd78b4d53b89521316d27\\_0.html](http://knowledge.allbest.ru/law/2c0b65635b2bd78b4d53b89521316d27_0.html)

Г.А.Ильясова

## Қазақстан Республикасында ата-аналардың алименттік міндеттемелерін құқықтық реттеу мәселелері

Мақалада кәмелетке толмаған балаларды қамтамасыз ету бойынша ата-аналардың алименттік міндеттемелерін реттейтін ұлттық және шетелдік отбасылық заңнамалардың құқықтық нормалары зерттелген. Қазақстанда алимент бойынша қарыздарды өндіру туралы істер бойынша тәжірибе материалдарына, статистикалық көрсеткіштерге талдау жүргізілді. Зерттеу мақсаты материалдық көмекке мұқтаж кәмелетке толмаған балалардың мүдделерін қорғау тетігін жетілдіру болып табылады. Автормен шетелдік тәжірибені ескере отырып, қолданыстағы Қазақстан Республикасының отбасылық заңнамасын жетілдіру бойынша ұсыныстар мен қорытындылар жасалған.

Г.А.Ильясова

## Проблемы правового регулирования алиментных обязательств родителей в Республике Казахстан

В статье исследованы правовые нормы национального и зарубежного семейного законодательства, регламентирующие алиментные обязательства родителей по содержанию несовершеннолетних детей. Проанализированы статистические данные, практические материалы по делам о взыскании задолженности по алиментам в Казахстане. Целью исследования является совершенствование механизма защиты интересов несовершеннолетних детей, нуждающихся в материальной поддержке. Автором сформулированы выводы и предложения по совершенствованию действующего семейного законодательства Республики Казахстан с учетом опыта зарубежных стран.

### References

- 1 The code of the Republic of Kazakhstan «On marriage (matrimony) and family» dated 26 December 2011 No. 518-IV, [ER]. Access mode: <http://adilet.zan.kz/rus/docs/K1100000518>
- 2 Shakenova M. *To Deny the license of debtors for alimony, proposed in Kazakhstan. 9.04.2015*, [ER]. Access mode: <http://www.zakon.kz/4702458-lishat-voditelskikh-prav-zadolzhnikov.html>
- 3 For nonpayment of child support Kazakhstan citizens will be prosecuted // Source: Information system «PARAGRAPH», date: 10.02.2016.
- 4 Nurseitova T. *Information system «PARAGRAPH»*, date: 10.02.2016.
- 5 Maintenance obligations of non-working parents. 04.05.2014, [ER]. Access mode: [https://i-news.kz/news/2014/05/04/7520525-alimentnye\\_obyazatelstva\\_nerabotayuschih.html](https://i-news.kz/news/2014/05/04/7520525-alimentnye_obyazatelstva_nerabotayuschih.html)
- 6 By the public Prosecutor suspended the driving rights of debtors for failure to pay child support // Information system «PARAGRAPH», date: 10.02.2016.
- 7 Mamyshev J. *Information system «PARAGRAPH»*, date: 10.02.2016.
- 8 Zakaev M. *Source: Information system «PARAGRAPH»*, date: 10.02.2016.
- 9 A Resident of West Kazakhstan region convicted of million debt in child support. 04.08.2015 // Source: Information system «PARAGRAPH», date: 10.02.2016.
- 10 In Kazakhstan demand child support from more than 6 thousand evaders. 2.09.2013 // Source: Information system «PARAGRAPH», date: 10.02.2016.
- 11 In the North-Kazakhstan region held the action to collect child support. 21.02.2013 // Source: Information system «PARAGRAPH», date: 10.02.2016.
- 12 Amanzholov G. *Source: Information system «PARAGRAPH»*, date: 10.02.2016.
- 13 Law of the Republic of Kazakhstan «On accession of the Republic of Kazakhstan to the Convention on the recovery abroad of maintenance» of 30 December 1999, No. 33-II, [ER]. Access mode: [http://adilet.zan.kz/rus/docs/Z990000033\\_](http://adilet.zan.kz/rus/docs/Z990000033_)
- 14 The Law of the Republic of Kazakhstan «On ratification of the Convention on legal assistance and legal relations in civil, family and criminal cases» dated 10 March 2004 N 531, [ER]. Access mode: [http://adilet.zan.kz/rus/docs/Z040000531\\_](http://adilet.zan.kz/rus/docs/Z040000531_)
- 15 The Resolution of the Supreme Council of the Republic of Kazakhstan «On ratification of the Convention on legal assistance and legal relations in civil, family and criminal cases» dated March 31, 1993, [ER]. Access mode: [http://adilet.zan.kz/rus/docs/B930005100\\_](http://adilet.zan.kz/rus/docs/B930005100_)
- 16 Convention on the international collection of child support and other forms of family support, [ER]. Access mode: <http://www.adilet.gov.kz/ru/node/60649>
- 17 Developing measures to solve the problems of alimony (Russian Federation) 13.11.2013 g. // Source: Information system «PARAGRAPH», date: 10.02.2016.

18 Issues of improvement of maintenance obligations, [ER]. Access mode: <http://www.jk.ru/analiticheskaja-informatsija/alimenty-2009/>

19 The Supreme court child support tied to the level of inflation (Ukraine). 22.11.2013 // Source: Information system «PARAGRAPH», date: 10.02.2016.

20 The French civil code of 1804, [ER]. Access mode: [http://pnu.edu.ru/ru/faculties/full\\_time/uf/iogip/study/studentsbooks/histsources2/igpzio49/](http://pnu.edu.ru/ru/faculties/full_time/uf/iogip/study/studentsbooks/histsources2/igpzio49/)

21 K. Boulet-Woelki & D. van Iterson. Dutch private international law codification: principles, objectives and opportunities, [ER]. Access mode: <http://pandia.ru/text/78/300/48842.php>

22 The German Civil code from 18.08.1896 year. Book four. Family law, [ER]. Access mode: <http://www.studfiles.ru/preview/3799709/page:27/>

23 Analysis of alimony obligations in international law, [ER]. Access mode: [http://knowledge.allbest.ru/law/2c0b65635b2bd78b4d53b89521316d27\\_0.html](http://knowledge.allbest.ru/law/2c0b65635b2bd78b4d53b89521316d27_0.html)

Репозиторий КарГУ