

# **On violation of the child's rights in case of his/her "adoption" by homosexual unions (same-sex partnerships)**

## **Report**

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## INTRODUCTION

### Information on expert authors of this Report

This Report was prepared by group of experts consisting of:

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### Bases, goals and objectives of the Report

*Resolution No. 1948 of the Parliamentary Assembly of the Council of Europe dated 27.06.2013<sup>1</sup>* (hereinafter referred to as the Resolution) which subjected the Russian Federation to unjustified criticism for legal prohibition of propagation of homosexuality among children (paragraphs 7, 10.6 and 10.8) caused (along with laws passed in a number of European states and allowing homosexuals to “adopt” children) a serious discussion regarding the meaning of the fundamental moral values and bases of the family life (paragraph 11.3) in the future of European states, protected by the international law and constitutions of democratic states. The above mentioned Resolution threatens the freedom of opinion (regarding the homosexual ideology – see paragraphs 11.2, 10.8, etc.) while its execution leads to forced imposition of homosexual ideology on the heterosexual majority, including children (by way of gay parades (paragraph 11.1), specific propaganda campaigns (paragraph 9.2.2, etc.). This document seriously neglects the rights of children and, actually, brings own personal interests and ideological principles of homosexuals stipulated in this Resolution to the level of the infallible truth and by doing so absolutely ignores the interests, opinion and will of the majority of population of European states. In fact, wordings used in the Resolution give grounds for mass violations of the freedom of expression, freedom of speech and freedom of thought of individuals who are critical of homosexuality as a phenomenon and its propaganda.

This Report considers principal legal issues regarding the attitude of states, societies and individuals towards so called “adoption” of children by homosexual set of two (couples) or single homosexuals, evaluates the level of the legal relevance of

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<sup>1</sup> Resolution of the Parliamentary Assembly of Council of Europe No. 1948 du 27.06.2013 “Tackling discrimination on the grounds of sexual orientation and gender identity” // <<http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=20010&lang=en>>.

adopting national legislation allowing such “adoption” and evaluates such “adoption” in terms of safety and protection of fundamental natural rights of the child.

Answers to the above questions are necessary to develop positions of the states protecting their sovereign interests in the area of protection of traditional cultural and family norms, spiritual and moral values, public morality and protection of the national security interests, moral, mental, and reproductive health of the nation, ensuring the reproduction of the population, implementation of the national policy with due consideration of the rights, freedoms and legal interests of all social groups of the society and in compliance with the well-established international legal principle of priority of the rights and legal interests of children.

**This Report is based on the understanding** of the importance of full implementation, by the states, of internationally recognized guarantees of the child’s rights, such as the child’s right to family, mother and father, and on the undistorted principle of priority of the child’s rights over the rights of other persons (Article 3 of the *Convention on the Rights of the Child dated 20.11.1989*), especially over legally unsubstantiated claims of some members of the homosexual society for “adoption” of children born of other parents,

**takes into consideration** the concern expressed on September 13, 2013 by the official representative of the Ministry of Foreign Affairs of the Russian Federation<sup>2</sup> that some states attempt to “impose their neoliberal values on other members of the international community as the universal basis of life” and “force other states to accept the strange view on homosexuality and same-sex marriages as the norm of life and a natural social phenomenon that should be supported by the government”, even though “neoliberal values are being aggressively promoted by the Western governments against increasing infringement of the social and economic rights and freedoms of their citizens”,

**considers the importance** of presenting and explaining, to the politicians and the public of European and other foreign states, the full range of arguments substantiating and confirming the necessity and legitimacy of prohibition of child adoption “by members of the same-sex union married and registered in accordance with legislation of the state where such marriages are legal” (Federal Law No.167-FZ “On

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<sup>2</sup> Speech on human rights, democracy and the rule of law by Dolgov K.K., Authorized Representative of the Ministry of Foreign Affairs of Russia, given at the Sixth Beijing Forum on Human Rights within subtopic “The Rule of Law and Human Rights”, Beijing, September 11-13, 2013 // <[http://www.mid.ru/brp\\_4.nsf/newsline/41F963461F269E9244257BE5002459B2](http://www.mid.ru/brp_4.nsf/newsline/41F963461F269E9244257BE5002459B2)>. – 13.09.2013.

the amendments to certain Russian laws on care for orphans and children left without parental care” dated 02.07.13)<sup>3</sup>,

**is based on** the provisions of the following international documents<sup>4</sup>: Convention on the Rights of the Child dated 20.11.1989 (hereinafter referred to as the Convention on the Rights of the Child)<sup>5</sup>, UN Declaration of the Rights of the Child dated 20.11.1959 (hereinafter referred to as the Declaration of the Rights of the Child)<sup>6</sup>, UN Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally dated 03.12.1986 (hereinafter referred to as the Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally)<sup>7</sup>, Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption dated 29.05.1993 (hereinafter referred to as the Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption)<sup>8</sup>, European Convention for the Protection of Human Rights and Fundamental Freedoms dated 04.11.1950 (with protocols) (hereinafter referred to as the European Convention for the Protection of Human Rights and Fundamental Freedoms)<sup>9</sup>, European Convention on the

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<sup>3</sup> It should be noted that the Russian Federation is not the only country that legally **prohibits the adoption of children by homosexuals. For example, here are some legislative provisions of the United States** - paragraph 3 of section 63.042 “Who may be adopted; who may adopt” of Chapter 63 “Adoption” of Title 6 “Civil Law Practices and Procedures” of the Code of **Florida (USA)**, 2010; paragraph 5 of section 93-17-3 “Jurisdiction for adoption proceedings; who may be adopted; who may adopt; venue of adoption proceedings; certificate of child’s condition; change of name; adoption by couples of same gender prohibited; completion of home study” of Chapter 17 “Adoption, Change of Name, and Legitimation of Children” of Title 93 “Domestic Relations” of the Code of **Mississippi (USA)**, 2010; Part 3 of Article 78B-6-117 of Chapter 6 of Title 78B of the Code of **Utah (USA)** (according to paragraph 5 of Article 30-1-2 of Chapter 1, Title 30 of the Code of Utah, marriages between individuals of the same sex are prohibited and void), etc.

<sup>4</sup> We consider it reasonable to refer not only to the provisions of international conventions, especially the provisions of agreements ratified by the Russian Federation, but also to the provisions of other documents, particularly international declarations that actually define the extent of generally recognized principles of International Law.

<sup>5</sup> Convention on the Rights of the Child / As adopted by Resolution No. 44/25 of the UN General Assembly dated 20.11.1989 // <<http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>>.

<sup>6</sup> Declaration of the Rights of the Child / As adopted by Resolution No. 1386 (XIV) of the UN General Assembly dated 20.11.1959 // <<http://www.un.org/cyberschoolbus/humanrights/resources/child.asp>>.

<sup>7</sup> Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally / Adopted by Resolution No. 41/85 of the UN General Assembly dated 03.12.1986 // <<http://www.un.org/documents/ga/res/41/a41r085.htm>>.

<sup>8</sup> Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption dated May 29, 1993 // <[http://www.hcch.net/index\\_en.php?act=conventions.text&cid=69](http://www.hcch.net/index_en.php?act=conventions.text&cid=69)>.

<sup>9</sup> Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocol No. 11 // <<http://conventions.coe.int/treaty/rus/treaties/html/005.htm>>.

Exercise of Children's Rights dated 25.01.1996 (hereinafter referred to as the European Convention on the Exercise of Children's Rights)<sup>10</sup>, European Convention on the Adoption of Children dated 24.04.1967 (hereinafter referred to as the European Convention on the Adoption of Children of 1967)<sup>11</sup>, Convention on Contact Concerning Children dated 15.05.2003 (hereinafter referred to as the Convention on Contact Concerning Children)<sup>12</sup>, UN Convention on the Elimination of All Forms of Discrimination against Women dated 18.12.1979 (hereinafter referred to as the Convention on the Elimination of All Forms of Discrimination against Women)<sup>13</sup>, World Declaration on the Survival, Protection and Development of Children dated 30.09.2000 (hereinafter referred to as the World Declaration on the Survival, Protection and Development of Children)<sup>14</sup>, UN Declaration and Plan of Action "A World Fit for Children" dated 10.05.2002 (hereinafter referred to as Declaration and Plan of Action "A World Fit for Children")<sup>15</sup>, Declaration of the commemorative high-level plenary meeting devoted to the follow-up to the outcome of the special session on children dated 13.12.2007 (hereinafter referred to as the Declaration on Children dated 13.12.2007)<sup>16</sup>, UN Declaration on the Protection of Women and Children in Emergency and Armed Conflict dated 14.12.1974 (hereinafter referred to as the Declaration on the Protection of Women and Children in Emergency and Armed Conflict)<sup>17</sup>, UN Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) dated 14.12.1990

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<sup>10</sup> European Convention on the Exercise of Children's Rights dated 25.01.1996 // <<http://conventions.coe.int/Treaty/rus/Treaties/Html/160.htm>>.

<sup>11</sup> European Convention on the Adoption of Children dated 24.04.1967 // <<http://conventions.coe.int/Treaty/RUS/Treaties/Html/058.htm>>.

<sup>12</sup> Convention on Contact Concerning Children dated 15.05.2003 // <<http://conventions.coe.int/Treaty/RUS/Treaties/Html/192.htm>>.

<sup>13</sup> Convention on the Elimination of All Forms of Discrimination against Women / As adopted by Resolution No. 34/180 of the UN General Assembly dated 18.12.1979 // <[http://www.un.org/ru/documents/decl\\_conv/conventions/cedaw.shtml](http://www.un.org/ru/documents/decl_conv/conventions/cedaw.shtml)>.

<sup>14</sup> World Declaration on the Survival, Protection and Development of Children / As adopted by the World Summit for Children, New York, 30.09.2000 // <[http://www.un.org/ru/documents/decl\\_conv/declarations/decl\\_child90.shtml](http://www.un.org/ru/documents/decl_conv/declarations/decl_child90.shtml)>.

<sup>15</sup> Declaration and Plan of Action "A World Fit for Children" / As adopted by Resolution No. S-27/2 of the special session of the UN General Assembly dated 10.05.2002 // <[http://www.un.org/ru/documents/decl\\_conv/declarations/worldchild.shtml](http://www.un.org/ru/documents/decl_conv/declarations/worldchild.shtml)>.

<sup>16</sup> Declaration of the commemorative high-level plenary meeting devoted to the follow-up to the outcome of the special session on children / As adopted by Resolution No. 62/88 of the UN General Assembly dated 13.12.2007 // <[http://www.un.org/ru/documents/decl\\_conv/declarations/child\\_sp\\_sess.shtml](http://www.un.org/ru/documents/decl_conv/declarations/child_sp_sess.shtml)>.

<sup>17</sup> Declaration on the Protection of Women and Children in Emergency and Armed Conflict / As adopted by Resolution No. 3318 (XXIX) of the UN General Assembly dated 14.12.1974 // <[http://www.un.org/ru/documents/decl\\_conv/declarations/armed.shtml](http://www.un.org/ru/documents/decl_conv/declarations/armed.shtml)>.

(hereinafter referred to as The Riyadh Guidelines)<sup>18</sup>, Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence dated 11.05.2011 (hereinafter referred to as the Convention on Preventing and Combating Violence against Women and Domestic Violence)<sup>19</sup>, Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography dated 25.05.2000 (hereinafter referred to as the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography)<sup>20</sup>, Optional Protocol to the Convention on the Rights of the Child on a communications procedure dated 19.12.2011 (hereinafter referred to as the Optional Protocol to the Convention on the Rights of the Child on a communications procedure)<sup>21</sup>, European Union Charter of Fundamental Rights dated 07.12.2000 (as revised in 2007) (hereinafter referred to as the European Union Charter of Fundamental Rights)<sup>22</sup>, Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse dated 25.10.2007 (hereinafter referred to as the Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse)<sup>23</sup>,

is based on the previous Report “On the Right to a Critical Evaluation of Homosexuality and Imposing Legal Restrictions on Homosexuality” (dated 18.06.2011)<sup>24</sup> prepared by the authors of this Report.

Ideologically motivated disregard of the necessity of impartial legal solution of these issues by the government heavily exacerbates problems caused by flagrant violations of the child’s rights as a result of his/her “adoption” (“adoption” by homosexual couples or single homosexuals) and aggravates the trend, unnaturally

<sup>18</sup> United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) / As adopted by Resolution No. 45/112 of the UN General Assembly dated 14.12.1990 // <[http://www.un.org/ru/documents/decl\\_conv/conventions/juveniles\\_deinquency\\_prevention.shtml](http://www.un.org/ru/documents/decl_conv/conventions/juveniles_deinquency_prevention.shtml)>.

<sup>19</sup> Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul, 11.05.2011) // <<http://www.conventions.coe.int/Treaty/EN/Treaties/Html/210.htm>>.

<sup>20</sup> Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography / As adopted by Resolution No. 54/263 of the UN General Assembly dated 25.05.2000 // <[http://www.un.org/ru/documents/decl\\_conv/conventions/rightschild\\_protocol2.shtml](http://www.un.org/ru/documents/decl_conv/conventions/rightschild_protocol2.shtml)>.

<sup>21</sup> Optional Protocol to the Convention on the Rights of the Child on a communications procedure / As adopted by Resolution No. 66/138 of the UN General Assembly dated 19.12.2011 // <[http://www.un.org/ru/documents/decl\\_conv/conventions/child\\_optprot.shtml](http://www.un.org/ru/documents/decl_conv/conventions/child_optprot.shtml)>.

<sup>22</sup> European Union Charter of Fundamental Rights // <[http://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](http://www.europarl.europa.eu/charter/pdf/text_en.pdf)>.

<sup>23</sup> Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse dated 25.10.2007 // <[http://www.coe.int/t/dghl/standardsetting/children/Source/LanzaroteConvention\\_ru.pdf](http://www.coe.int/t/dghl/standardsetting/children/Source/LanzaroteConvention_ru.pdf)>.

<sup>24</sup> In Russian: <<http://www.state-religion.ru/files/Doc.pdf>>.

In French: <[http://www.statoechiese.it/images/stories/2011.10/ponkin\\_rapportmbis.pdf](http://www.statoechiese.it/images/stories/2011.10/ponkin_rapportmbis.pdf)>.

formed and ideologically cultivated in many states, of open discrimination of heterosexuals, unsubstantiated and illegal limitation of the freedom of thought and speech of individuals who are critical of homosexuality because of their religious, moral beliefs or other mindset.

According to the he European Court of Human Rights, great importance shall be attached to free distribution of information and views of public interest<sup>25</sup>; however, the freedom of expression is also applicable to information and ideas that may “shock” or cause concern of some public members<sup>26</sup> (in this case, homosexuals). Therefore, **public discussion of these issues is legal and fully corresponds to the public interests.**

### **Definition of some terms used in the Report**

For the purposes of this Report, the terms specified below have the following meaning.

**Homosexual couple (set of two)** – two homosexuals being in same-sex “marital” or “partner” relationships (in fact, a limited form of homosexual “marital” relationships) legally recognized and registered in some states and not being in same-sex “marital” relationships but, in fact, practicing long-term homosexual relationships. Such definition is used by us in view of the fact that, based on the generally known physiological and psychological features of males and females that require no further evidences, only a couple consisting of man and woman shall be recognized as a married couple, marriage union and basis of the family (parents with children).

Term **“homosexual adoption”** is used and interpreted in the meaning of “adoption” by homosexual couples and single homosexuals.

Term **“adoption”** is applicable to children of any sex; therefore, term “children” means both male and female minors (boys and girls). In this regard, the authors of this Report consider judgments about “sexless” children or children of “indeterminate sex” as obviously antiscientific and ideologically motivated.

Term **“homosexual”** is applicable to both male homosexuality (“uranism”) and female homosexuality (“lesbianism”) and other types of behavior based on sexual perversions (polyamory, bisexualism, etc.).

This Report **does not consider the following issues:** personal freedom of homosexuals to choose their sexual orientation, freedom of actions of adults in their

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<sup>25</sup> Paragraph 41 of the Judgment of the European Court of Human Rights in the case “Lingens v. Austria” dated 08.07.1986.

<sup>26</sup> Paragraph 49 of the Judgment of the European Court of Human Rights in the case “Handyside v. the United Kingdom” dated 07.12.1976; Paragraph 41 of the Judgment of the European Court of Human Rights in the case “Lingens v. Austria” dated 08.07.1986.

interpersonal relationships within the law. The authors of this Report believe that violence against human beings and human discrimination on the grounds of sex, race, skin color, language, religion, political or other beliefs, national or social background, membership in national minorities or other social groups, property position, birth or any other reasons are unacceptable. Nothing in this Report shall be interpreted otherwise.

## **MAIN PART**

### **1. Flagrant violations of the child's rights as a direct consequence of his/her "adoption" by homosexuals**

As detailed and substantiated below, "adoption" of the child by homosexual couples or single homosexuals leads to violent reduction and diminution of the legal interests of the child, disregard of his/her human dignity, rights and freedoms, causes flagrant violations of the following fundamental natural rights of the child guaranteed by a number of the above mentioned international documents on the child's rights:

- right of the child to the family;
- right of the child to father and mother;
- right of the child to his/her sexual identity and sexual self-identification and the right to sexual integrity;
- right of the child to his/her own beliefs and moral and ethical standards;
- rights of the child to proper development and protection of his/her mental and moral health;
- rights of the child to national and cultural identity and introduction to the native culture.

These natural rights shall be acknowledged and guaranteed to the child rather than granted to him/her by the state.

Below in this Report the abovementioned violations of the child's rights caused by "adoption" of the child by homosexual couples (or single homosexuals) and directly or indirectly related to such "adoption" are considered in detail.

#### **1.1 Violation of the child's right to family**

##### **Guarantees of the child's right to family and the essence of this right**

According to the Preamble to and some articles of the *Convention on the Rights of the Child*, Principle 6 of the *Declaration of the Rights of the Child*, **the child has the right to family** recognized as "*the natural and fundamental group unit of society*" to be

widely protected by the society and the state (as meant in paragraph 1 of Article 10 of the *International Covenant on Economic, Social and Cultural Rights*, paragraph 1 of Article 23 of the *International Covenant on Civil and Political Rights*, paragraph 3 of Article 16 of the *Universal Declaration of Human Rights*, Preamble to the *Convention on the Rights of the Child*).

According to the *Convention of the Rights of the Child*, member states shall “ensure the child **such protection and care as is necessary for his or her well-being**” (paragraph 2 of Article 3), “**the best interests of the child shall be a primary consideration**” (paragraph 1 of Article 3), as well as “**his or her social, spiritual and moral well-being and physical and mental health**” (Article 17). The same approach was earlier implemented in the *Declaration of the Rights of the Child*, which states that “the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection” (Preamble).

According to Principle 2 of the *Declaration of the Rights of the Child*, “The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and **normal manner** and in conditions of freedom and dignity. In the enactment of laws for this purpose, **the best interests of the child shall be the paramount consideration**”.

Principle 6 of the *Declaration of the Rights of the Child* declares that “The child, for the full and harmonious development of his personality, **needs love and understanding. He shall, wherever possible, grow up in the care and under the responsibility of his parents, and, in any case, in an atmosphere of affection and of moral and material security**”, meaning that raising the child in the care and under the responsibility of his/her parents, **whenever possible**, is the prerequisite for the **complete and harmonious development of the child’s personality**.

However, only in exceptional cases it is allowed to separate him/her from his/her own family, only under condition of providing him/her with atmosphere of love and, especially, moral welfare. It means that in some cases the child may be raised by the adopted family, i.e. the adoptive father and mother, which shall not refer to homosexual couples since the latter, by their nature, are not able to provide the same moral, psychological and social and cultural atmosphere and conditions for the child’s development that exist in normal (natural) families and in adopted families that include mother and father.

It is quite logical and substantiated that the Preamble to the *Convention on the Rights of the Child* purposefully and principally states that it is the family that forms the natural environment for the development and welfare of all its members, especially children, that **“the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding”**. One of the very first international documents on the child’s rights – *Geneva Declaration on the Rights of the Child dated 26.09.1924*<sup>27</sup> – also declares that the child should have the opportunity to develop spiritually in a normal, i.e. established, natural manner.

According to paragraph 6 of the *Declaration on Children dated 13.12.2007*, **“the child shall grow in the family providing welfare and care”**.

The World Declaration on the Survival, Protection and Development of Children emphasizes the exclusive role of the **family as “a fundamental group and natural environment for the growth and well-being of children”** (paragraph 14). This Declaration requires that states shall **“work for respect for the role of the family in providing for children”** and give **“all necessary protection and assistance”** to the family (subparagraph 5 of paragraph 20, and paragraph 14) and also indicates that **“All children must be given the chance to find their identity and realize their worth in a safe and supportive environment, through families and other care-givers committed to their welfare”** (paragraph 15).

According to *The Riyadh Guidelines*, **“the family is the central unit responsible for the primary socialization of children”** (paragraph 12), **“it is important to emphasize the socialization function of the family”** (paragraph 18) and, therefore, **“every society should place a high priority on the needs and well-being of the family and of all its members”** (paragraph 11).

*In the Vienna Declaration and Programme of Action dated 25.06.1993*<sup>28</sup>, the World Conference on Human Rights emphasizes that **“the child for the full and harmonious development of his or her personality should grow up in a family environment”**.

Paragraph 3 of *Recommendation No. 1121 (1990) “On the Rights of Children”*<sup>29</sup> of the *Parliamentary Assembly of the Council of Europe dated 01.02.1990* also

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<sup>27</sup> Geneva Declaration on the Rights of the Child of 26.09.1924 // <<http://www1.umn.edu/humanrts/instreet/childrights.html>>.

<sup>28</sup> <[http://www.un.org/russian/conferen/docs/aconf157\\_24.pdf](http://www.un.org/russian/conferen/docs/aconf157_24.pdf)>.

<sup>29</sup> Recommendation of the Parliamentary Assembly of the Council of Europe № 1121 (1990) dated 01.02.1990 «The Rights of the Child» // <<http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=15155&lang=EN>>.

emphasizes that “*children, for the full and harmonious development of their personality, should grow up in an atmosphere of happiness, love and understanding*”.

The right of the child to live in the family is clearly expressed in the *Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally*, particularly in the requirement which consist in that “**The primary aim of adoption is to provide the child who cannot be cared for by his or her own parents with a permanent family**” (Article 13). This norm is related to the responsibility of the state, in case when care by the child’s own parents is impossible, to consider “*care by relatives of the child’s parents, by another substitute - foster or adoptive - family*” (Article 4 of this Declaration). Thus, it indicates the necessity to ensure the right of the child to live and develop in **the family**.

The Parliamentary Assembly of the Council of Europe in its *Resolution No. 1908 (2012) “Human Rights and Family Courts”*<sup>30</sup> dated 30.11.2012 principally defines that “*a family environment offers the best conditions for the proper development of children*” (paragraph 3). As follows from paragraphs 1 and 4 of the Resolution, the right of the child to family is closely related to the right to respect for family life, and any actions towards the child, according to paragraphs 5.5.4 and 5.6 of the Resolution, shall be “*so as to avoid irreversible damage to the parties’ family life*” and shall be aimed at providing “*child protection and welfare*”.

When states make homosexual “adoption” legally possible, all the above mentioned international legal requirements, guarantees and recommendations for the proper upbringing of the child in the family are purposefully diminished and disregarded.

According to Article 8 of the *Convention on the Rights of the Child*, **the family connections of the child shall be understood, interpreted and recognized as an integral part of the child’s identity**. If the identity of the child is deprived, “*States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity*”, i.e. shall provide assistance in recovery of the family connections by way of, according to the Convention, ensuring conditions for creation of proper family connections in the adoptive family.

Therefore, the adopted child, by the decision of the authorized government authority, shall be fostered in the conditions inspected in advance by this government authority for the compliance with safety and welfare requirements for development of the child being adopted. However, according to the requirements of international

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<sup>30</sup> Resolution № 1908 (2012) of the Parliamentary Assembly of the Council of Europe titled «Human Rights and Family Courts» // <<http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=19220&lang=EN>>.

treaties and national legislation, **it is the family that shall foster the child**, i.e. a normal (natural) marital union (in conventional understanding) of man and woman, in which, in view of the law enforcement and traditions of this specific society, social relations are reproduced and the child is to be brought up and socialized in the conditions similar or, at least, slightly different from those in the native (blood) family of the child.

The legal norm established in a number of international treaties and national legislations of the states, according to which the child left without parental care shall be fostered by the family being a social institution by its nature and destination providing the most favorable conditions for upbringing and development of the child (including the adopted child), is a social institution proved over hundreds of years providing relatively favorable compensation of adverse consequences of orphanhood.

According to paragraph 14 of *The Riyadh Guidelines*, when foster placement and adoption of the child it is necessary to consider that “*Such placements should replicate, to the extent possible, a stable and settled family environment, while, at the same time, establishing a sense of permanency for children*”.

Thus, **the child**, to the extent possible, **shall be provided with normal living conditions in normal (natural) family** in order to renew social connections that exist in normal healthy families and are destroyed as a result of orphanhood. Government authorities shall ensure that the changes that take place in the life of the adopted child and new living conditions in his/her life are normal, i.e. favorable for his/her development, similar to the normal conditions that children have in their native families.

One of the most important guarantees of the child’s rights, including the right of the child for family, is the legal principle of priority of the rights and interests of the child over the rights and interests of other persons, as established in international treaties on the children’s rights and national legislation of many states.

Article 2 and paragraph 2 of Article 3 of the *Optional Protocol to the Convention on the Rights of the Child on a communications procedure* define **the principle of the best interests of the child**. The requirement for the priority of the child’s interests in all cases is also defined in the *Convention on the Elimination of All Forms of Discrimination against Women*: “*in all cases **the interests of the children shall be paramount***” (subparagraph “d” of paragraph 1 of Article 16), in *European Union Charter of Fundamental Rights* (paragraph 1 of Article 24) and in many other international documents. The *Declaration and Plan of Action “A World Fit for Children”* says: “**Put children first. In all actions related to children, the best interests of the child shall be a primary consideration**” (subparagraph 1 of paragraph 7).

The principle of priority of the rights and interests of the child is determined by the well-known fact: “*The children of the world are innocent, vulnerable and dependent*” (paragraph 2 of the *World Declaration on the Survival, Protection and*

*Development of Children*) and by the necessity to provide children's welfare and protect them from “*dangers that hamper their growth and development*”, including dangers of violence, neglect, cruelty and exploitation, and protect them from suffering (paragraphs 18, 4 and 8 of the *World Declaration on the Survival, Protection and Development of Children*).

Thus, states that arrange and allow to adopt children by normal (natural) families being a marital union of man and woman **minimize, as much as possible, the differences (changes)** of the most important elements of **social and cultural conditions of life and fostering of the child in a new family compared to normal conditions of life of the child in his/her native family in this specific society.**

### **1.1.2. Child's fostering by a family based on the traditional marriage concept as an essential prerequisite for execution of the child's right to family by way of his/her adoption**

The conventional (natural) concept of marriage and family as a union of man and woman created to give birth to and raise children and help each other, which is the basis for the norms of international treaties governing marriage/family relations, expressed in Article 12 of the *European Convention for the Protection of Human Rights and Fundamental Freedoms*, according to which “**men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right**”, remains unchanged, applied and understood in the international law in its original meaning, as it was expressed in the Convention. The above mentioned legal norm of the Convention defines the legal guarantees of relationships defined by the natural human rights earlier established in legislation of member states of the Convention. No international or foreign organization is eligible to impose on sovereign states changes of their position as to what union is to be considered a family, contradicting the concept and legal meaning defined in Article 12 of the *European Convention for the Protection of Human Rights and Fundamental Freedoms*.

Provisions of other international treaties and international declarations governing marriage and family relations (including adoption) or determining values of such relations are also based on the traditional (natural) concept of marriage and family, according to which **the base of the family is a marital union of man and woman** (paragraph 2 of Article 23 of the *International Covenant on Civil and Political Rights*, paragraph 1 of Article 16 of the *Universal Declaration of Human Rights*, Preamble to and subparagraph “d” of paragraph 1 of Article 16 of the *Convention on the Elimination of All Forms of Discrimination against Women*)

At the time of approval of all the above mentioned international documents on children's rights used to regulate marriage and family relations, the concept of family was authentically interpreted as a social institution based on the heterosexual union of man and woman (marriage) created for living together, **including the purpose of giving birth to and raising children.**

The meaning, applicability and invariability of the traditional (natural) concept of marriage underlying the legal norms of international treaty governing family relations, including adoption, are confirmed by numerous judgments of the European Court of Human Rights (ECHR)<sup>31</sup>.

The Judgment of the European Court of Human Rights in the case "Schalk and Kopf v. Austria", paragraph 55, dated 24.06.2010 principally states and substantiates that establishment of **the legal norm of marriage in Article 12 of the *Convention for the Protection of Human Rights and Fundamental Freedoms* – as a union between man and woman only – was justified and purposeful and reflected the original and authentic understanding of marriage by member states of the Convention as "in the traditional sense of being a union between partners of different sex"**. The applicants in the case asserted that the wording of Article 12 does not necessarily mean that marriage is exclusively the union of man and woman; however, the Court principally stated that, as apposed to all other provisions of the *Convention for the Protection of Human Rights and Fundamental Freedoms* where wordings such as "all persons" or "nobody" are in use, i.e. without pointing at a specific group of people who qualify for the rights established therein, the wording of Article 12 is not randomly selected but absolutely purposefully.

Furthermore, in paragraph 46 of the Judgment of the European Court of Human Rights in the case "Cossey v. The United Kingdom" dated 27.09.1990 the Court expressed its position as follows: *"the developments which have occurred to date... cannot be said to evidence any general abandonment of the traditional concept of marriage. In these circumstances, the Court does not consider that it is open to it to take a new approach to the interpretation of Article 12 (art. 12) on the point at issue. It finds, furthermore, that attachment to the traditional concept of marriage provides sufficient reason for the continued adoption of biological criteria for determining a person's sex for the purposes of marriage..."*.

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<sup>31</sup> The European Court of Human Rights (hereinafter referred to as the ECHR) when considering cases on the right to respect for private and family life, freedom of thought, freedom of expression, freedom of assembly, etc., has developed a wide range of the legal positions directly or indirectly related to the issue of legal validity of the permission for homosexual adoptions. We believe it appropriate to refer to the positions of the ECHR that are directly related to the issues under consideration, given that in many cases the legal positions of the ECHR are not only defined in the operative part of judgments but also expressed in the legal arguments applied by the Court.

According to the position of the European Court of Human Rights, institution of marriage (only in its heterosexual sense - as a union of man and woman), has deep social and cultural roots, determining its content, that can differ in different societies, that's why national governments have best possibilities for an assessment of the needs of society and responding to it. At that the European Court of Human Rights underlined that it doesn't consider necessary to replace positions of national governments with its position about «homosexual marriages»<sup>32</sup>.

Moreover, according to the position continued in a number of judgments of the European Court Human Rights, protection of the family in its traditional meaning can be legally and rightfully considered significant, reasonable and legitimate ground justifying different attitudes of the state towards normal (natural) families and towards homosexual couples (same-sex partnerships)<sup>33</sup>. Also, The Court decided that the right to respect for family life protected by Article 8 of the *Convention for the Protection of Human Rights and Fundamental Freedoms*<sup>34</sup> is not applicable to long-term homosexual relations between two men.

The European Court of Human Rights recognized that in Europe there is no consensus on the issue of homosexual marriage<sup>35</sup> and the state is eligible freely and independently decide whether to accept homosexual “marriages” and set the status of homosexual “unions” (“partnerships”) equal to the status of traditional (natural) marriage (marital union between man and woman). Therefore, prohibition of registration of homosexual marriages at the level of domestic (national) legislation and denial of the state to set the status of homosexual “unions” (“partnerships”) equal to the status of traditional (natural) marriage are legal and there is no discrimination of

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<sup>32</sup> Paragraph 55 of the Judgment of the ECHR in the case "B. and L. v. the United Kingdom" dated 13.09.2005; Paragraph 55 of the Judgment of the ECHR in the case “Schalk and Kopf v. Austria”, dated 24.06.2010.

<sup>33</sup> Paragraph 40 of the Judgment of the ECHR in the case “Karner v. Austria” dated 24.07.2003; the Decision of the ECHR on eligibility of the claim in the case “Antonio Mata Estevez v. Spain” dated 10.05.2001.

<sup>34</sup> The Decision of the ECHR on eligibility of the claim in the case “Antonio Mata Estevez v. Spain” dated 10.05.2001. However, in paragraphs 92 to 95 of the Judgment in the case “Schalk and Kopf v. Austria” dated 24.06.2010 and in paragraph 83 of the Judgment in the case “Alekseyev v. Russia” dated 21.10.2010 the European Court of Human Rights changed its position.

<sup>35</sup> Paragraph 98 of the Judgment of the ECHR in the case “Christine Goodwin c. Royaume-Uni” dated 11.07.2002; paragraphs 58 and 105 of the Judgment of the ECHR in the case “Schalk and Kopf v. Austria” dated 24.06.2010; paragraph 35 of the Judgment of the ECHR in the case “Sheffield and Horsham v. The United Kingdom” dated 30.07.1998; paragraph 36 of the Judgment of the ECHR in the case “Fretté v. France” dated 26.02.2002.

homosexuals in this case<sup>36</sup>. However, according to the positions of the European Court of Human Rights, making it legally possible by some member states of the *Convention for the Protection of Human Rights and Fundamental Freedoms* to register “marriage” (or quasi-marriage) between same-sex persons does not necessarily follow from the interpretation of the basic right on this issue (i.e. from the right to marry), as established in the Convention, but follows exclusively from the individual understanding of the role of the marriage in the society by the states recognizing same-sex “marriages”<sup>37</sup>. The Court acknowledged that in the field of legal regulation of homosexual relations (particularly relations connected to same-sex partnerships) member states of the *Convention for the Protection of Human Rights and Fundamental Freedoms* have a broad margin of appreciation<sup>38</sup>. The Court stated that Article 12 of the Convention shall be interpreted in connection with other articles: it does not oblige member states to recognize and allow “marriage” of homosexual couples; however, Article 14 in connection with Article 8, both of which are general, shall not be interpreted as those substantiating the imposition of such an obligation<sup>39</sup>.

Thus, in the modern international law, the traditional (natural) concept of marriage underlying the legal norms of international treaties governing marriage and family relations remains unchanged and shall be understood in its original meaning, as expressed in Article 12 of the *Convention for the Protection of Human Rights and Fundamental Freedoms* and other international legal acts. The right of the child to family can only be ensured by a union of man and woman, and adoption, in the context of this right, only means adoption by heterosexual parents.

### **1.1.3. Objective inability of a homosexual couple (same-sex partnership, union, set of two etc.) to be a family, perform functions of the family and ensure execution of the child’s right to family**

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<sup>36</sup> Paragraphs 58, 60, 105, 108 of the Judgment of the ECHR in the case “Schalk and Kopf v. Austria” dated 24.06.2010; the Decision of the ECHR on eligibility of the claim in the case “Antonio Mata Estevez v. Spain” dated 10.05.2001.

<sup>37</sup> The Decision of the ECHR on eligibility of the claim in the case “R. et F. c. Royaume-Uni” dated 28.11.2006; paragraph 53 of the Judgment of the ECHR in the case “Schalk and Kopf v. Austria” dated 24.06.2010.

<sup>38</sup> Paragraph 85 of the Judgment of the ECHR in the case “Christine Goodwin v. The United Kingdom” dated 11.07.2002; the Decision of the ECHR on eligibility of the claim in the case “Antonio Mata Estevez v. Spain” dated 10.05.2001; paragraph 97 of the Judgment of the ECHR in the case “Schalk and Kopf v. Austria” dated 24.06.2010; paragraphs 36 and 41 of the Judgment of the ECHR in the case “Fretté v. France” dated 26.02.2002.

<sup>39</sup> Paragraph 101 of the Judgment of the ECHR in the case “Schalk and Kopf v. Austria” dated 24.06.2010.

The matter of principle is whether potential adoptive parents are able to perform functions and sociocultural roles of parents – father and mother as well as functions and sociocultural role of the family.

*The Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption* (paragraph 1 of Article 15) states, as one of the prerequisites for adoption of the child, that applicants (adoptive parents) shall be “*eligible and suited to*” it, i.e. to fulfill the responsibilities of parents – mother and father. The principle importance “*of the family to secure **the traditional rearing and nurturing of children***” is stated in *The Riyadh Guidelines* (paragraph 15).

Therefore, the important international and legal requirement to the states responsible for adoption is the requirement that “*the law shall not permit a child to be adopted except by either two persons married to each other*” (paragraph 1 of Article 6 of the *European Convention on the Adoption of Children of 1967*), while from paragraph 5 of Article 5 of the Convention it follows that **adoptive parents shall be two married individuals of different sex.**

According to the results of scientific researches<sup>40</sup>, a homosexual couple (same-sex partnership) in principle is neither capable nor able to fulfill, properly and complying with the right of the child to family, the social role and moral and physiological educational functions of the adoptive family and to form the adoptive family; similarly, members of a homosexual couple in principle are neither capable nor able to fulfill, properly and complying with the right of the child to family, the social role and moral and physiological functions of father and mother (these social roles are absolutely incompatible with the homosexual lifestyle). Therefore, two same-sex persons (or a homosexual living in the union with a person of “indeterminate sex” or a person of any nonexistent sex claimed by such a person) comprising a homosexual couple (also those living in the registered “union”) shall not and cannot be recognized as proper potential adoptive parents or proper applicants for adoption of the child. Even friendly relations between the “adopted” child and the homosexual couple that “adopted” him/her cannot substitute family relations for the child and provide necessary

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<sup>40</sup> See: *Regnerus M.* How different are the adult children of parents who have same-sex relationships? Findings from the New Family Structures Study // *Social Science Research*. – 2012. – No. 41. – P. 752–770 (after attacks on the author, the editors of the periodical published the materials proving the scientific validity and accuracy of the Regnerus research); *Lopez R.O.* Growing Up With Two Moms: The Untold Children’s View // <<http://www.frc.org/?i=IS02E3>>. – 02.07.2002; *Lopez R.O.* The Political Problem of Evil // <[http://www.americanthinker.com/2013/08/the\\_political\\_problem\\_of\\_evil.html](http://www.americanthinker.com/2013/08/the_political_problem_of_evil.html)>. – August 9, 2013; *Dailey T.J.* Homosexual Parenting: Placing Children at Risk // <<http://www.orthodoxytoday.org/articles/DaileyGayAdopt.php>>.

These sources contain the lists of other reference sources supporting such conclusions.

family connections, since such relations, in fact, are not and cannot become alike for socio-psychological and individual psychological reasons. Even a registered “married” homosexual couple (in the states where it is legalized) cannot provide the child with psychological, social and moral objectives which the child needs for his/her natural and proper moral development and socialization.

Popular positions of some international and foreign organizations, views of individuals and positions of some states expressed in their legislation, according to which a union of two same-sex partners (homosexual couple) registered by the state may be made equal (fully or partially), by its legal consequences, to the legal family institute, are based on legally defective, deliberately distorted and anti-scientific foundations and, in fact, are manifestations of the anti-human social experiment on changing the fundamental bases of the human society, including the family institute and the system of traditional moral values underlying the civilized democratic European states and other states of the world.

A **homosexual couple** (homosexual partnership, same-sex union registered by the state) is not even a surrogate family or false family (imitation of the family), **it is a simulacrum** (from French: simulacre) of the family, i.e. the “distorted image”, “copy” created artificially and, principally, with no real original and real references (according to Jaque Baudrillard, “an imitation of non-existent things”<sup>41</sup>); thus, it does not comply, by its origin, purposes, content, functions, and processes, with the family based on the traditional (natural) concept of marriage and, therefore, shall not be identified and called as a family or model, type of the family.

The aggressive propaganda campaign carried out in many European states and some international organizations by adherents of the state registration of homosexual partnerships and granting them the right to “adopt” children, in fact, is aimed at forced and unnatural leveling of biological and social differences between men and women, and related social roles and fundamental natural rights and, to a greater extent, at the major transformation of the family institute by destroying its foundations and creation of the new world order rejecting many of the fundamental moral values underlying the modern, formerly Christian, Western civilization, rather than at protection of any rights of homosexuals.

However, some international and foreign organizations are illegitimately used to aggressively impose this ideology of total destruction of moral bases of the family life – contrary to good morals (within the meaning of “*bonnes mœurs*” in the French law) on the states and the world community.

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<sup>41</sup> *Baudrillard J. Simulacres et simulation. – Paris: Galilée, 1981.*

Homosexual “adoption” (as opposed to adoption by a family being a marital union of man and woman) goes along with placing the child in sociocultural and psychological environment which is radically different, in terms of sociocultural, ethical and psychological conditions of living, upbringing and development of the child, from normal (natural) family formed by man and woman<sup>42</sup>.

The conditions of living, upbringing and development of the child in a homosexual “family”, which is not a family in the strict and full sense, are so different from the conditions of living in the family based on the traditional (natural) concept of marriage that it is very likely to significantly influence the formation of the child’s personality, including his/her psychological, moral and social development, and, thus, the socialization and future of the child, down to formation of homosexual orientation of the child under the influence of the closest environment of two same-sex adults that “adopted” the child.

**The state arranging foster placement of children are not entitled to place them into conditions significantly and radically different from normal living conditions of the children in families based on the traditional (natural) concept of marriage**, since such drastic and unnatural change of living and upbringing conditions leads to violation of the fundamental rights and legal interests of the child, predetermines significant adverse consequences for his/her health, development and future.

Since a homosexual couple is not able to properly perform educational and other social functions performed towards the child by normal (natural) family consisting of mother and father, such a homosexual couple, even if registered as a “family”, is not a proper family in its biological and social meaning and cannot become it. Hence, the state, by making “adoption” of children by homosexual unions legally possible and by allowing child fostering by homosexual couples, roughly violates the right of the child to family guaranteed by generally recognized principles and norms of the international law and international documents.

From the above said it follows that, **in the context of international legal guarantees and imperatives of the natural right of the child to family, a**

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<sup>42</sup> See: *Regnerus M.* How different are the adult children of parents who have same-sex relationships? Findings from the New Family Structures Study // Social Science Research. – 2012. – No. 41. – P. 752–770; *Homosexuality and Child Sexual Abuse* // <<http://www.frc.org/?i=IS02E3>>. – 02.07.2002; *Lopez R.O.* Growing Up With Two Moms: The Untold Children’s View // <<http://www.thepublicdiscourse.com/2012/08/6065/>>. – August 6, 2012; *Lopez R.O.* The Political Problem of Evil // <[http://www.americanthinker.com/2013/08/the\\_political\\_problem\\_of\\_evil.html](http://www.americanthinker.com/2013/08/the_political_problem_of_evil.html)>. – August 9, 2013; *Dailey T.J.* Homosexual Parenting: Placing Children at Risk // <<http://www.orthodoxytoday.org/articles/DaileyGayAdopt.php>>.

These sources contain the lists of other reference sources supporting such conclusions.

**homosexual couple is not able to be a family or fully substitute it and shall not be recognized as a family in the strict sense of this word. Therefore, foster placement of the child to a homosexual couple or a single homosexual is not an adoption (based on the purposes of ensuring the right of the child to family)** as such, contradicts the basic family law principles, including the right of the child to be raised in family, and, thus, cannot be referred to the family and legal institute of adoption. Opposite statements have no legal or social grounds and are ideologically motivated, scientifically unsubstantiated, falsified and logically incorrect arguments.

## **1.2. Serious violation of the child's right to mother and father**

The fundamental natural right of the child (along with the right to life, right to health protection, right to education, etc.) resulting from his/her birth from his/her parents (man and woman) is the **right of the child to mother and father**.

The child also has the rights derived from this right – right to care from mother and father, right to live together with parents, right to communicate with parents (as meant in paragraph 1 of Article 4 of the *Convention on Contact Concerning Children*), etc. The range of these interconnected natural rights provides necessary conditions for good life and full development of the child.

These rights are established in international conventions. According to paragraph 1 of Article 7 of the *Convention on the Rights of the Child*, the child “*shall have the right from birth..., as far as possible, the right to know and be cared for by his or her parents*”.

According to paragraph 5 of Article 5 of the *European Convention on the Adoption of Children of 1967*, “*words “father” and “mother” mean the persons who according to law are the parents of the child*”. However, both mother and father have absolutely unique social roles of raising the child<sup>43</sup> and cannot be replaced by persons unable to perform these roles.

Principle 6 of the *Declaration of the Rights of the Child* absolutely clearly defines that “*a child of tender years shall not, save in exceptional circumstances, be separated from his mother*”. This statement clearly and unambiguously indicates that it is about native mother (who gave birth to a child) or an adoptive woman who has the same rights and responsibilities regarding the adopted child as his/her blood mother (according to paragraph 1 of Article 10 of the *European convention on the Adoption of Children of 1967*). Thus, it is about a woman, not about a person of another sex who being a man by birth pervasively identifies himself as a woman.

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<sup>43</sup> See, for example: *Popenoe D. Life Without Father*. – New York: Martin Kessler Books, 1996.

It is important to note that **the right of the child not to be separated from his/her mother** guaranteed by Principle 6 of the *Declaration of the Rights of the Child* is clearly connected with the relevant goal stated in this Principle – for “*the full and harmonious development*” of the child’s personality in understanding, “*in an atmosphere of affection and of moral... security*”.

Therefore, according to Principle 6 of the *Declaration of the Rights of the Child*, the necessity to have mother for the child is recognized as a prerequisite for his/her full development; however, in exclusive circumstances, when the child is separated from his/her mother, a person who fulfills maternal functions (i.e. adoptive mother) shall be able to give him/her **maternal care and education**.

Obviously, such care, to the fullest extent possible, can be provided by a woman, adoptive mother, and cannot be given by neither of members of a homosexual couple of two homosexual men (or a couple consisting of a homosexual man and a person identifying himself/herself as “sexless” or “third sex” person, etc.), simply because, in principle, man is not able to become mother and give maternal care, regardless of his self-identification and relevant claims. The role of female mother in family and, first of all, in upbringing of the child is also highlighted in the Preamble to the *Declaration on the Protection of Women and Children in Emergency and Armed Conflict*.

A homosexual couple in no way and under no circumstances is able to be adoptive parents since persons it consists of, in principle, for natural objective reasons, are not able to substitute proper family for the child in view of the lack of necessary physiological and psychological features and abilities of homosexual partners.

In case of homosexual “adoption”, the child, instead of mother and father, gets persons who hypertrophy the meaning of their sexual (homosexual) intentions and placing their perverse and other interests related to homosexual relations above the interests of the child, and in such conditions the child is simply an additional, secondary factor and, quite often, a means of reaching the specific social status rather than the most important goal and condition for a full family life as normal (natural) family.

As a result of homosexual “adoption”, the child finds himself/herself in pathological conditions of upbringing unavoidably connected with learning the perverse model of sexual roles of interfamily relations, constant observation of homosexual relations between the same-sex partners – his/her “adoptive parents”, and such circumstances make the child’s normal moral and psychological (including normal sexual) development and socialization impossible. In his/her closest environment the child is deprived of the participation in natural and healthy relations “child-mother-father” and is not able to be part of the normal (natural) family life.

By making decisions on foster placement of the child for “adoption” by a homosexual couple of two men, government authorities deprive the child the

opportunity to have adoptive mother and maternal care and, thus, violate the right of the child to maternal care which is only possible in case of adoption of the child by a family couple consisting of man and woman or a single adoptive mother – a woman with normal, heterosexual orientation.

It should also be noted that a homosexual woman is also not able to provide adequate and natural maternal care to the adopted child since, in view of her psychological, sex-role and social features, her role in child's upbringing may significantly deviate from the norm<sup>44</sup>.

Thus, the right of the child to mother and father is severely violated in case of his/her homosexual adoption as a result of which the child gets anybody (“caretakers”, “mentors”, “friends”, “partners”, etc.) but adoptive parents – adoptive mother and adoptive father.

International legal acts guarantee the right of the child to communicate with (biological) parents or with persons willing to “become” parents and capable of replacing them, in general and in whole behaving as his/her biological parents would behave. However, this right is not applicable to persons not capable of fully replacing parents and fulfilling parental responsibilities, including members of a homosexual couple who did not exist, at the time of approval of main international documents guaranteeing the right of the child to family, as subjects of legal relations (in the form of recognized marital union), including the scope of adoption relations.

The Preamble of the *Convention on the Elimination of All Forms of Discrimination against Women* emphasizes “**the role of both parents in the family and in the upbringing of children**” and the fact that “**the upbringing of children requires a sharing of responsibility between men and women**”. The Convention clearly articulates that it is about parents – man and woman. Provisions of this and other conventions regarding the issues of family and adoption prove the legal significance of family as a union of man and woman, but not homosexual persons requiring, on this basis, in fact and in law unsubstantiated privileges. Subparagraph “d” of paragraph 1 of Article 16 of the *Convention on the Elimination of All Forms of Discrimination against Women* also determines a natural union of **man and woman** as parents.

The right of the child, established in paragraph 1 of Article 8 of the *Convention for the Protection of Human Rights and Fundamental Freedoms*, “to respect for his private and family life” includes the right of the child to know his/her family origin and identity. Therefore, the important element of the right of the child to mother and father is the right of the child to know his origin, i.e. to know who are his/her mother and

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<sup>44</sup> The issue of the attitude of a homosexual woman towards her own (blood) child is not considered in this Report.

father that gave him/her birth. The adopted child may, in his/her mind, to conditionally derive his/her genealogy (origin) from adopted mother and adopted father in order to form his/her family image, and if he/she was adopted at an early age and the secret of adoption was kept then the child, obviously, would consider himself/herself born of adoptive parents. Also, the child has the right to be integrated into family relations of adoptive family (the child perceives his/her adoptive mother and adoptive father as family or at least tries to).

However, in case of adoption by a homosexual couple the child governed by common sense even conditionally is not able to accept that he/she is born of the homosexual man or the person of “indeterminate” sex trying to claim to be his “mother”. How should the child perceive this? “As if I was born of parent No. 1”, “I was somehow born of parent No. 2” – all this hinders to establish real, by their moral and psychological content, mother-child and father-child relations, destroys, in child’s mind, natural images of family, mother and father (if they are already formed in his/her mind before his/her homosexual “adoption”) and generate roughly distorted images of family, mother and father.

From the above mentioned it follows that, in the context of the natural right of the child to mother and father, members of a homosexual couple shall not be recognized as neither mother nor father and are not able be them and properly perform their social roles, shall not be recognized as such in the strict sense of these words and, therefore, foster placement of the child to a homosexual couple or to a single homosexual, as per the procedure established by the state, is not, by its essence and consequences (based on the purposes of ensuring the right of the child to mother and father), an adoption and shall not be considered adoption in the strict sense of this concept.

As a result of foster placement of the child by an authorized government authority for “adoption” by a homosexual couple or a single homosexual, the right of the child to mother and father is unavoidably violated.

### **1.3. Serious violation of the child’s right to his/her sexual identity and sexual self-identification and the right to sexual integrity**

The significant adverse consequence of “adoption” of the child by a homosexual couple is actually forced formation, under the influence of homosexual relations between “adoptive parents”, of changed sexual self-identification of the child, by

introjection<sup>45</sup> of homosexual self-identification to the child, however, the legal interests of the child on this issue are initially disregarded.

There are trustworthy confirmations of multiple facts of forced formation, under the influence of homosexual “adoptive parents”, of homosexual tendencies, views and preferences of the fostered child transferred for adoption, and the fact that children “adopted” by a homosexual couple and raised in such an environment are much more prone to the homosexual behavior and homosexual self-identification (compared to children of heterosexual parents) and are very likely to imitate the homosexual lifestyle and homosexual behavior of their “adoptive parents”<sup>46</sup>.

The availability and effectiveness of this influence are openly confirmed by promoters and active followers of homosexuality, such as Judith Stacey and Timothy Biblarz who write: *“Yet it is difficult to conceive of a credible theory of sexual development that would not expect the adult children of lesbi-gay parents to display a somewhat higher incidence of homoerotic desire, behavior, and identity than children of heterosexual parents”*<sup>47</sup>.

**Thus, children “adopted” by a homosexual couple are a priori deprived of the right to free natural formation of their sexual identity in accordance with their gender and, under the influence of their closest environment, are, in fact, exposed to forced formation of their personalities as future homosexuals, and their identity is formed forcedly.**

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<sup>45</sup> Introjection is the unconscious incorporation of perceived views, motives and attitudes of others as your own views, motives and attitudes.

<sup>46</sup> *Wardle L.D.* The disintegration of families and children’s right to their parents // *Ave Maria Law Review*. – 2011, Fall. – Vol. 10:1. – P. 1–50. – P. 34, 35. <<http://legacy.avemarialaw.edu/lr/assets/articles/AMLR.v.10i1.wardle.pdf>>; *Wardle L.D.* Parenthood and the Limits of Adult Autonomy // *Saint Louis University Public Law Review*. – 2005. – Vol. 24. – No. 1. – P. 169–194. – P. 173–175; *Wardle L.D.* Parentlessness: Adoption Problems, Paradigms, Policies, and Parameters // *Whittier Journal of Child & Family Advocacy*. – 2005. – Vol. 4 (2). – P. 323–374. – P. 366; *Wardle L.D.* The “Inner Lives of Children” and Other Concerns About Lesbigay Adoption // <[http://www.law2.byu.edu/page/categories/marriage\\_family/past\\_conferences/oct2005/wardle.pdf](http://www.law2.byu.edu/page/categories/marriage_family/past_conferences/oct2005/wardle.pdf)>; *Wardle L.D.* Comparative Perspectives on Adoption of Children by Cohabiting, Nonmarital Couples and Partners // *Arkansas Law Review*. – 2010. – No. 62. – P. 32–112. <<http://lawreview.law.uark.edu/wp-content/uploads/2010/04/10-Wardle.pdf>>.

<sup>47</sup> See, for example: *Stacey J., Biblarz T.J.* (How) Does the Sexual Orientation of Parents Matter? // *American Sociological Review*. – 2001, Apr. – Vol. 66. – No. 2. – P. 159–183. – P. 163. <[http://faculty.law.miami.edu/mcoombs/documents/Stacey\\_Biblarz.pdf](http://faculty.law.miami.edu/mcoombs/documents/Stacey_Biblarz.pdf)>.

From the birth each boy and each girl have a particular sex with patterns of psychosexual development immanent to this sex and formed naturally, and the child **has the right to be raised accordingly to his/her sex, based on his/her natural sexual identity, including self-identification**, formed naturally in childhood.

In accordance with subparagraph 3 of paragraph 7 of the *Declaration and Plan of Action “A World Fit for Children”*: **“Each girl and boy is born free and equal in dignity and rights”**. Paragraph 24 of the Declaration and Plan of Action recognizes **“the need to address the changing role of men in society, as boys, adolescents and fathers”**.

Paragraph 12 of the *World Declaration on the Survival, Protection and Development of Children* emphasizes the necessity to strengthen the role of woman and provide proper attitude towards girls. Girl has the right to be raised as a woman, grow up and be a woman.

Proper boy’s development as a boy and girl’s development as a girl and the rights related thereto are protected by the provisions of international documents (indirectly, however quite adequately). **While encroachment on these rights can be reasonably regarded as child abuse** (as meant in paragraph 2 of the *Declaration on Children dated 13.12.2007*).

Since children are neither sexless nor rightless beings whom you can shape to whatever “gender” (according to the pseudoscientific hypothesis of multiplicity and variability of “genders”), obsessive and psychologically violent impacts of a homosexual couple changing the child’s sexual identity, in fact, seriously infringe the child’s rights and legitimate interests, encroach on his/her personal dignity (as meant in the Preamble to the *Universal Declaration of Human Rights*; paragraph 1 of Article 23 of the *Convention on the Rights of the Child*; Article 1 of the *European Union Charter of Fundamental Rights*; and many other international documents), and contradict the democratic foundations of states and their legal systems.

**The principle of sexual integrity** of children, as provided for in the Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse dated 25.10.2007, **absolutely prohibits both physical and intellectual forms of sexual assaults on children**, and this prohibition extends to any attempts to “modify” or in any way change the child’s gender and his/her natural sexual identity. However, the “adoption” of children by homosexual couples, actually, results in the intellectual (psychological) assault on sexual integrity of the children.

The child “adopted” by a homosexual couple shares the living space with his/her “adoptive parents” who, being same-sex partners, in their everyday communication with each other, consciously (the “coming out” ideology) and unconsciously exhibit specific behavioral and communication patterns as well as verbal and nonverbal emotional expressions of homosexual relations (hugging, kissing, etc.), which are common for

homosexual partners and can be clearly identified. In addition, clothing of homosexual couple members often reflects and carries a very specific homosexual semantics; homosexual orientation of a couple is notably articulated with such clothing. In view of a manner, inherent in many homosexuals, to publicly and redundantly emphasize their homosexuality, it is very likely that children fall under the homosexual proselytizing impact. Thus, even in everyday life, children are very likely to be affected by constant psychological factors, constituting actually a violent propaganda of homosexual relations, and such informational impact has inevitable strong influence on the development of views and beliefs, mindset, moral and ethical standards of the child.

Psychological impact on children aimed at forced transformation of their sexual self-identification or contributing to such transformation, in which case there is encroachment on the boy's rights to possess his (natural) gender, to be raised with due regard to his (natural) gender and to be grown by a heterosexual man as well as encroachment on the girl's rights to possess her (natural) gender, to be raised with due regard to her (natural) gender and to be grown by a heterosexual woman, **represents a serious assault on sexual integrity of children and is a form of sexual abuse of children.**

State has no right and shall not allow or in any way support actions aimed at promotion of homosexuality among children since imposition of homosexual attitudes and homosexual behavior on the child by his homosexual "adoptive parents", including visions of homosexual relations as socially normal and approved relations, **is the intellectual form of sexual abuse of the child** committed by caring persons ("adoptive parents") (in view of paragraph 1 of Article 19 of the *Convention on the Rights of the Child*), which is prohibited by the Convention.

In some cases, state support for such manipulations with sexual identity of children may reasonably be classified as actions falling within prohibited eugenic studies aimed at human selection (paragraph "b" of Article 3 of the *European Union Charter of Fundamental Rights*).

At the same time, these actions **are actually the intellectual form of indecent and vicious actions** and, therefore, shall be regarded as the intellectual form of sexual seduction (corruption) of children (as meant in Article 34 of the *Convention on the Rights of the Child*) and a form of his/her criminal sexual exploitation prohibited by Article 36 of the *Convention on the Rights of the Child*.

There are known cases when a child was treated by a homosexual couple that wanted to "adopt" him/her as an object for subsequent sexual exploitation. Numerous criminal proceedings that ended up with judicial sentences in different states of the world indicate that, based on the facts of sexual abuse of children committed by homosexuals, a lot of homosexuals "adopting" children are very likely to have relevant

motivation, which can be further used to justify arguments against possible legalization of homosexual “adoption” of children. Encroachments on sexual integrity of children are committed by homosexuals incommensurably more often than those committed by heterosexuals (notably that the vast majority of pedophile victims are boys abused by homosexual men)<sup>48</sup>, although such situations are distorted in every possible way or kept undisclosed by ideologists of homosexuality.

It is also important to note that one of the most dangerous consequences of elimination of the social roles of mother and father in raising children in the family is erosion of one of the fundamental principles of family life – the principle of incest prohibition.

Thus, “adoption” of children by homosexual couples (same-sex unions) inevitably leads to violation of the child’s right to natural free formation of his/her sexual identity with due regard to his/her gender and is very likely, through intellectual corruption (indecent actions), to violate the child’s right to sexual integrity.

#### **1.4. Serious violation of the child’s rights to his/her own beliefs, moral and ethical standards**

States that allow for homosexual adoption **completely disregard the child as an individual, his/her rights and interests**, which is primarily evident by the fact that the child’s positive attitude to his/her fostering by a homosexual couple is absolutely unreasonably presumed. However, such states do not consider at all that the child may not wish to live in the “adoptive” homosexual environment. Before the government authority settles upon adoption of a particular child, the child may have no idea what to expect from a homosexual “family”, considering the fact that in orphanages (child care centers, etc.) children are longing to have his/her mother and father and dreaming about an adoptive family the general abstract vision of which is full of positive features in their mind.

In fact, states that have legalized homosexual “adoption” **consider the known international legal requirement of taking into account the opinion of the adopted child on persons wishing to adopt him/her as null and void and completely ignore this requirement**. Thus, such states disregard the rights and legitimate interests of child.

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<sup>48</sup> See: Homosexuality and Child Sexual Abuse // <<http://www.frc.org/?i=IS02E3>>. – 02.07.2002; Clowes B.W., Sonnier D.L. Child Molestation by Homosexuals and Heterosexuals // Homiletic & Pastoral Review. – 2005, May. – P. 44–54.

Legal provisions of certain states allowing for homosexual “adoption” of children without due regard to their legitimate interests contradict a number of articles of the Convention on the Rights of the Child, including Article 16 according to which: *“No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, ... nor to unlawful attacks on his or her honour and reputation. The child has the right to the protection of the law against such interference or attacks”* and fundamentally contradict the requirement of the *European Convention on the Exercise of Children’s Rights* that *“due weight should be given to the views of children”* (Preamble).

As required by the international legal rules and guidelines, custody and guardianship institutions and authorities shall ensure positive prospects of relationship between the adopted child and future adoptive parents prior to his/her adoption (Article 16 of the *Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally*). The *European Convention on the Adoption of Children of 1967* clearly defines that adoption is only allowed after receiving information by the competent authority about the opinion of the child himself/herself on possible adoption (subparagraph “f” of paragraph 2 of Article 9) and after receiving information about religious beliefs of the adopted child, if any (subparagraph “g” of paragraph 2 of Article 9). However, due to his/her social immaturity and juvenility, a minor child cannot properly understand and imagine the environment in which he/she can occur when fostered by homosexual “adoptive parents”. And the opinion of his/her legal representative – i.e. the official of an institution for orphans and children left without parental care – on potential homosexual “adoptive parents” of the child, their morality, their ability to perform parenting functions and provide parental care to the child will definitely depend on the position of the state that has granted the adoption rights of ordinary families to registered homosexual partnerships, i.e. the state that explicitly and preferentially supports this form of coupledness. Thus, the position of the child’s legal representative will be based on the equality of the adoption rights of homosexual partnerships with the adoption rights of normal (natural) families, regardless of the fact that the abilities of homosexual couples to provide the required moral and psychological conditions and child care are substantially different from the abilities of normal (natural) couples wishing to adopt the child; therefore, the principle of priority of the adopted child’s rights will not be applied and in fact will be denied.

Under the age of 7 to 10, a child is practically not able to express his/her conscious informed opinion on his/her potential homosexual “adoptive parents” since he/she cannot understand their essential personal qualities, including social and psychological specifics dependent upon their homosexual orientation, which will show

up not when getting acquainted with the child but when living together if the child will be “adopted” by them. It means that a minor child will not be able to express his/her conscious opinion on his/her potential homosexual “adoption” and will only be able to express his/her emotional response based on the superficial acquaintance and relatively short communication with his/her potential adoptive parents; moreover, the child’s legal representative is not likely to be able to impartially protect his/her legitimate interests considering possible accusation of the legal representative of infringement of the rights of homosexuals, “discrimination” and “homophobia” in case if the legal representative believes that applicants are not appropriate for being potential adoptive parents. As a result, legitimate interests of the adopted child will not be properly expressed, ensured and protected.

Adoption of older children is featured by the fact that such children already have their own vision of human relationships, family, and love.

Children above the age of 5 to 6 usually have well-defined visions of normal (natural) family; however, many children as old as 7 to 10 discover, from the media (especially TV), the existence of homosexuals and form their own (often critical) opinion on this phenomenon.

After receiving the permission for “adoption”, when a homosexual couple gets their chosen child without due regard to the child’s legitimate interest to be raised in normal (natural) family where the child would have his/her mother and father, a lot of adopted children with already formed ideas of morality will be shocked and severely stressed discovering real relationships between their new homosexual “parents” and their feelings for each other and will reasonably perceive and consider the impact of their “adoptive parents” in cultivating approval of the homosexual lifestyle as a serious violence against themselves. Such an impact on children shall be regarded as an unlawful attack on their honor and dignity (as meant in Article 16 of the *Convention on the Rights of the Child*).

If a homosexual couple “adopts” the child with already formed, under the influence of the previous family, school, orphanage, etc., to a great extent, his/her own views and beliefs, mindset, moral and ethical standards, and, more often than not, religious ideas and moral ideas about family values, rules (code) of conduct, the moral and psychological conflict between the child and his/her homosexual “adoptive parents” is inevitable. In this case the child’s rights to his/her own views and beliefs, mindset, moral and ethical standards, freedom of religion guaranteed by international treaties and national legislation will be seriously violated. Thus, **the following will be violated: the right of the child capable of forming his/her own views to freely express such views in all matters concerning the child; the right to freedom of expression, freedom of thought, freedom of speech, and freedom of religion of the child** (paragraph 1 of

Article 12; paragraph 1 of Article 13; and paragraph 1 of Article 14 of the *Convention on the Rights of the Child*; paragraph 2 of Article 24 of the *European Union Charter of Fundamental Rights*).

Limitation of these rights and freedoms of the child cannot be substantiated and justified by the desire of homosexual “adoptive parents” to raise the child according to their views, including views on homosexual relations.

The child’s right to have and express his/her opinion, including critical one, on homosexual relations is guaranteed by international acts on human rights according to which the freedom of opinion shall be protected at the government level and shall not be limited except as required by law, provided such restrictions are necessary for protecting national security, public order, public morality and health or protecting fundamental rights and freedoms of others. Imposition of absolutely strange and, probably, unpleasant homosexual views, attitudes, and lifestyle on the child and placing him/her in the environment of corresponding relations, words and behavior will be a flagrant violation of his/her rights and freedoms.

It is clear that suppression of child’s views and forced restriction of expression of his/her ethical views on homosexuality by homosexual “adoptive parents” may unexpectedly adversely affect the child’s mental state and significantly harm his/her development and health.

The legislation of states allowing homosexual “adoption” does not state by what means and how it is permitted to “wean” the child from his/her possible legitimate critical beliefs about homosexuality.

Paragraph 2 of Article 2 of the *Convention on the Rights of the Child* requires from member states to take all necessary measures on protection of the child from all forms of discrimination or punishment based on the views or beliefs expressed by the child, thus, prohibiting to punish the child for his/her views and beliefs (in this case regarding homosexuality). According to paragraph 54 of *The Riyadh Guidelines*: “No child... should be subjected to harsh or degrading correction or punishment measures at home”.

Otherwise, it will turn into regular domestic violence against the child and will be a flagrant violation of the requirements of the *Convention on Preventing and Combating Violence against Women and Domestic Violence*.

There are necessary and sufficient reasons to **classify actions aimed at forced imposition of homosexual attitudes on the child who already has a negative opinion on it as child abuse** (as meant in paragraph 1 of Article 9, and Article 39 of the *Convention on the Rights of the Child*) and **mental violence against the child** (as meant in paragraph 1 of Article 19 of the *Convention on the Rights of the Child*), **abusive**

**treatment of the child and attack on inherent human dignity of the child** (as meant in paragraph “c” of Article 37 of the *Convention on the Rights of the Child*).

It means that, in breach of Article 8 of the *European Convention for the Protection of Human Rights and Fundamental Freedoms*, such actions against the child are **serious encroachment on the child’s right to respect for his/her private (personal) life** if the child is already able to understand moral concepts, his/her cultural environment and already has his/her own ideas about a family within its normal (natural), historical meaning and the meaning established in the national and world culture.

In fact, states that legislatively allow for homosexual “adoption” created a legal basis for inevitable fundamental violation of child’s rights to his/her own views and beliefs, own mindset, own moral and ethical standards, violation of religious rights of the child and, thus, actually recognized legal priority of the “rights” (or, rather, privileges unjustified in law and in fact) granted by them to homosexual couples for “adoption” of children over the internationally recognized and guaranteed rights and legitimate interests of adopted children.

Thus, the legal institution of “adoption” of children by homosexual couples is explicitly and flagrantly contradicts the principle of priority protection of children’s rights (Article 3 of the *Convention on the Rights of the Child*) and leads to material violations of a wide range of children’s rights protected by the Convention on the Rights of the Child and other international treaties.

### **1.5. Serious violation of the child’s rights to proper development and to protection of his/her mental and moral health**

The nature and essence of relations between the child and his/her homosexual “adoptive parents” are drastically different from relations in normal (natural) families – both biological and substitute (adoptive) ones – and leads to significant adverse effects on the child’s mental health; therefore, a number of important factors kept undisclosed by ideologists of homosexual “adoptions” shall be analyzed.

Numerous facts incontrovertibly prove<sup>49</sup> that the homosexual lifestyle is absolutely incompatible with the safety and protection of mental and moral health of children, with their normal (in view of their fundamental rights and legitimate interests) parenting. Many scientific researches show that children raised by same-sex parents

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<sup>49</sup> See numerous references: *Dailey T.J.* Homosexual Parenting: Placing children at risk // <<http://www.orthodoxytoday.org/articles/DaileyGayAdopt.php>> // <<http://www.overcoming-x.ru/site/neways1>>. – 20.03.2008.

often suffer from severe psychological complexes, anguishes of mind and stresses and are subject to much higher risks of suicide, alcohol and drug addiction<sup>50</sup>. In the least “severe” case, «adoption» of the child by a homosexual couple may significantly aggravate psychological traumas caused to the child by the loss of his/her parents<sup>51</sup>.

On the other hand, “researches” referred to in order to justify the claims of homosexual couples for privileged “adoption” of children and “proving” the insubstantial advantage of such “adoption” for children themselves are scientifically incorrect, contain critical methodological drawbacks (inadequate sampling volume, sampling non-referentiality, partiality of applied methods) and often lack even external validity<sup>52</sup>, are apparently falsified to meet ideologically motivated goals of creating a myth that homosexual couples are “equal to traditional (heterosexual) families”. Moreover, there is no reference data (against sampling adequacy) about the lives of at least one generation of children raised in homosexual families.

However, there are a lot of evidences of extremely adverse effects of the homosexual parenting for children and adverse consequences of such education for the health and development of children, and such evidences shall not be undervalued due to unreasonable denial or «false mockery» of obvious facts by ideologists of homosexuality.

It is a widely recognized and self-evident nature of the presumption of remarkable favorable effects of raising children in normal (natural) – biological or adoptive – two-parent families that is the basis for fostering orphaned children.

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<sup>50</sup> See: *Wardle L.D.* The disintegration of families and children’s right to their parents // *Ave Maria Law Review*. – 2011, Fall. – Vol. 10:1. – P. 1–50. – P. 36; *Moon M.W., Fornili K., O'Briant A.L.* Risk Comparison Among Youth Who Report Sex with SameSex Versus Both-Sex Partners // *Youth & Society*. – 2007. – Vol. 38. – No. 3. – P. 267–284. – P. 267; *Regnerus M.* How different are the adult children of parents who have same-sex relationships? Findings from the New Family Structures Study // *Social Science Research*. – 2012. – No. 41. – P. 752–770; Homosexuality and Child Sexual Abuse // <<http://www.frc.org/?i=IS02E3>>. – 02.07.2002; *Clowes B.W., Sonnier D.L.* Child Molestation by Homosexuals and Heterosexuals // *Homiletic & Pastoral Review*. – 2005, May. – P. 44–54.

<sup>51</sup> See the testimony: *Lopez R.O.* Growing Up With Two Moms: The Untold Children’s View // <<http://www.thepublicdiscourse.com/2012/08/6065/>>. – August 6, 2012; *Lopez R.O.* The Political Problem of Evil // <[http://www.americanthinker.com/2013/08/the\\_political\\_problem\\_of\\_evil.html](http://www.americanthinker.com/2013/08/the_political_problem_of_evil.html)>. – August 9, 2013.

<sup>52</sup> *Belcastro P.A., Gramlich T., Nicholson T., Price J., Wilson R.* A Review of Data Based Studies Addressing the Affects of Homosexual Parenting on Children's Sexual and Social Functioning // *Journal of Divorce and Remarriage*. – 1994. – Vol. 20. – Issue 1–2. – P. 105–122. – P. 105–106; *Koepke L., Hare J., Moran P.B.* Relationship Quality in a Sample of Lesbian Couples with Children and Child-Free Lesbian Couples // *Family Relations*. – 1992, Apr. – Vol. 41. – No. 2. – P. 224–229. – P. 225. <<http://pendientedemigracion.ucm.es/info/rqtr/biblioteca/Estudios%20Lesbicos/Relationship%20quality%20in%20sample%20of%20lesbian%20couples%20with%20and%20.pdf>>; *Dailey T.J.* Homosexual Parenting: Placing Children at Risk // <<http://www.orthodoxytoday.org/article/s/DaileyGayAdopt.php>>.

Furthermore, the fact that raising children even in single-parent normal (heterosexual) families is associated with significant downsides and problems is well known and requires no further proofs. However, ideologists of “homosexual” adoption assure that it is “beneficial” for the adopted child to be in the environment absolutely different from normal family, i.e. among members of a homosexual couple not able to properly perform even one of parental roles – those of mother or father.

The purpose of the parenting environment (particular family) searched out for the child and the meaning of this search are in no way solely related to the requirement of ensuring material living conditions for the child. Moreover, the selection of potential adoptive parents shall not be only reduced to the formal selection of two people (only based on the quantitative criterion) regardless of marital relations between them and their ability to perform social roles of father and mother. According to paragraph 17 of *The Riyadh Guidelines*, the child shall not be fostered if, as a result, the child finds himself/herself in “*circumstances affecting the welfare and future of the child*”.

For the purpose of this Report, a significant fact is that, according to researches, throughout his life an average homosexual man has hundreds of sexual partners<sup>53</sup>. Thus, according to a study conducted by Alan Bell and Martin Weinberg, 43% of white homosexual men had homosexual sex with five hundred or more partners, while 28% had a homosexual experience with 1000 or more homosexual partners<sup>54</sup>. Paul van de Ven, Pamela Rodden, June Crawford, and Susan Kippax found out, as a result of their research, that the number of homosexual partners of homosexual men is in the range of 101 to 500 on average. 10,2 % to 15,7 % had 501 to 1000 partners. 10,2 % to 15,7 % of homosexual respondents said they had had more than 1,000 sexual partners in the course of their life<sup>55</sup>. The fact that such a lifestyle of “adoptive parents” will cause substantial harm to the health of the “adopted” child is obvious and does not require additional evidences.

It should also be emphasized that cruel and brutal infliction of bodily harm on another person and injury to another person<sup>56</sup> is an integral part of male homosexual

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<sup>53</sup> Dailey T.J. Homosexual Parenting: Placing Children at Risk // <<http://www.orthodoxytoday.org/articles/DaileyGayAdopt.php>>.

<sup>54</sup> Bell A.P., Weinberg M.S. Homosexualities: A Study of Diversity Among Men and Women. – New York: Simon and Schuster, 1978. – P. 308, 309.

<sup>55</sup> Van de Ven P., Rodden P., Crawford J., Kippax S. A comparative demographic and sexual profile of older homosexually active men // Journal of Sex Research. – 1997. – Vol. 34. – Issue 4. – P. 349–360. – P. 354.

<sup>56</sup> According to paragraph 71.13 of “The Determination of Signs of Male Homosexual Relations” of The Procedure for Arrangement and Performance of Forensic Examinations in State Forensic Institutions of the Russian Federation approved by Order No. 346n dated May 12, 2010 of the Ministry of Health and Social Development of the RF, evidences and consequences of previous anal intercourses, i.e. signs of passive male homosexual relations, include the following: injuries or other

practices, and such practices will obviously be noticed by the “adopted” child. The following statement of the Canadian judge Bruce Hawkins:

*“To write about homosexual practices without dealing with anal intercourse would be equivalent to writing a history of music and omitting Mozart”<sup>57</sup>.*

many times repeated in various presentations and publications of ideologists of the homosexual movement<sup>58</sup> speaks to the fact of positioning and recognition of this perverse practice (anal sex) by homosexuals themselves as a basic element of homosexual relations and a means of their objectification.

These facts reasonably determine the clear and obvious inability of a homosexual couple to create a favorable and healthy environment for raising the child and a proper environment for healthy and safe life of the child.

Therefore, the European Court of Human Rights stated the following in a number of its decisions: a) one of the purposes of legislation is to protect vulnerable members of the society – young people – from consequences of homosexuality; b) certain criminal legal regulation of exhibition of “male” homosexuality as well as other forms of sexual behavior by the criminal law can be justified as “necessary in a democratic society”; c) the main purpose of the criminal law in this area is “to maintain public order and decency in order to protect citizens from what is shocking and insulting”. Furthermore, it may be necessary to regulate, to a certain extent, the exhibition of voluntary sexual acts committed privately, especially when it is necessary “to provide sufficient guarantees against exploitation and corruption of other persons, particularly those who are highly vulnerable due to their immaturity, weakness of body and spirit, lack of experience or physical... dependency”. The Court also stated that the relevant legislation is necessary to protect the interests of certain social groups as well as the public morality in general<sup>59</sup>.

Thus, the European Court of Human Rights acknowledged that:

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damages to the anus (bruises, abrasions, tears, ruptures, and other wounds) and the border between the anal region and the mucous membrane of rectum and rectum canal (bruises, abrasions, tears, ruptures, and other wounds, mucous membrane irritation); scars from damages caused during male homosexual relations; availability of a previously hard chancre in the anal area or gonorrhoeal proctitis; specific [abnormal] condition of the anal area – so called “gaping anus” – funneled introversion, anus gaping, smoothness of radial folds around the anus and rectal mucosa, relaxation of sphincters and purple-red bluish rectal mucosa.

<sup>57</sup> Glad Day Bookshop Inc. v. Canada, No. 300/86, 20 March 1987, Ontario District Court // <<http://www3.sympatico.ca/toshiya.k.ncl/joy.htm>>.

<sup>58</sup> See, for example: Gay and Lesbian Legal Issues and HIV/AIDS: Final Report // <<http://www.aidslaw.ca/publications/interfaces/downloadFile.php?ref=220>>, and a number of publications of I.S. Kon.

<sup>59</sup> Paragraphs 47 and 49 of the Judgment of the European Court of Human Rights in the case “Dudgeon v. The United Kingdom” dated 22.10.1981; Paragraph 46 of the Judgment of the European Court of Human Rights in the case “L. and V. v. Austria” dated 09.01.2003.

- 1) in certain cases homosexuality is a threat to public order, public morality and decency;
- 2) in certain cases homosexuality can be considered shocking and insulting for citizens and society;
- 3) demonstration of homosexual behavior and imposition of homosexuality may be corruptive for minor children;
- 4) state shall protect minor children from imposition of homosexuality; therefore, limitation of demonstration of homosexual behavior and homosexual propaganda in order to ensure normal sexual development of minor children is a legally justified measure aimed at protection of their morality.

It should also be noted that, since aversion and a very negative (similar to racism) attitude towards women (anaphroditism)<sup>60</sup> that dishonors them is inherent in a lot of homosexual men, a similar attitude towards women will inevitably be transferred from homosexual “adoptive parents” to the adopted child and instilled through their behavior, especially through indirect statements. The instillation of such obviously abnormal and extreme attitudes towards women in the “adopted” child will not only further aggravate the consequences of a lack of the appropriate mother (biological or adoptive) but will make the child morally disabled and will significantly impair his/her development.

According to paragraph “c” of Article 3 of the *European Convention on the Exercise of Children’s Rights*, paragraph 1 of Article 13, and Article 16 of the *Convention on the Rights of the Child*, children shall have the guaranteed right to be informed of possible consequences of their adoption. The issues of which the child shall be informed include the above mentioned adverse consequences of homosexual “adoption”. However, this child’s right is also ignored.

### **1.6. Serious violation of the child’s rights to national and cultural identity and to introduction to the native culture**

According to paragraph 1 of Article 8 of the *Convention on the Rights of the Child*, member states shall respect the child’s right to preserve his/her identity. States shall ensure that “*ethnic, religious and cultural background*” of the adopted child are

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<sup>60</sup> This is reasoned in detail in our Report “On the Right to a Critical Evaluation of Homosexuality and Imposing Legal Restrictions on Homosexuality”, dated 2011.  
In Russian: <<http://www.state-religion.ru/files/Doc.pdf>>.  
In French: <[http://www.statoechiese.it/images/stories/2011.10/ponkin\\_rapportmbis.pdf](http://www.statoechiese.it/images/stories/2011.10/ponkin_rapportmbis.pdf)>.

duly considered and carry out adoption actions “*in the best interests of the child*” (subparagraphs “b” and “d” of paragraph 1 of Article 16 of the *Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption*). From these commitments and taking into account the importance of traditions and cultural values of each nation, as recognized in the *Convention on the Rights of the Child*, for protection and harmonious development of the child and that child’s identity is inextricably connected with his/her national and cultural identity, it logically follows that states shall protect the child’s right to national and cultural identity and to his/her introduction to the native culture.

If the state legislatively allows for homosexual “adoption” then this state actually not only denies but also forcedly reduces the importance of social roles of father and mother in terms of integration of the child in the culture of his/her nation and country (the respective child’s rights follow from constitutionally guaranteed cultural rights and are enshrined in the legislation on culture and education) as, in fact, in this case, instead of parents and the family which is a natural recognized social institution ensuring procreation, education and socialization of children, including teaching in social roles of mother and father and transferring the cultural code, the child finds himself/herself in relations with two persons who only claim to be “parents” without being them since it’s not possible that in a same-sex union one of its members perform functions of father and the other one – those of mother. Particularly, a homosexual man is not able to properly and adequately perform the role of mother (including moral-psychological and social-psychological relations between the mother and the child) as well as a homosexual woman is not able to properly and adequately perform the role of father.

Since it is mainly parents who in the course of family education ensure formation of national and cultural identity of the child, his/her views on proper social roles of men and women in the family (based on the cultural values and traditions of their nation), in the generation, and in the society as well as of human relations, then, as a natural result of “adoption” of the child by a homosexual couple, members of such a union are not able, through their actions, to ensure proper education of the child and formation of his/her national and cultural identity based on the cultural values of his/her nation. This is due to the fact that, first, a homosexual couple is not a married couple of man and woman and, therefore, is not able to transmit (transfer), particularly by personal example, moral and cultural values, including traditional family values and standards that form the basis of family relations and organically inherent in the national culture in which the child was born. Second, homosexual partners are convinced of normality and moral perfection of their views on homosexuality and reject the moral basis for relations between sexes, particularly family relations, traditionally inherent in

the European culture or render them wrong. In fact, they reject the Christian basis of the whole European culture, act as foreign cultural elements towards it as they actually destruct cultural, including spiritual and moral, standards of the European Christian culture. As a result, homosexual “adoptive parents” are not basically able to properly introduce the child to the traditions and cultural values of his/her nation for the purpose of harmonious development of the child, the importance of which is stated in the *Convention on the Rights of the Child* (Preamble, paragraph 3 of Article 20; subparagraph “c” of paragraph 1 of Article 29; Articles 30 and 31, etc.). Moreover, by their intentional or unintentional actions, homosexual “adoptive parents” actually work against formation of the child’s national and cultural identity and his/her introduction to the native culture, contribute to formation of the child’s moral and cultural relativism and dilution of the child’s cultural, primarily moral, standards.

## **2. Improper exercise of powers by states, acting beyond the scope of states’ powers when determining the legal possibility of homosexual “adoption” of children**

In fact, states that find it legally possible for homosexuals to “adopt” children abuse their powers and act beyond the scope of their powers.

States’ powers for providing children left without parental care with living conditions by their fostering through adoption have certain legal limits beyond which democratic constitutional states shall not act. Such limitation of states’ powers in the area of adoption is determined by fundamental natural rights of the child (that are not given nor granted but shall be recognized by states) as well as by resulting legitimate interests of the child guaranteed by a number of international documents.

The principle of child adoption – “the family is for the child rather than the child is for the family” – established in the public international law that meets the fundamental natural rights of the child shall not be ignored or distorted for whatever reason, particularly for the purpose of making homosexual “adoption” possible.

The desire of adult citizens to have (“to get”) the child left without parental care for fostering shall not be, in itself, i.e. considered separately from the rights and legitimate interests of the child, rendered a legally relevant and sufficient basis, subject to recognition by the state, for making homosexual “adoption” legally possible by the state since there are several parties involved in adoption relations, including and especially the child whose rights and legitimate interests, as provided in the international law, shall be secured and observed as a priority over the interests of other persons.

Even physical disability of registered married heterosexual couples to have children due to infertility, non-reproductive age or illness is not, in itself, a sufficient basis and prerequisite for recognizing the right of such couples to adopt the child and making a decision, by the authorized government authority, on fostering the child.

Therefore, the intrinsic physical disability of homosexual couples to have children in a natural way and the irrational idea of “equality of rights” and opportunities of registered homosexual couples with the rights and opportunities of normal (natural) families shall not be used by states as the basis for making homosexual “adoption” legally possible.

During adoption states shall consider and ensure the rights and legitimate interests of the child as a priority over the rights and interests of any other persons since such a priority is the basic principle underlying all international treaties and guidelines on the rights of children, including their adoption.

One of the conceptual elements of the principle of the best interests of the child and one of the prerequisites for its implementation is the imperative consideration of the opinion of the child when making decisions life changing for the child.

According to Article 2 of the Optional Protocol to the *Convention on the Rights of the Child* on a communications procedure, proper regard shall be paid to “*the views of the child being given due weight in accordance with the age and maturity of the child*”.

According to the Preamble to the *European Convention on the Exercise of Children’s Rights*, “*due weight should be given to the views of children*” in order to ensure their rights and interests. According to paragraph 1 of Article 24 of the *European Union Charter of Fundamental Rights*, the opinion of the child shall be taken into account when dealing with issues that affect him/her.

As for adoption, international instruments require to take into account the opinion of the child on such adoption. In particular, the *European Convention on the Adoption of Children of 1967* establishes, as a prerequisite, that adoption of the child shall only be permitted after receiving information by the competent authority about the opinion of the child himself/herself on possible adoption (subparagraph “f” of paragraph 2 of Article 9).

According to the *European Convention on the Adoption of Children of 1967*, adoption of children shall “*promote the welfare of children who are adopted*” (Preamble). Paragraph 2 of Article 8 of the Convention requires, in each case of adoption, to “*pay particular attention to the importance of the adoption providing the child with a stable and harmonious home*” while paragraph 1 of Article 8 prohibits adoption “*unless it is satisfied that the adoption will be in the interest of the child*”.

Therefore, **the best interests and rights of the child shall be the basic priority principle and requirement for states in the area of child adoption.**

According to Article 5 of the *Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally*: “In all matters relating to the placement of a child outside the care of the child’s own parents, **the best interests of the child**, particularly his or her need for affection and right to security and continuing care, should be the paramount consideration”. According to Article 14 of the Declaration: “In considering possible adoption placements, persons responsible for them **should select the most appropriate environment for the child**”.

Thus, according to international documents, the main purpose of arrangement and giving permission for child adoption by government authorities is to ensure conditions for proper development of the child rather than implementation of the interests of any other persons.

Outside the context of parental relations (“father – mother – child” or “father – child” or “mother – child”, in extreme cases – “grandfather – child” or “grandmother – child”), there is no individual right of an adult for the child or the child’s rights, and such individual right cannot be accrued. The only exception is the right of one of the divorcing parents to get the child; however, it is not literally “the right to get” but the right to choose living together with the child and the right to communicate with and raise the child.

In the context of parent-child relations (in the biological family of the child), it is not about the right to the child as “the right to get the child” but about the right to the child as the right to take care of the child in his/her best interests and raise the child based on his/her natural rights.

Paragraph 6 of the *Recommendation of the Parliamentary Assembly of the Council of Europe No. 1121 (1990) dated 01.02.1990 “The Rights of the Child”*<sup>61</sup> emphasizes that parental powers (particularly that of adoptive parents) on the child exist “only as long as they are necessary for the protection of the person... of the child”. It means that the purpose of parental powers, is to ensure, secure and protect the rights and interests of the child, but not to realise such powers or intention to realise them.

With regard to persons not being parents of a particular child or persons performing, under the law, parental duties to take care of the child, there are no legal frameworks or legal prerequisites for accrual and recognition of the right to foster a particular child (right “to get the child”) . The desire or interest of any person (including

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<sup>61</sup> Recommendation of the Parliamentary Assembly of the Council of Europe № 1121 (1990) dated 01.02.1990 «The Rights of the Child» // <<http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=15155&lang=EN>>.

the legal interest) to adopt the child cannot and shall not prevail and shall not be regarded as a priority over the rights and legitimate interests of the child, otherwise the principle of priority of the rights and legitimate interests of the adopted child guaranteed by international law and national legislation will be violated.

It should be noted that international documents do not contain such phrases as “the right to get child” or “the right to the child” (in the sense of getting the child) in the context of adoption.

States that adopt legal acts permitting homosexual “adoption” in doing so, instead of fulfillment, in good faith, of their duty to provide a special care and create favorable conditions for highly vulnerable children as well as for orphans and children left without parental care that are in a difficult situation for the purpose of their development, flagrantly act beyond the scope of their powers thereby giving absolutely unique privileges to homosexual couples since the feasibility of homosexual “adoption” is justified on the basis of complete exclusion of the child from legal adoption relations and complete disregard of the personal opinion and personal choice of the child, complete disregard of the rights and legitimate interests of the child, thus violating the principle of priority of the child’s rights over the rights of other persons.

When states make homosexual “adoption” legally possible, homosexuals get broad privileges for selecting the child to be “adopted”, however the child, his/her legitimate interests in normal and proper development are actually regarded as secondary over the purpose of meeting ideologically motivated requirements for “equality” of the rights of homosexual couples with the rights of normal (natural) families in the area of adoption. In this approach, the value of the child’s personality, his/her rights and legitimate interests are disparagingly devalued and “*the status of the child as a subject of rights and as a human being with dignity*” (as meant in the Preamble to the *Optional Protocol to the Convention on the Rights of the Child on a communications procedure*) is actually disregarded.

By eliminating vital legal provisions distinguishing the family from other forms of joint human activities and relationships and by removing the legal prohibition on recognition of any union other than a natural union of man and woman as the family and “marital union”, the stability of which is determined by immanent sexual-physiological and emotional-psychological mutual need and complementarity, granting the right to “adoption” of children by homosexual couples, in doing so actually removes the traditional (natural) concept of the family, the fundamental importance of which is confirmed by the history of nations, from their social and legal framework ultimately creating significant threats to the existence of states that have made such decisions.

States have the power to refer, within the law, stable homosexual couples to marital unions and the family, permit registered marriages of as same-sex unions

officials and even to force the society (under the threat of criminal and legal sanctions) to put up with this; however, **states are absolutely unable, through their decisions, to change the human nature and family nature, distort and pervert the fundamental concept of family.** From a legal point of view, the essence of such government actions can be reasonably classified as intentional acts that, in fact, are directed against the natural human rights derived from the human nature and against traditional social institutions holding the society together and ensuring its viability.

By making it legally possible to recognize a homosexual couple as a marital couple and family and, thus, rejecting the traditional (natural) concept of marriage and family as a marital and family union of man and woman only (in a broader sense, families include children, grandfathers, grandmothers, etc.), states directly contribute to even wider interpretation of the concepts of marriage and family and even worse further distortion and perversion of the concepts of marriage and family. As a result, states deprive themselves and the society of the opportunity to restrict such unreasonably wide interpretations of the specified concepts in the future and return to a previous state.

Denial of the traditional (natural) concept of marriage and family within the law contributes to further unnatural legalization and state recognition of any group of persons as a “marital union” and “family”, including pedophilic and incestuous “unions”, groups of an indefinite number (3 or more) of persons of the same or different sex or even a union of human and animal having indefinite goals clearly different from the goals of creating a family in its traditional and established meaning. This also shows the inadequacy of actions of those states that legislatively allow for registration of homosexual partnerships as a “family” and grant them rights to “adoption” of children. Today there are examples of social deviations the supporters of which require to legalize such deviations, particularly to legalize marriages in the form of so-called “polyamory” – a group of more than two persons having stable sexual relationships (between all members of the group). It is known that today supporters of zoophilia and pedophilia are actively striving for relevant privileges. This trend is also confirmed by the well-known fact when the Court of New South Wales (Australia), in its fairly recent decision in the case of Norrie dated 31.05.2013, stated that a person may have “indeterminate sex”<sup>62</sup>.

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<sup>62</sup> Decision of the Court of Appeal of New South Wales (Australia) in the case of Norrie dated 31.05.2013 (“Norrie v. NSW Registrar of Births, Deaths and Marriages” / Court of Appeal New South Wales, 31.05.2013, 145 // <<http://www.caselaw.nsw.gov.au/action/PJUDG?jgmid=165088>>). See also about this situation: *Bibby P.* Please, just call me Norrie, this is a whole new agenda // The Sydney Morning Herald. – June 1, 2013. <<http://www.smh.com.au/national/please-just-call-me-norrie-this-is-a-whole-new-agenda-20130531-2nhmo.html>>.

When considering the claims of homosexual couples for “adoption” of children, **states that recognize the right of homosexual couples to child adoption, in principle, treat the child neither as a person (and even denies him/her as a person) nor as a right-holding party to adoption relationships, that is they treat the child as an object of title, object of transaction and, generally, as an inanimate object with commodity attributes (in fact, with consumer commodity properties).**

In this approach, the child may be treated by homosexual couples (in the logical continuation of this approach) as an object for their status positioning: homosexual couples with the “adopted” child may seem to themselves much more socially approved and even legitimized by the state as “unions” meeting the standards of decency. The child may be treated as a means for satisfaction of the desire to avoid loneliness and even as a “toy”.

In addition to great legal significance of the ability of potential adoptive parents to perform parental function and sociocultural roles, **the motivation of persons that asked authorized government services for permission to adopt the child is also the issue of great legal importance.**

The *European Convention on the Adoption of Children of 1967* clearly requires to permit the adoption only after receiving information about the adoptive parents by the competent authority, including after receiving answers from potential adoptive parents to the question “*why the adopter wishes to adopt the child*” (subparagraph “b” of paragraph 2 of Article 9).

Given the fact that in case of legalization of homosexual “adoption” the opinion of the child and his/her rights are disregarded, it would be reasonable to consider such an attitude towards the child as falling within paragraph «a» of Article 2 of the *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*: “*Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration*”. In this case “**remuneration**” means that, in exchange for the claimed privilege to “adopt” children granted to homosexual couples under aggressive and illegal pressure upon the state (similar in nature to blackmail<sup>63</sup>), the leaders of states are not more subject to this pressure from the homosexual community and stop relevant obstruction and invective campaigns against the state as a result of speculations with distorted interpretations of the human rights and freedoms. It means that, in fact, the sale of children is carried out by states themselves rather than by individuals.

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<sup>63</sup> See, for example: *Hureauux R.* Les sept chantages inacceptables des partisans du “mariage” unisexe // <<http://www.atlantico.fr/decryptage/sept-chantages-inacceptables-partisans-mariage-unisexe-roland-hureauux-547296.html?page=0,0>>. – 18.11.2012.

Many ideologists of homosexuality do not hide their true motivation and true goals of their extremely aggressive activity destructive to the family that consists in forced imposition of homosexual “marriages” and homosexual “adoptions” on the state and society. Let us give an example of two conspicuous confessions:

*“Being queer (homosexual) - is more than setting up house, sleeping with a person of the same gender, and seeking state approval for doing so... Being queer means pushing the parameters of sex, sexuality, ... and, in the process, transforming the very fabric of society”* (Paula Ettelbrick, former Legal Director at Lambda Legal Defense and Education Fund)<sup>64</sup>;

*“A middle ground might be to fight for same-sex marriage and its benefits and then, once granted, redefine the institution of marriage completely, to demand the right to marry not as a way of adhering to society’s moral codes but rather to debunk a myth and radically alter an archaic institution... The most subversive action lesbian and gay men can undertake... is to transform the notion of “family’ entirely”* (Michelangelo Signorile, a famous promoter of homosexuality)<sup>65</sup>.

In the homosexual literature there are a lot of such declarations of ideologists of homosexuality similar to those quoted above on the true goals of ideologists of the homosexual movement that convincingly deny their own propagandistic statements that homosexuals suffer from state discrimination and social aggression and are victims.

These and many other similar statements indicate that today the ideology of homosexuality is rapidly becoming an extremely aggressive ideology of totalitarian dictatorship and intolerance towards persons not sharing such views. Therefore, the quoted and similar statements of ideologists of homosexuality can be reasonably classified as extreme statements encroaching on the interests of the individual, society and state, including the rights of children, interests in preserving the institution of family, demographic security, public order fundamentals, and viability of the state.

Considering that throughout the human history the institution of family has always been specially protected and that today the constitutions of many world states define the family, in view of its importance, as the foundation of the state, such apparently destructive and irresponsible attitude of the state towards the institutions of family and adoption can be reasonably considered as being implemented contrary to good morals (within the meaning of *“bonnes mœurs”* in the French law) and a flagrant

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<sup>64</sup> See: *Dailey T.J.* Homosexual Parenting: Placing children at risk // <<http://www.orthodoxytoday.org/articles/DaileyGayAdopt.php>>; <<http://www.overcoming-x.ru/site/neways1>>. – 20.03.2008.

<sup>65</sup> *Signorile M.* Bridal Wave // OUT magazine. – 1994, December/January. – P. 161; *Signorile M.* How We Got to the Supreme Court // <[http://www.huffingtonpost.com/michelangelo-signorile/how-we-got-to-the-supreme\\_b\\_2947931.html](http://www.huffingtonpost.com/michelangelo-signorile/how-we-got-to-the-supreme_b_2947931.html)>. – 25.03.2013. See the quotation in English also here: <<http://www.orthodoxytoday.org/articles/DaileyGayAdopt.php>>.

encroachment, by the state, on **the right of citizens to good (proper) public administration** (as meant in Article 41 “Right to Good Administration” of the *European Union Charter of Fundamental Rights dated 07.12.2000* (as revised in 2007)<sup>66</sup>) while relevant court decisions contributing to such an attitude of the state as a flagrant violation of **the principle of child-friendly justice** (taking into account paragraph 5.3 of the *Resolution No. 1908 (2012) of the Parliamentary Assembly of the Council of Europe titled “Human Rights and Family Courts”*<sup>67</sup> dated 30.11.2012 and the *Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice dated 2010*<sup>68</sup>).

Obviously, there is no and cannot be **any “primary social need”** to radically change the institution of child adoption by making homosexual “adoption” possible considering inevitable direct adverse consequences of such “adoptions” in the form of obvious material violations of the rights and legitimate interests of children “adopted” by homosexual partners, which generally has signs of discrimination of a huge social group of minor children left without parental care. Such social consequences not only discredit the legal basis of the claims of homosexual couples for privileged “adoption” but, first of all, make it necessary to raise the question of abuse of powers by the state consisting in actually antisocial transformation of the institution of child adoption.

Thus, in view of the above, we reasonably believe that states that make homosexual “adoption” of children legally possible act beyond the scope of their powers and violate the fundamental principles and fundamentals of democratic constitutional states (the principles of respect for human rights, observance of laws, etc.) as well as the widely recognized principles and standards of international law, provisions of international treaties on the rights of the child and cause substantial damage to the health and development of children.

## CONCLUSIONS

1. States that, at the level of national legislation, make homosexual “adoption” of children possible, act wrongfully, without strong legal and factual grounds, use deliberately misleading and distorted interpretation of the widely recognized principles

<sup>66</sup> European Union Charter of Fundamental Rights // [http://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](http://www.europarl.europa.eu/charter/pdf/text_en.pdf).

<sup>67</sup> Resolution № 1908 (2012) of the Parliamentary Assembly of the Council of Europe titled «Human Rights and Family Courts» // <http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=19220&lang=EN>.

<sup>68</sup> Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice / Adopted by the Committee of Ministers 17.11.2010 // <https://wcd.coe.int/ViewDoc.jsp?id=1705197>.

and standards of international law, international documents on human rights, flagrantly violate the fundamental rights and legitimate interests of the child guaranteed by international law.

2. Homosexual “adoption” of the child results in flagrant violations of the following fundamental natural rights of the child:

- right of the child to the family;
- right of the child to father and mother;
- right of the child to his/her sexual identity and sexual self-identification and the right to sexual integrity;
- right of the child to his/her own beliefs and moral and ethical standards;
- rights of the child to proper development and protection of his/her mental and moral health;
- rights of the child to national and cultural identity and introduction to the native culture.

3. Homosexual “adoption” of the child cannot be recognized as a proper form of exercise of the child’s right to family, his/her right to mother and father (and to their substitutes, i.e. adoptive parents) and to their care.

4. States that make homosexual “adoption” of children legally possible act beyond the scope of their powers and, in fact, commit a wrongful act contrary to the fundamental principles of democratic constitutional states.

5. Statements and actions of some international and foreign organizations aimed, in fact, at imposition, on sovereign states, of decisions on making it legally possible to carry out the state registration of stable homosexual unions (same-sex partnerships) as a “marriage” and making it legally possible, for such homosexual unions, to “adopt” children contradict the international law on protection of children and the international legal principle of priority of the rights and legal interests of children, contribute to serious violations of the fundamental human rights and legal interests of children and result in significant adverse consequences for health and development of children, public morality, and demographic security of states.

**17.09.2013**