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Comments

“[T]he universal language is not violence. It’s love[:]”* The Pavlis Murder and Why Russia Changed the Russian Family Code and Policy on Foreign Adoptions

Laura Ashley Martin**

I. Introduction

Alexei Geiko was neglected and abused by his Russian parents.¹

* See Mary Ann Fergus, *Mom Gets 12 Years in Killing; Adopted Son was Beaten to Death*, CHI. TRIB., May 5, 2005, at C1.

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This Comment is current as of the Spring of 2007. The Russian Federation is currently in the process of considering and implementing various changes to its Family Code and foreign adoption policies.

1. See Russell Working & Alex Rodriguez, *Rescue of Boy Ends in Tragedy*, CHI. TRIB., May 21, 2004, at C1.

His terrible childhood changed when Russian authorities intervened and placed him and his little sister in a Russian orphanage.² His luck improved when a young American couple from Chicago adopted both him and his sister.³ Alexei from Siberia⁴ was now Alex Pavlis.⁵ Alex lived the American dream for a short six-week period before he was murdered by his adoptive mother, Irma Pavlis.⁶ Alex's murder sparked outrage in the Russian Federation.⁷ Soon after Irma Pavlis's manslaughter conviction, the Russian Federation changed their foreign adoption policies.⁸

The foreign adoption policies of the Russian Federation have a significant impact on the United States.⁹ Russia opened its doors to foreigners wishing to adopt around the same time as the fall of the Iron Curtain.¹⁰ In 2005, the United States ("U.S.") issued 4,639 immigrant visas to orphans from the Russian Federation.¹¹ This number is second only to China, which granted 7,906 orphan immigrant visas.¹²

The number of Russian orphans adopted by foreigners each year represents only one percent of the 700,000 orphans in Russia.¹³ This statistic is in stark contrast to the 170,000 Russian orphans the Ministry of Education claims are within the Russian Federation.¹⁴ Regardless of

2. *See id.*

3. *See id.*

4. *See Fergus, supra* note 1, at C1. Alexei was originally from Yeysk, Russia, which is along the Sea of Azov in Siberia. *Id.*

5. *See Working & Rodriguez, supra* note 2, at C1.

6. *See id.*

7. *See Anna Arutunyan, U.S. Convicts Foster Mother of Killing Russian Boy, MOSCOW NEWS*, Apr. 20, 2005, at news.

8. *See U.S. Embassy, International Adoption—Russia*, http://www.usembassy.ru/consular/print_consular.php?record_id=adoptions (last visited Mar. 30, 2008).

9. The significant impact may only be felt by those individuals wishing to adopt from the Russian Federation. The U.S. State Department reports that U.S. citizens are adopting from Russia in increasing numbers. U.S. Dep't of State, *International Adoption*, http://travel.state.gov/family/adoption/intercountry/intercountry_473.html (last visited Mar. 30, 2008).

10. *See* Charlotte Sector, *Boy's Death May Halt U.S. Adoptions*, ABC News, May 17, 2005, <http://abcnews.go.com/International/print?id=755137> (last visited Mar. 30, 2008). A large portion of this 1 percent are arguably adopted by parents from the United States.

11. U.S. Dep't of State, *Immigrant Visas Issued to Orphans Coming to U.S.*, http://travel.state.gov/family/adoptions/stats/stats_451.html (last visited Mar. 30, 2008) [hereinafter *Immigrant Visas*].

12. *Id.*

13. Sector, *supra* note 11.

14. Kirill Vasilenko & Vremya Novostei, *Russian Orphans: We Won't Take Them, You Can't Have Them*, July 11, 2005, http://www.orphansinrussia.org/news_wonttakecanthave.html (last visited Mar. 30, 2008). The numbers the Ministry reports as the number of orphans adopted by foreigners per year supports the prior statement of 700,000 orphans in Russia, not 170,000. There does not appear to be a logical reason for the disparity. A third source states there are 633,100 orphaned

this disparity, it is important to note that the Ministry states that only 7,331 Russian orphans were adopted within Russia, while 7,852 were adopted abroad.¹⁵ This totals 157,000 orphans adopted by Russian families since 1999, and 64,000 adopted by foreigners.¹⁶ Therefore, Russian foreign adoption policy is arguably as important as domestic adoption policy.

This Comment evaluates the corollary between the Pavlis murder and the most recent changes in the Russian Federation's foreign adoption policy. Section II describes Alexei Pavlis's short life, both in the Russian Federation and in the United States. Section III explains the portions of the Russian Family Code pertinent to adoptions by foreigners and other details relevant to the adoption process. Section IV provides a brief overview of the Russian reaction to the Pavlis murder, and Section V contains an analysis of the Pavlis murder's effect on the Russian foreign adoption policy. Section VI proposes the conclusion that the Russian Federation considered the Pavlis murder when changing their foreign adoption policy, but the murder was not the sole reason for the changes in the Russian Family Code.

II. Pavlis—The Murder of a Son

A. Alexei's Story

1. Life in Russia

Alexei¹⁷ was born to Vasily and Svetlana Geiko of Yeysk, Russia, near the Sea of Azov.¹⁸ Alexei was the middle child of three;¹⁹ he had an

children, which is the most similar to the first number. Shannon Thompson, Note, *The 1998 Russian Federation Family Code Provisions on Intercountry Adoption Break the Hague Convention Ratification Gridlock: What Next? An Analysis of Post-Ratification Ramifications on Securing a Uniform Process of International Adoption*, 9 *TRANSNAT'L L. & CONTEMP. PROBS.* 703, 707 (Fall 1999).

15. Vasilenko & Novostei, *supra* note 15. Despite the Russian Family Code's emphasis on placing orphaned children within the Russian Federation, it appears as if more are adopted abroad. *Id.*

16. Reuters, *Russia to Ban Independent Foreign Adoptions*, May 23, 2006, <http://www.familyhelper.net/russia.html> (last visited Mar. 30, 2008).

17. Alexei and "Alex," which the Pavlises changed Alexei's name to, are used interchangeably throughout this Comment.

18. Working & Rodriguez, *supra* note 2, at C1. It is important to note that this is one of a few sources that describes some of the important details about Alexei's life while he was still in Russia. Even these details are a bit sketchy, and the rendition of his pre-adoption life is not intended to be conclusive, but merely to provide a brief history to help explain Alex's behavior, which arguably contributed to his death.

19. *Id.*

older sister, Natalya, and a younger sister.²⁰ The family lived in a second-floor Soviet-era flat that was infested with mice and roaches.²¹ Svetlana stayed at home with the children,²² while Vasily worked on an assembly line at a can manufacturing plant.²³ The Geiko couple intentionally avoided contact with their neighbors,²⁴ while their oldest daughter used to beg them for food.²⁵ The conditions were so bad that Russian authorities supplied the family with milk each day after the youngest child was born.²⁶

Yelena Ilyashenko, the Geiko's nurse,²⁷ noted these poor living conditions and that from birth Alexei had limited motor skills because of a central nervous system disability.²⁸ Ilyashenko also observed that Alexei was malnourished, anemic, and had rickets.²⁹ It has been suggested that Alexei likely suffered from fetal alcohol syndrome.³⁰

The hospital where Ilyashenko worked reported the children's neglectful living conditions to the authorities, who took custody of Alexei and his younger sister in December 1998, and placed them in an orphanage.³¹ Natalya was placed in a different orphanage in May 1999.³² Judge Mikhail Okhrimenko, the judge who heard the placement case, noted that the Geikos never visited their children.³³ "The biological parents practically repudiated their children," he commented.³⁴

20. *Id.* The newspaper withheld Alexei's younger sister's name to protect her privacy. *Id.*

21. *Id.*

22. *Id.*

23. Working & Rodriguez, *supra* note 2, at C1.

24. *Id.* The parents intentionally attempted to avoid contact with neighbors, often going so far as to dry their laundry inside. *Id.*

25. *Id.*

26. *Id.*

27. *Id.* In Russia, a nurse is typically assigned to do weekly check-ups on infants in every family for several months after birth. *Id.*

28. Working & Rodriguez, *supra* note 2, at C1.

29. *Id.*

30. See Dan Rozek, "Alex was Literally Beaten to Death;" *Adoptive Mother Admits Hitting Boy but Denies Killing Him*, CHI. SUN-TIMES, Apr. 13, 2005, at 8 [hereinafter Rozek, *Alex*]. Apparently Alexei's mother drank heavily during her pregnancy; doctors who reviewed photographs of Alex at the request of the Chicago Tribune suggested that he probably suffered from fetal alcohol syndrome. Working & Rodriguez, *supra* note 2, at C 1. According to the CDC, facial deformities, specifically small eyes, are characteristic of children with fetal alcohol syndrome. Centers for Disease Control and Prevention, *Fetal Alcohol Spectrum Disorders*, <http://www.cdc.gov/ncbddd/fas/fasask/htm#character> (last visited Mar. 30, 2008).

31. Working & Rodriguez, *supra* note 2, at C1.

32. *Id.*

33. *Id.*

34. *Id.*

2. Back in Chicago

Irma Pavlis, a thirty-two-year-old journalist from Mexico, suffered two miscarriages.³⁵ She and her husband, Dino Pavlis, a forty-year-old sales manager, decided to adopt an orphan because they could not conceive children.³⁶ Irma found both Alexei and his younger sister through pictures on a Russian webpage and fell in love with them.³⁷ Baptist Children's Home & Family Services of Mt. Vernon, Illinois, did a home study on the Pavlises and recommended that they be allowed to adopt up to three children.³⁸ The home study stated that the Pavlises did not believe in corporal punishment or verbal abuse, but did believe in disciplining by taking away privileges and using “time out.”³⁹ The home study also indicated that the Pavlises had completed the necessary pre-adoption training; in this case, that training consisted of reading two books and writing two essays.⁴⁰ This home study was forwarded to the Illinois Department of Children and Family Services, where officials subsequently certified the Pavlises' home as suitable.⁴¹

Instead of continuing with a private adoption agency, the couple decided to use an independent adoption facilitator, Vladimir Zherdev, because the adoption agency where the couple found the children's photos was too expensive.⁴² Through the use of an independent adoption facilitator, the Pavlises paid \$11,000 to adopt two children.⁴³ In comparison, a typical adoption of one Russian child through a certified agency usually runs between \$20,000 and \$30,000.⁴⁴

3. The Adoption

The Pavlises visited Alexei and his younger sister in Russia in July

35. Aamer Madhani & Russell Working, *Tragedy Follows an Adoption; Russian Boy was in U.S. for 6 Weeks*, CHI. TRIB., Dec. 23, 2003, at NS1.

36. See Working & Rodriguez, *supra* note 2, at C1.

37. See Madhani & Working, *supra* note 36, at NS1.

38. Working & Rodriguez, *supra* note 2, at C1. The limited details available for this home study suggest that the home study itself did not evaluate the Pavlises' parenting potential to the fullest extent possible.

39. *Id.*

40. *Id.* Apparently, these meager requirements were all the Pavlises had to do to certify that they would be “good” parents for the Baptist Children's Home & Family Services agency to recommend that they be allowed to adopt. *Id.*

41. *Id.*

42. *Id.*

43. Rozek, *Alex*, *supra* note 31, at 8.

44. *International Adoption—Russia*, *supra* note 9. The price range is so large because it depends on many factors, including: adoption agency fees, travel and lodging expenses, legal fees, translation/translator fees, notary fees, and other miscellaneous expenses, including gifts for the orphanage. *Id.*

2003, and then returned again in October 2003⁴⁵ to finalize the adoption and pick up the children.⁴⁶ According to Dino Pavlis, the couple worked with a translator in Russia and received few medical records; the orphanage director mentioned only the little girl's colds.⁴⁷ Working with an American agency would likely have ensured full disclosure of all medical records prior to the adoption.⁴⁸

Dino said they did not press to have the medical records translated because, "[w]e didn't want to be, 'Oh, I want a perfect child, and I won't take them if there's one thing wrong with them.'"⁴⁹ According to the Pavlises, they discovered that Alexei had webbed toes and a deformed penis only when they got back to the hotel.⁵⁰ Judge Dina Semeshina, who handled the adoption case in Krasnodar,⁵¹ stated that the couple was given extensive medical information about Alexei's medical condition during the court hearing and confirmed that they were aware of Alexei's

45. U.S. Dep't of State, *Intercountry Adoption*, http://travel.state.gov/family/adoption/country/country_441.html (last visited Mat. 30, 2008). Prospective adoptive parents are not necessarily required to make two trips to Russia, yet it often takes four to six weeks after the initial visit to get a court date to determine if the adoption will go forward. Most prospective parents return home during this time because it is not feasible to stay in Russia that long, and they are often not allowed to visit with their prospective children. *Id.*

46. Working & Rodriguez, *supra* note 2, at C1.

47. *See id.*

48. *Id.* Working with an adoption agency, as is now mandated in foreign adoptions, does not guarantee a better adoption than working with a local facilitator, as the Pavlises used, but the cliché "you get what you pay for" is often true. Adoption agencies specialize in simply that: adoptions; a local facilitator in Russia may do little more than provide the necessary forms and translation. Adoption agencies are interested in the best for all parties concerned so they provide the prospective parents with the children's medical records, and help them work through any issues. A local facilitator may be little more than a paper-pusher, and in the Pavlises' case, the facilitator did not provide them with medical histories of Alexei or his sister. Another theory is that the medical records did not exist:

"When somebody says we didn't receive all the information, usually it's not because the information's being hidden," said Ira J. Chasnoff, a Chicago doctor specializing in adoptive pediatrics. "It's because it didn't exist. If they're talking about mental health problems or fetal alcohol syndrome or rickets or any of those kinds of things, those kinds of things are never diagnosed over there [Russia]."

Id.

49. *Id.*

50. *Id.* If the Pavlises had obtained Alexei's and his sister's medical records prior to the adoption, they might have known about these birth defects. However, Russian officials involved in the adoption stated that the Pavlises had been informed of the boy's condition and had seen his birth defects when they visited him at the orphanage. *Id.*

51. *See* FAMILY CODE OF THE RUSSIAN FEDERATION 136-37 (William E. Butler ed. and trans., Moscow JurInfoR-Press 2005) [hereinafter FAMILY CODE]. Article 125 specifies the procedure for adopting a child, specifically referencing the role of the court (i.e., the role of the judge). *Id.*

deformities.⁵² Alexei, six, and his little sister, five, were legally adopted by Irma and Dino Pavlis in the Russia Federation in November 2003.⁵³

4. The Problems Begin

Artur Lukyanov, the driver hired by the Pavlises in Moscow after the adoption hearing, stated that both Alexei and his sister did not speak the level of Russian common for children of their ages and seemed to deliberately try to make their new parents angry.⁵⁴ Dino Pavlis recalled that it was during this trip that Alexei, now Alex, first acted out violently by throwing himself headfirst onto a bathroom floor.⁵⁵

Alex continued to act out violently on the plane ride to the United States and in the cab from the airport.⁵⁶ Moreover, upon their arrival, Alex once again threw himself headfirst onto the ground outside the Pavlises' apartment.⁵⁷

The Pavlises attempted to adjust to their new family and life with the children. Irma even began home-schooling the children.⁵⁸ According to Grant DeNormandie, Dino's boss, Irma had spent almost a year learning Russian so she could talk to the children.⁵⁹ Initially, the Pavlises were happy with their new children, but remained concerned when Alex's tantrums continued.⁶⁰ Dino stated that Alex's little sister would stand and claw her face until she drew blood and Alex would copy this behavior.⁶¹ However, DeNormandie stated that the children had no observable behavioral problems.⁶² Rather, he thought the children were upset that America was not what they had seen on Russian television.⁶³ Despite this, the girl began to learn the alphabet and repeat English words;⁶⁴ Alex did not.⁶⁵ Dino Pavlis indicated that Alex began to urinate and defecate himself in anger when he could not do his studies like his

52. Working & Rodriguez, *supra* note 2, at C1.

53. See Rozek, *Alex*, *supra* note 31, at 8.

54. See Working & Rodriguez, *supra* note 2, at C1.

55. *Id.* This happened at the Moscow Circus while the couple was still in Russia with the children. *Id.*

56. *Id.* Alexei acted out by screaming and throwing himself into walls and floors. *Id.*

57. *Id.* The Pavlises lived in Schaumburg, Illinois.

58. *Id.*

59. Maureen O'Donnell & Gary Wisby, *Woman Charged with Killing Russian Boy She'd Just Adopted*, CHI. SUN-TIMES, Dec. 22, 2003, at 3.

60. See Working & Rodriguez, *supra* note 2, at C1.

61. *Id.*

62. O'Donnell & Wisby, *supra* note 60, at 3.

63. *Id.* The newspaper did not specify how familiar Grant DeNormandie, Dino Pavlis's boss, was with the family and the children in particular. *Id.*

64. Working & Rodriguez, *supra* note 2, at C1.

65. *Id.*

sister.⁶⁶ This pattern of behavior continued for about six weeks.⁶⁷

5. Irma's Story

Irma Pavlis stated that on December 18, 2003, Alex had been faking bouts of unconsciousness for the past two days.⁶⁸ Irma had been ironing when she saw Alex begin to roll his eyes and gasp for air.⁶⁹ She attempted CPR, called her husband, and then called 911.⁷⁰ Alex was taken to Alexian Brothers Medical Center and was then airlifted to Loyola University Medical Center.⁷¹ Alex Pavlis died of blunt trauma to the head, only six weeks after he had been adopted.⁷² His younger sister was removed from the home and placed with a Russian-speaking foster parent.⁷³

6. Charged with Murder, Irma's Story Changes

On December 18, 2003, Irma Pavlis was charged with the first degree murder of Alex Pavlis “[i]n that she without lawful justification, violently shook, struck, and beat Alex Pavlis about the head and body, knowing such an act created a strong probability of great bodily harm, thereby causing the death of Alex Pavlis.”⁷⁴ Tom Stanton, the spokesperson for the Illinois State Attorney's Office, said that Irma Pavlis admitted her involvement in Alex's death on December 20, 2003.⁷⁵ Stanton stated, “The defendant began to shake him and slap him, and twisted his neck and shoved him against the closet door”⁷⁶ because she was frustrated with him.⁷⁷ Defense attorneys said Irma admitted

66. *Id.*

67. *See id.*

68. *Id.*

69. Working & Rodriguez, *supra* note 2, at C1.

70. *Id.* This is the first hint in newspaper reports of Irma's guilt, as this sequence of events appears to be a little backward. *Id.*

71. *Id.*

72. *Id.*

73. *Id.* It appears that Alex's younger sister was placed in foster care upon Alex's death. *Id.*

74. Ill. Circuit Ct., Cook County, Felony Compl., '03 MC300 7860-01,02, Def. Irma Pavlis [hereinafter Felony Complaint]. She was charged with two accounts of murder. Ill. Circuit Ct., Cook County, Certified Statement of Conviction/Disposition, No. 04CR0139701, Def. Irma Pavlis, at 1 [hereinafter Certified Statement of Conviction/Disposition]. She was charged with violating 720 ILL. COMP. STAT. 5/9-1(a)(1),(2) (1992). *See* Felony Complaint.

75. Working & Rodriguez, *supra* note 2, at C1.

76. *Id.*

77. *Id.* A detective on the case told reporters he heard Irma say she was “extremely frustrated” because she was home alone in a two-bedroom apartment with children with whom she could not communicate. Krystyna Slivinski, *Mom Said She Hit Boy, Cop Testifies; Woman Lashed out Over Adopted Child's Behavior, He Says*, CHI. TRIB, Apr.

hitting the boy, but denied killing him.⁷⁸

B. *The Trial*⁷⁹

1. The Evidence

Detective Gary Ciccola stated that Irma Pavlis voluntarily came to the police station for an interview two days after Alex’s death.⁸⁰ On that visit, Irma Pavlis made a forty-four minute videotaped admission.⁸¹ In the admission, Irma admitted to hitting, spanking, and shoving Alex in the week before his death.⁸² On the day of his death, Detective Ciccola testified that Irma admitted to “thr[owing] her son into closet doors, hit[ting] him in the lip, whipp[ing] him on the buttocks with a rubber cord and sh[aking] him so hard his head bobbed back and forth.”⁸³ It was after this beating that Alex stopped breathing;⁸⁴ Irma tried to give him CPR; forty-five minutes later she called her husband, and then called 911.⁸⁵ On the videotaped confession, Pavlis said, “I do know that I’m the one responsible for the injuries he has.”⁸⁶

The presiding judge, Judge Fecarotta, ruled that Pavlis’ pre-arrest and post-arrest statements, including the videotape, were admissible evidence because the statements were lawfully given.⁸⁷ The defense could only argue that Alex Pavlis had a number of pre-existing medical conditions that the Pavlises were not informed of prior to the adoption,⁸⁸ and that Alex therefore could have inflicted many of these injuries upon himself.⁸⁹

There was other evidence to support the fact that Irma Pavlis

14, 2005, at NW1.

78. Rozek, *Alex*, *supra* note 31, at 8.

79. Irma Pavlis was indicted for murder by the Grand Jury on Jan. 15, 2004. Ill. Circuit Ct., Cook County, Illinois v. Pavlis, Indictment, No. 04 CR-1397. The trial began on Apr. 11, 2005. Certified Statement of Conviction/Disposition, *supra* note 75, at 4.

80. Slivinski, *supra* note 78, at NW1.

81. Dan Rozek, *Mother’s Role in Boy’s Death Disputed; She Admitted Hitting Him, but Brain Injury Possibly Self-Inflicted*, CHI. SUN-TIMES, Apr. 15, 2005, at 12 [hereinafter Rozek, *Mother’s Role*].

82. *Id.*

83. Slivinski, *supra* note 78, at NW1.

84. *Id.*

85. *Id.*

86. Rozek, *Mother’s Role*, *supra* note 82, at 12.

87. See Eric Peterson, *Statements Stand in Case Against Mother*, DAILY HERALD (Arlington Heights, Ill.), July 24, 2004, at news. The hearing on the motion to suppress these statements was July 13, 2004. Certified Statement of Conviction/Disposition, *supra* note 75, at 2. The motion to suppress statements was denied on July 23, 2004. Ill. Circuit Ct., Cook County, Orders Entered, Irma Pavlis, No. 04CR0139701, at 1.

88. Working & Rodriguez, *supra* note 2, at C1.

89. See Peterson, *supra* note 88, at news.

murdered Alex.⁹⁰ A police officer who answered the 911 call noticed bruises on Alex's head and face; the medical examiner later determined that these bruises had occurred that day.⁹¹ At trial, the state called pediatrician Dr. Ira Chasnoff, an expert on child abuse, who stated that Alex's injuries could not have been self-inflicted.⁹²

2. The Verdict

On April 15, 2005, the jury deliberated for two hours before finding Irma Pavlis guilty of involuntary manslaughter.⁹³ To be convicted of involuntary manslaughter, the jurors found that Irma acted recklessly, but did not knowingly or intentionally harm Alex.⁹⁴ After the verdict, Marty Nevel, the jury foreman, stated: "We don't believe she brought the child here intending to kill him."⁹⁵

3. The Sentence

On May 4, 2005, Irma Pavlis was sentenced to twelve years in prison.⁹⁶ Judge Fecarotta said: "I believe she is contrite to a point, but I still believe she doesn't accept the blame. . . . Irma Pavlis beat Alex Pavlis to death—period."⁹⁷ The judge continued his rebuke, "[w]hy is it Russia's fault? . . . [w]hy is it anyone's fault but Irma Pavlis?"⁹⁸

III. The Russian Family Code Guidelines for Foreigners Adopting a Russian Orphan

A. *Why Russian Children Are Orphaned*

There is an age-old prejudice in the Russian Federation against children who are born with physical and/or mental defects.⁹⁹ Mothers of

90. See Working & Rodriguez, *supra* note 2, at C1.

91. *Id.*

92. Rozek, *Alex*, *supra* note 31, at 8.

93. Dan Rozek, *Jury Agrees with Mom: She Didn't Mean to Kill Son; Guilty of Involuntary Manslaughter, not First-degree Murder*, CHI. SUN-TIMES, Apr. 16, 2005, at 2 [hereinafter Rozek, *Jury*]. The hearing on the motion to suppress these statements was July 13, 2004. Certified Statement of Conviction/Disposition, *supra* note 75, at 5.

94. Rozek, *Jury*, *supra* note 94, at 2.

95. *Id.*

96. Dan Rozek, *Woman Gets 12 Years, Rebuke in Son's Death; Judge Says She's Trying to Duck Responsibility for Fatal Beating*, CHI. SUN-TIMES, May 5, 2005, at 7 [hereinafter Rozek, *Woman*]; see also Ill. Circuit Ct., Cook County, Papers Filed, Irma Pavlis, No. 04CR01297, at 3 [hereinafter Papers Filed]. She was credited 501 days for time already served. *Id.*

97. Rozek, *Woman*, *supra* note 97, at 7.

98. Fergus, *supra* note 1, at C1.

99. See IRINIA MIKHAILOVNA O'REAR, ADOPTING IN RUSSIA: YOUR RIGHTS & THE

these children have been continuously counseled to leave them at the hospital where the State¹⁰⁰ can better care for them.¹⁰¹ Because of those historical paradigms, healthy children who are abandoned by their parents, specifically from families of low socioeconomic status, are often thought to have such defects.¹⁰² In the West, children’s backgrounds are considered to potentially predispose them to certain attributes,¹⁰³ while in the Russian Federation, those familial characteristics are listed in the children’s permanent medical record and follow the child through adulthood.¹⁰⁴ The United Nations Convention on the Rights of the Child prohibits discrimination based on circumstances of birth,¹⁰⁵ yet the Russian Federation’s current practice appears to ignore that proscription.¹⁰⁶

Aside from abandonment at birth, the rate at which Russian children are removed from their homes for abuse or neglect has doubled in the past decade.¹⁰⁷ The number of orphaned minors is approximately two percent of the child population in the Russian Federation.¹⁰⁸ Many of these children are placed with families,¹⁰⁹ while as many as twenty-eight

LAW 42 (Russia Legal Press 2002).

100. The Russian “State” refers to the American equivalent of “government.” In Russia, the government is the cabinet of ministers who have no independent legal status. This is why that term is not used in this Comment. William E. Butler, Russian Law Professor, The Pennsylvania State University, the Dickinson School of Law, Class Lecture (Aug. 31, 2006).

101. See O’REAR, *supra* note 100, at 42.

102. *Id.*

103. See Center for Disease Control, *America’s Children: Key National Indicators of Well-Being*, available at <http://www.cdc.gov/nchs/data/misc/amchild.pdf> (last visited Mar. 30, 2008). This report shows how certain factors in children’s early years can affect them later in life, yet no one disease or living condition is listed as being dispositive. *Id.*

104. See O’REAR, *supra* note 100, at 43.

105. Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989).

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status[.]

Id.

106. See HUMAN RIGHTS WATCH, *ABANDONED TO THE STATE: CRUELTY AND NEGLECT IN RUSSIAN ORPHANAGES* 11, 27 (Human Rights Watch 1998). Human Rights Watch recommends the Russian Federation stop discriminating based on disability or otherwise, so it must still be an issue. *Id.* However, the Constitution of the Russian Federation does prohibit discrimination. Konstitutsiia Rossiiskoi Federatsii [Konst. RF] [Constitution] art. 19 & 21.

107. O’REAR, *supra* note 100, at 41 (citing the State report “[a]bout the position of children in the Russian Federation”).

108. *Id.*

109. *Id.*

percent are left with no alternative but to live in an orphanage.¹¹⁰ In total, approximately 123,000 new children are admitted to orphanages each year.¹¹¹

B. *Facilities for Orphaned Children in the Russian Federation*¹¹²

Young children are placed in Dom Rebenkas,¹¹³ which are public health institutions designed to raise children from infancy to three years old, or up to four years old for children with physical or mental disabilities.¹¹⁴ There are approximately 422 of these facilities currently operating in the Russian Federation.¹¹⁵

The next type of facility is the Detski Dom,¹¹⁶ which cares for school-aged children.¹¹⁷ The children both reside and are educated in these institutions with the intention of teaching them skills that will enable them to learn a trade.¹¹⁸ The Russian Federation currently has approximately 820 of these facilities in operation.¹¹⁹

Shkola-Internats are alternatives to the Detski Doms for school-aged children.¹²⁰ Shkola-Internats are similar to boarding schools, with some focusing on mentally handicapped and/or talented children.¹²¹ There are about 150 regular Shkola-Internats and 178 institutions that cater to children with special needs.¹²²

Additionally, Centers of Temporary Custody are designed to meet

110. *Id.*

111. *Id.* at 42.

112. This section does not address the conditions in which institutionalized children are raised, nor does it address the behavioral, psychological, emotional or physical setbacks that may arise from institutionalized care. *See generally* HUMAN RIGHTS WATCH, *supra* note 107; *see also* Donovan Steltzner, Note, *Intercountry Adoption: Toward a Regime That Recognizes the "Best Interests" of Adoptive Parents*, 35 CASE W. RES. J. INT'L L. 113, 128-32 (Winter 2003).

113. *See* O'REAR, *supra* note 100, at 37.

114. *See id.* at 37-38; *see also* HUMAN RIGHTS WATCH, *supra* note 106, at 57, where the institution is referred to as *Dom Rebyonka*. The discrepancy is merely a variation in translation. *Id.*

115. O'REAR, *supra* note 100, at 38.

116. Russian Orphan Opportunity Fund, *Life in the Orphanage System*, <http://www.roofnet.org/pages/page.php?ref=aboutorphanage%20life> (last visited Mar. 30, 2008); *see also* HUMAN RIGHTS WATCH, *supra* note 106, at 109, with the institution spelled *Dyestkii Dom*.

117. Russian Orphan Opportunity Fund, *supra* note 117.

118. *See* O'REAR, *supra* note 100, at 39.

119. *Id.* at 37.

120. Russian Orphan Opportunity Fund, *supra* note 117.

121. *See* O'REAR, *supra* note 99, at 39.

122. *Id.* at 40; *see also* HUMAN RIGHTS WATCH, *supra* note 107, at 89, where the institution is referred to as *Psychoneurological Internaty*. Again, a difference in the translation of the terms.

the immediate needs of children taken away from their family.¹²³ Approximately 150 of these centers exist in the Russian Federation.¹²⁴ Finally, there are also Priuts,¹²⁵ which are intended to provide temporary care while an evaluation of the child's future is made.¹²⁶

C. *The Children Who Are Available for Adoption and the Adoption Process*¹²⁷

1. Identifying Children in Need of Care by the State

Section VI of the Family Code of the Russian Federation, entitled “Forms of Nurturing Children Left Without Care by Parents,”¹²⁸ details the rules and regulations regarding the care and adoptability of an orphaned child.¹²⁹ Chapter 18 describes “Eliciting and Arrangement of Children Left Without Care by Parents.”¹³⁰ Article 121, “Defence of Rights and Interests of Children Left Without Care of Parents,”¹³¹ gives a general overview of the circumstances where the local governments must intervene and assume responsibility for a child:

1. The defence of the rights and interests of children in instances of death of the parents, deprivation of the parental rights thereof, limitation thereof in parental rights, deeming the parents to lack dispositive civil legal capacity, illness of the parents, prolonged absence of the parents, evasion by the parents of nurturing the children or of defending their rights and interest, including in the event of the refusal of parents to take their children from nurturing institutions, treatment institutions, institutions of social defense of the populace, and other analogous institutions, and also in other instances of the absence of parental care, shall be placed on trusteeship and guardianship agencies.¹³²

123. O'REAR, *supra* note 100, at 40.

124. *Id.*

125. Russian Orphan Opportunity Fund, *supra* note 117.

126. *Id.*

127. The following sections are not intended to be a guide to adopting children from the Russian Federation. Rather, key sections of the Russian Federation Family Code relevant to adopting children from the Russian Federation are identified.

128. See FAMILY CODE, *supra* note 52, at 127.

129. See generally *id.*

130. See generally *id.*

131. See *id.*

132. *Id.* at 127-29. Section 2 continues describing the agencies in the Russian Federation which are responsible for children left without the care of parents:

2. The agencies of local self-government shall be the trusteeship and guardianship agencies. Questions of the organisation and activity of agencies of local self-government relating to the effectuation of trusteeship and

Article 122, "Eliciting and Registration of Children Left Without Care of Parents,"¹³³ states that both educational institutions and all other citizens have an affirmative duty to report any concerns about the care of a child:

1. Officials of institutions (preschool educational institutions, institutions of general education, treatment institutions, and other institutions) and other citizens having information concerning children specified in Article 121(1) of the present Code shall be obliged to communicate this to trusteeship and guardianship agencies at the actual whereabouts of the children.¹³⁴

The circumstances of this child will be investigated within three days by the appropriate local trusteeship and guardianship agency to establish whether or not the state agencies should intervene on behalf of the child.¹³⁵

When it is determined that a child is best cared for by the State, within one month¹³⁶ the federal authorities shall enter the child's information into the national database.¹³⁷ The federal authorities are charged with the duty to place the child in a family residing in the Russian Federation, and can only place the child in one of the above-listed institutions if family placement is not possible.¹³⁸ Federal authorities can be held liable if these rules are not followed.¹³⁹

Article 123 of the Family Code of the Russian Federation,

guardianship over children left without the care of parents shall be determined by the said agencies on the basis of the charters of municipal formations in accordance with the laws of subjects of the Russian Federation, the present Code, and the Civil Code of the Russian Federation.

Id.

133. See FAMILY CODE, *supra* note 52, at 129.

134. *Id.* at 129-30.

135. *Id.* at 130.

136. *Id.* at 131-32.

The agency of executive power of the subject of the Russian Federation within a month from the receipt of the information concerning a child shall organize the arrangement of such child in a family of citizens residing on the territory of the particular subject of the Russian Federation, and in the absence of such possibility shall send the said information to the Federal agency of executive power determined by the Government of the Russian Federation for recording in the State data bank on children left without the care of parents and rendering assistance in the subsequent arrangement of the child for nurturing in a family of citizens of the Russian Federation permanently residing on the territory of the Russian Federation.

Id.

137. *Id.* at 132. All children must be registered in this national database before prospective parents have access to their information and consider adopting. *Id.*

138. See FAMILY CODE, *supra* note 52, at 131-32.

139. *Id.* at 132. The Code does not specify the penalty for an official who violates his duty to attempt to place a child in the care of a nurturing family, it merely states that there is one. *Id.*

“Arrangement of Children Left Without Care of Parents,”¹⁴⁰ directs the living arrangements of a child in State care:

1. Children left without the care of parents shall be subject to transfer for nurturing to a family (or for adoption, under trusteeship (or guardianship), or to a foster family), and in the absence of such possibility to an institution for orphan children or children left without the care of parents of all types (nurturing institutions, including children’s homes of the family-type, treatment institutions, institutions of social defence of the populace, and other analogous institutions).

Other forms of the arrangement of children left without the care of parents may be provided for by the laws of subjects of the Russian Federation.¹⁴¹

This article clearly expresses a preference for placing a child in a family or in foster care over placement in a State institution. Additionally, there is an explicit statement acknowledging the diverse background of Russian orphans and requiring the consideration of the child’s ethnicity, language, and other background traits.¹⁴² A child’s ethnicity, religion, language, and education must be taken into account in the adoption proceedings.¹⁴³

It is evident from the Code’s language that the State provides for an expedient review of each child’s unique situation. The Code repeatedly states that orphaned children should be adopted by families, preferably in the Russian Federation, then placed in the care of families, and placed in institutions only when family placement is not available.¹⁴⁴

2. Adoption Rules and Regulations

Chapter 19, “Adoption of Children,” under Section VI, “Forms of Nurturing Children Left Without Care by Parents,”¹⁴⁵ details the adoption of a child in the Russian Federation.¹⁴⁶ Article 124, “Children With Respect to Whom Adoption is Permitted,”¹⁴⁷ reinforces the importance of family placement by promoting adoption over State care.¹⁴⁸ Adoption

140. *See id.*

141. *Id.* at 132-33.

142. *Id.* at 133.

143. FAMILY CODE, *supra* note 52, at 133.

144. *See generally id.*

145. *See id.* at 134.

146. *See generally id.*

147. *See id.*

148. *See* FAMILY CODE, *supra* note 52, at 134. (“1. Adoption shall be the priority form of the arrangement of children left without the care of parents.”). *Id.*

only occurs in the best interest of a minor child.¹⁴⁹ Siblings should not be separated,¹⁵⁰ which further supports the Code's emphasis on the importance of family units.

Russia first allowed foreigners to adopt orphans in 1991.¹⁵¹ Adoptions by foreigners, who are not relatives of the child, are only permitted when the child is not placed within the Russian Federation:

The adoption of children by foreign citizens or stateless persons shall be permitted only in instances when it is not possible to transfer these children for nurturing to a family of citizens of the Russian Federation permanently residing on the territory of the Russian Federation or for adoption to relatives of the children irrespective of the citizenship and place of residence of those relatives.

Children may be transferred for adoption to citizens of the Russian Federation permanently residing beyond the limits of the territory of the Russian Federation, foreign citizens, or stateless persons who are not relatives of children upon the expiry of three months from the day of receipt of the information concerning such children in the State data bank concerning children left without the care of parents in accordance with Article 122(3) of the present Code.¹⁵²

A child may only be adopted abroad when the child's information has been in the State database for three months.¹⁵³ On January 10, 2005, the

149. *Id.*

2. Adoption shall be permitted with respect to minor children and only in their interests in compliance with the requirements of the Article 123(1), paragraph three, of the present Code, and also taking in to account the possibilities to provide children with full physical, mental, spiritual, and moral development.

Id.

150. *Id.* at 134-35. ("3. The adoption of brothers and sisters by different persons shall not be permitted, except for instances when the adoption corresponds to the interests of the children."). *Id.*

151. Thompson, *supra* note 15, at 707.

152. FAMILY CODE, *supra* note 52, at 135. This idea is reinforced by the Supreme Court of the Russian Federation's statement on the importance of placing children within the country. William E. Butler (ed. and transl.), *Procedural Remedies in Event of Foreign Adoptions*, Ruling of the Judicial Division for Civil Cases, Supreme Court of the Russian Federation. *Sudebnik*, X, 2007.

153. *Id.* at 135.

Children may be transferred for adoption to citizens of the Russian Federation permanently residing beyond the limits of the territory of the Russian Federation, foreign citizens, or stateless persons who are not relatives of children upon the expiry of three months from the day of receipt of the information concerning such children in the State data bank concerning children left without the care of parents in accordance with Article 122(3) of the Present Code.

Id.

waiting period was increased to six months;¹⁵⁴ the change in this law has been partially attributed to the Pavlis murder.¹⁵⁵

The court governance of adoptions is explained in Article 125, “Procedure of Adoption of Child.”¹⁵⁶ The judge must decide if the adoption by specific prospective parents is in the best interest of the child.¹⁵⁷ The adoption is formally registered with the State¹⁵⁸ as prescribed in Article 126.¹⁵⁹ All foreign adoptions must be registered with the Consulate.¹⁶⁰

In addition to the above Article 126, there is a second Article 126,¹⁶¹ which limits the role of third parties in the adoption process.¹⁶² This article regulates the activity of adoption agencies,¹⁶³ which are often essential in facilitating foreign adoptions. The Pavlis case spurred further regulation of these agencies, so now all foreign adoption agencies

154. See *International Adoption-Russia*, *supra* note 9. This six-month waiting period for adoption by foreigners is noticeably absent from the most recent edition of the Family Code of the Russian Federation, which states the waiting period is only three months. The sources are silent on a definitive reason for extending the waiting period from three to six months for foreign adoptions, but there are several likely reasons. First, in response to the highly publicized Alex Pavlis murder which is only one of several murders of adopted Russian orphans in the United States, the Russian Federation likely wants stricter foreign adoption policies. Second, the Russian Family Code repeatedly expresses a desire to place Russian orphans in the care of families within the Russian Federation. Therefore, if foreigners have to wait longer to adopt a child when that child is up for adoption, then the likelihood that the child will be adopted within the Russian Federation is greater. *Id.*

155. See Sections V and VI of this Comment.

156. FAMILY CODE, *supra* note 52, at 136.

1. Adoptions shall be performed by a court upon the application of the person(s) wishing to adopt the child. Cases concerning the establishment of the adoption of a child shall be considered by way of a special proceeding according to the rules provided for by civil procedure legislation.

The cases concerning the establishment of the adoption of children shall be considered by a court with the obligatory participation of the adoptive parents themselves, trusteeship, and guardianship agencies, and also the procurator.

Id.

157. See *id.* at 136-37.

158. *Id.* at 137. (“The adoption of a child shall be subject to State registration in the procedure established for State registration of acts of civil status.”)

159. *Id.* at 138.

160. Russian Embassy, *Adoptions*, <http://www.russianembassy.org/CONSULAT/adoption.htm> (last visited Mar. 30, 2008). However, there are no published mechanisms for enforcement of this provision. The Family Code of the Russian Federation and the U.S. State Department are noticeably silent on this topic, hence the conclusion that it is impossible, at least at this time, for Russia to force continued Russian supervision of adopted Russian children once those children are officially U.S. citizens. *Id.*

161. See FAMILY CODE, *supra* note 52, at 138.

162. See *id.* at 138-40. Article 126, *Inadmissibility of Intermediary Activity With Regard to Adoption of Children*, states that adoption agencies/organizations “cannot pursue commercial purposes in their activity.” *Id.*

163. See *id.*

must be registered as non-governmental organizations.¹⁶⁴ As of December 15, 2006, there were thirteen American adoption agencies accredited by the Ministry of Education of Russia.¹⁶⁵

Article 127, "Persons Having Right to be Adoptive Parents,"¹⁶⁶ states that any adult who has attained the age of majority may adopt a child, except for the reasons enumerated in the article.¹⁶⁷ The exceptions to people who can be adoptive parents include but are not limited to: criminals, persons previously deprived of parental rights, and persons the court deems unfit to act as parents.¹⁶⁸ One of the specific rules asserts that the age difference between an unmarried adoptive parent and the child must be greater than sixteen years.¹⁶⁹

Consent is paramount to the conclusion of the adoption process. When the biological parents are known and of legal capacity, they must give consent to the adoption.¹⁷⁰ Other trustees/guardians of the child to be adopted must also give their consent to the adoption.¹⁷¹ A child to be adopted, who is over ten years of age, must also provide consent.¹⁷² In the event that the child is adopted by a married parent, the spouse must also consent to the adoption.¹⁷³ The legal consequences of adoption are specified in Article 137.¹⁷⁴ The Chapter 19 articles of the Family Code specify the ability to change an adopted child's name, birth date and place, and to retain secrecy in the adoption.¹⁷⁵ The grounds for vacating an adoption are also spelled out in that chapter.¹⁷⁶

It is noteworthy that although the above-referenced sections of the Family Code detail the process by which a child may be adopted, there are still additional procedures involved. The appropriate Russian and

164. See U.S. Dep't of State, *Important Notice on Russian Adoption Agencies*, http://travel.state.gov/family/adoption/intercountry/intercountry_2932.html (last visited Mar. 30, 2008).

165. See *Adoptions*, *supra* note 161. As of December 15, 2006, the thirteen accredited agencies are: Adoption Associates, Inc., Families Thru International Adoption, The Adoption Center of Washington, Alaska International Adoptions Agency, The World Child International Corporation, Lutheran Social Services of Wisconsin and Upper Michigan, Inc., Wide Horizons for Children, Inc., Hand in Hand, Wyoming Children's Society, New Hope Christian Services, Alliance for Children, Children of the World Adoption Agency, Inc., and Gift of Life Adoption Services. *Id.*

166. See FAMILY CODE, *supra* note 52, at 141.

167. See *id.* at 141-43.

168. *Id.*

169. *Id.* at 143. This is likely to prevent the sexual exploitation of the child.

170. *Id.* at 143-45.

171. FAMILY CODE, *supra* note 52, at 145-46.

172. *Id.* at 146-47.

173. *Id.* at 147.

174. See *id.* at 150-52.

175. See *id.* at 147-53.

176. See FAMILY CODE, *supra* note 52, at 153-56.

American visas must be obtained.¹⁷⁷ An I-600A petition for U.S. citizens wishing to adopt a foreign-born orphan without a specific orphan in mind must be filed with the U.S. Citizenship and Immigration Service prior to traveling abroad to find the child.¹⁷⁸ Similarly, INA § 101(b)(1)(F) details the requirements for the immigration of a child to the U.S.¹⁷⁹ Working with an accredited, registered foreign adoption agency is the best way to become acquainted with the adoption procedures.¹⁸⁰ U.S. citizens wishing to adopt a child from the Russian Federation generally must be committed to the adoption process, as it generally takes six-to-twelve months to complete all the requirements, including two trips to the Russian Federation, and \$20,000 to \$30,000 in fees and other expenses.¹⁸¹

IV. Russian Reaction to Pavlis Murder and Its Effects on Adopting Russian Orphans

The first reports of the Pavlis murder appeared in Russian sources a little over two months after the death of Alex Pavlis.¹⁸² The Moscow News reported that “[t]his case has thrown the sensitive issue of Russian adoptions by foreigners back to the surface of public debate.”¹⁸³ The article expresses that even at this early date in the Pavlis case, the safeguards that were thought to be in the Russian Family Code may not be enough to protect Russian orphans adopted abroad.¹⁸⁴ The next substantive report out of Russia appeared a little over a year later from the RIA Novosti,¹⁸⁵ which reported:

Alexander Yakovenko, the official representative of the Russian Foreign Ministry told reporters “undoubtedly, we cannot remain indifferent to the problems that children adopted from Russia face in a new environment, even when they become American citizens.” “. . . We are much concerned about this trial, and hope it [trial] will be

177. See *Intercountry Adoption*, *supra* note 46.

178. *Id.*; see also U.S. Dep’t of Homeland Security, U.S. Citizenship and Immigration Services, *I-600A Application for Advance Processing of Orphan Petition*, available at <http://www.uscis.gov/files/form/i-600a.pdf> (last visited Jan. 28, 2006).

179. *International Adoption-Russia*, *supra* note 9.

180. See Mary Hora, Note, *A Standard of Service That All Families Deserve: the Transformation of Intercountry Adoption Between the United States and the Russian Federation*, 40 BRANDEIS L.J. 1017, 1021 (Summer 2002). She provides a synopsis of why working with a facilitator can pose problems in an international adoption; hence, alluding to the fact that these problems often do not occur with adoption agencies. *Id.*

181. See *Intercountry Adoption*, *supra* note 46.

182. See Vincent Urbanowicz, *Russian Adoptions: For Better or Worse?*, MOSCOW NEWS, Mar. 3, 2004, at abroad.

183. *Id.*

184. See *id.*

185. The RIA Novosti is the equivalent of the Associated Press in the United States.

unbiased.”¹⁸⁶

Russian officials continued to react to the Pavlis murder, with former Prime Minister Yevgeny Primakov “call[ing] for the creation of [a] state-controlled agency with U.S. and Russian officials working jointly to oversee Russian adoptions abroad.”¹⁸⁷ The same article also noted that as many as 2,000 children each year die at the hands of abusive parents in Russia, and there have only been eight recorded cases of Russian orphans being killed by their adoptive American parents.¹⁸⁸

Russian Prosecutor-General Vladimir Ustinov recommended that the Russian Federation enter into agreements with all countries where Russian orphans are adopted.¹⁸⁹ This would allow the future monitoring of adopted children by Russian officials.¹⁹⁰ The Prosecutor-General wanted to draft private agreements, which would allow the State to monitor the Russian adoptees and to intervene if the adoptee was not receiving proper care, with foreigners wishing to adopt.¹⁹¹

The Education and Science Ministry suggested all prospective adoptive parents take compulsory parenting classes as well as psychological tests to evaluate their emotional stability.¹⁹² This suggestion demonstrates the need for better control over adoptive parents.

Other politicians used the Pavlis murder as a reason to politicize the

186. RIA Novosti, *Russia Seeks Unbiased Trial on Murder of Russian Child in U.S.*, April 14, 2005. It is important to note that the only sources of commentary from Russian officials in this Comment are Russian newspapers published in English, so this Comment has undoubtedly not even scratched the surface of the true official Russian sentiment on this issue. *Id.*

187. Arutunyan, *supra* note 8.

188. *Id.* This article acknowledges the shear disparity in the numbers involved when comparing the plight of Russian orphans adopted by Americans to the predicament those same children may have been had they remained in homes or orphanages in the Russian Federation. Other sources state the number of adopted Russian orphans who have died because of abuse in the United States as twelve. See Carrie Craft, *Russian Adoption Murders*, <http://adoption.about.com/od/adoptionrights/p/russiancases.htm> (last visited Mar. 30, 2008) (Carrie Craft has over ten years of both personal and professional experience in adoption and foster care and is certified as a foster parent and co-leader for the Model Approach to Partnership in Parenting for the state of Kansas).

189. RIA Novosti, *Russian Prosecutor-General Suggests Monitoring Future of Children Adopted by Foreigners*, May 4, 2005.

190. *Id.* This article confirms that according to the State, 12 adopted Russian children have been killed in the United States. *Id.*

191. Sector, *supra* note 11.

192. Claire Bigg, *Russia: Officials Call for Tougher Foreign Adoption Rules*, Radio Free Europe, July 14, 2005, http://www.rferl.org/features/features_Article.aspx?m=07&y=2005&id=9F857FC0-4392-4D89-9B1A-EF0B5B75E311 (last visited Mar. 30, 2008). This proposal by the Ministry was actually in response to another murder; Peggy Sue Hilt was arrested and charged with the murder of her Russian adopted two-year-old daughter. *Id.* Peggy Sue Hilt pled guilty to the charge of second-degree murder. RIA Novosti, *U.S. Woman Pleads Guilty of Murdering Adopted Russian Daughter*, March 1, 2006.

issue of foreign adoptions by claiming that foreigners were “stealing Russia’s youth, her most valuable asset.”¹⁹³ Still other stories grew from the Pavlis murder, including claims that babies were being sold for hundreds of thousands of dollars and/or for organs.¹⁹⁴ Most recently, Yury Chaika, Russia’s Minister of Justice, stated that he looked to continue to tighten control over foreign adoptions within the Russian Federation.¹⁹⁵

The Pavlis murder is obviously impossible to condone, but there are those who feel that its impact is overstated. Thomas Atwood, President for the National Coalition for Adoption, traveled to Russia to express his opinion that while the Pavlis murder was tragic, it should not influence policy decisions.¹⁹⁶ His concern was that policy decisions should be made solely in the best interest of the Russian orphans, and that the best interest of those children may not be served by stricter foreign adoption policies.¹⁹⁷ Also, opposition to the proposal for continued Russian State monitoring of children adopted by foreigners is concerned that such a step will not be in the best interest of the children because it will deter prospective adoptive parents from adopting.¹⁹⁸ Adoption advocates have voiced their concern that this one horrible tragedy, which could happen to biological or domestic adopted children as well as foreign adopted children, is overshadowing the many successful adoption stories.¹⁹⁹

The most significant reaction to the Pavlis murder came from the Education and Science Ministry,²⁰⁰ which drafted a bill that passed through the State Duma.²⁰¹ This bill required all foreign adoptions to proceed only through adoption agencies accredited with the Russian Federation.²⁰² The bill is matched by increasing the waiting period from

193. Sector, *supra* note 11.

194. *See id.*

195. RIA Novosti, *Child Adoption Procedures Need to be Improved—Minister*, April 12, 2006. This was in response to both the Pavlis and Hilt murders in the United States. *Id.*

196. Gulnoza Saidazimova, *Russia: Boy’s Death, Mother’s Sentencing Lead to Appeals for Adoption Restrictions*, Radio Free Europe, May 6, 2005, http://www.rferl.org/features/features_Article.aspx?m=05&y=2005&id=5E7043EB-DC81-4530-A720-8752CFE69BB6 (last visited Mar. 30, 2008).

197. *See id.*

198. *See* Sector, *supra* note 11. The concern is that prospective adoptive parents will be reluctant to allow continued “interference” by the Russian State in their child’s life, especially after the stringent legal requirements they must meet to adopt in the first place. *Id.*

199. *See id.*

200. RIA Novosti, *Accredited Agencies Should Mediate Foreign Adoptions—Minister*, Nov. 17, 2005, <http://en.rian.ru/russia/20051116/42112968-print.html> (last visited Mar. 30, 2008) [hereinafter RIA Novosti, *Accredited Agencies*].

201. The lower house of the Russian Parliament.

202. RIA Novosti, *Accredited Agencies*, *supra* note 201.

three to six months before foreigners may adopt a Russian orphan.²⁰³

V. Analysis of How the Pavlis Murder Changed the Family Code of the Russian Federation

The Russian reaction described above shows the publicity that the Alex Pavlis murder garnered in the Russian Federation. Alex Pavlis was used as the poster child for a reform of the foreign adoption policy.²⁰⁴ Alex's death may have been the catalyst for a newfound interest in the foreign adoption policy, or the murder could have been used to put a face to already planned changes. The answer to that debate is not the focus of this Comment; rather, the focus is on whether these changes are ultimately in the best interest of Russian orphans being adopted abroad.

The Russian Federation has certainly made it more difficult for foreigners to adopt orphans from their country, yet the question is whether it has made life safer for their orphans adopted abroad. As noted in the Russian response to the Pavlis murder and the timing of the guilty verdict in relation to the changes in law, Alex Pavlis's murder weighed heavily on the changing of the Russian foreign adoption policy.²⁰⁵ In response to the Pavlis murder, amongst other murders in the U.S.,²⁰⁶ the Russian Federation increased the waiting period for foreigners adopting children and mandated that all foreign adoptions proceed through certified adoption agencies.²⁰⁷ These two regulations act independently and have different consequences.

When the Russian Federation increased the time frame that adoptable children must be in the State database from three to six months before foreigners can adopt them,²⁰⁸ the State merely increased the likelihood that each child will be adopted within the Russian Federation. This is good for Russia and bad for foreigners wishing to adopt Russian orphans. The increase in the waiting period does nothing more than increase the likelihood of the child being adopted within his/her own country; the longer waiting period does not make the adoption any safer.

By doubling the time that children are in the computer system and their information is available for Russian prospective adoptive parents to view it,²⁰⁹ it is more likely that the children will remain in Russia. The Code expresses a great sense of nationalism by repeatedly stating the

203. See text accompanying note 166.

204. See Sector, *supra* note 11.

205. Vasilenko & Novostei, *supra* note 15.

206. See text accompanying note 189.

207. See *Intercountry Adoption*, *supra* note 46.

208. See *id.*

209. See *id.*

importance of placing the children within the Russian Federation.²¹⁰ Assuming that prospective Russian adoptive parents are equally as qualified to be parents as foreign adoptive parents, then the adoption of a Russian orphan within Russia may be in the best interest of the child. An adopted child would arguably transition better into a new family if they spoke the same language and shared cultural similarities. Not only might an adopted child feel more comfortable in a Russian family, but the Russian Federation obviously prefers to have the child adopted domestically.²¹¹ Part of this preference is undoubtedly for the best interest of the child, but part of it may also be in the interest of the State. The State can oversee the rearing of an adopted child if he remains within the country, while they lose that control if the child goes overseas.²¹²

Aside from giving Russians more time to adopt Russian orphans and keep them within State borders, the change in foreign policy regarding adoption agencies arguably has a greater effect on Russian orphans adopted abroad. Because all foreign adoptions must proceed through an adoption agency accredited with the Russian Federation,²¹³ more safeguards have been added to the system. The Russian Federation can now control things such as home studies and the background information collected on prospective foreign adoptive parents.²¹⁴ By deciding what they need to know in order to ensure Russia's children have a safe home abroad, the State is better able to weed out the Irma Pavlises of the world. A more thorough background check may have discovered undesirable characteristics in Irma, or more open communication about the children's medical histories might have made the Pavlises reconsider adoption. Both of these problems may have been eliminated with the use of an adoption agency. The hope is that unsuitable parents like the Pavlises can be avoided with accredited, strictly-overseen adoption agencies. With only thirteen accredited agencies working with the United States within the Russian Federation,²¹⁵ the State has a much tighter grasp and a narrower focus on what is occurring in foreign adoptions.

The system may be more expensive now for Americans wishing to

210. See generally FAMILY CODE, *supra* note 52.

211. This can be inferred from the recent changes in the foreign adoption policy, which make it more difficult for foreigners to adopt, leaving more orphans in the Russian Federation.

212. See text accompanying note 161. There are no published mechanisms by which the State can retain control of orphans adopted abroad.

213. See *Intercountry Adoption*, *supra* note 46.

214. The Russian Federation can control these background aspects of adoption through the adoption agencies it chooses to accredit.

215. See *Adoptions*, *supra* note 161.

adopt from Russia,²¹⁶ but the new requirements can benefit prospective parents as well. Adoption agencies are familiar with all the details of the Russian legal system and can facilitate adoption procedures better than a couple working alone. Also, adoption agencies may know how to “work the system” to get all available details about a specific child, which a couple may not learn on their own. Overall, it appears as if the system of accredited adoption agencies will work to the advantage of both prospective Russian and foreign adoptive parents.

VI. Conclusion

Born Alexei Geiko, the little boy died as Alex Pavlis.²¹⁷ Alex received an opportunity that many Russian orphans can only dream of—having American parents. His life should have been filled with a loving family and new opportunities, yet was cut short by his adoptive mother. Irma Pavlis murdered her Russian adopted son.²¹⁸

The Russian Federation heard of this tragic end to one of “their” children and decided to act.²¹⁹ The Russian Federation changed its foreign adoption policy.²²⁰ First, it increased the time that adoptable children must be in the national database before a foreigner may adopt them from three months to six months²²¹ in hopes that this would increase the likelihood of children being adopted within the Russian Federation. Second, the State mandated that all foreign adoptions proceed only through accredited adoption agencies overseen by the State.²²²

It is doubtful that these new regulations would have written a different ending to Alex Pavlis’s story had they been in place prior to his adoption. It is unlikely that another three months, on top of the approximately five years Alex spent in an orphanage,²²³ would have led to his adoption by a Russian family. An accredited adoption agency may have deemed Irma Pavlis an unsuitable mother, but also may not have.

Tragedies like Alex’s story happen every day, both in the Russian Federation and in the United States. The laws and law enforcement currently in place do their best to prevent the headlines like the murder of an adopted Russian orphan, and new laws are often enacted

216. It is more expensive because the use of accredited adoption agencies is required, and fees can be quite high. See *Intercountry Adoption*, *supra* note 46.

217. Working & Rodriguez, *supra* note 2, at C1.

218. Papers Filed, *supra* note 97, at 3.

219. See Vasilenko & Novostei, *supra* note 15.

220. *Compare Intercountry Adoption*, *supra* note 46, with FAMILY CODE, *supra* note 52, at 136-37.

221. *Id.*

222. See *Intercountry Adoption*, *supra* note 46.

223. Working & Rodriguez, *supra* note 2, at C1.

retrospectively to prevent repeat occurrences. A country can learn from its mistakes, but it is difficult to classify Alex as a mistake. For the other 5,208 Russian children adopted by Americans in 2003,²²⁴ the system seems to have worked. The Russian Federation made changes in its foreign adoption policy, partially because of the Pavlis murder, but mainly because the State realized that there were better ways to safeguard the State's and orphaned-children's interests in foreign adoptions. Alex Pavlis's murder may have ignited the spark that caused the review of a decade-old foreign adoption policy, but as moving as it sounds, one little boy did not single-handedly change the Russian Family Code.

224. *Immigrant Visas*, *supra* note 12.

