

SUMMARY

Key Words: marriage and family relations, conflict-of-laws rules, invalidation of marriage, personal property and non-property rights and obligations of spouses, the contractual regime of property, a marriage contract, «limping marriage»

Subject matter: Features of legal regulation of marriage and family relations, complicated by a foreign element in the Russian Federation.

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The topicality of the research is that in the modern conditions of migration, there is a large increase in marriages concluded by Russian citizens with foreigners in the territory of the Russian Federation and abroad. Since the norms of family law in different countries have distinctive features, the implementation of the unification of marriage legislation is very difficult. In such cases, there is a need to address issues related to the law of which state should be applied when entering into marriage in the territory of the Russian Federation and abroad, with the dissolution and invalidation of a marriage involving a foreign element. Despite the fact that such questions have always attracted attention, the conflict-of-laws rules, which regulate the procedure for determining the applicable law, still have many gaps and contradictions that impede their practical application.

The aims of the research: research and comprehensive analysis of problems of marriage and family relations, regulation of legal relations arising as a result of marriage in the Russian Federation and recognition of marriages abroad, termination and invalidation of a marriage involving a foreign element, identification and analysis of factors contributing to or, conversely impeding marriage, as well as the development of proposals for the improvement of legislation in this area.

Objectives:

1. To define the concept and legal nature of marriage and family relations;
2. To study in detail and explore the history of the formation and development of marriage and family relations;
3. To consider the procedure for entering into marriage in the Russian Federation and the recognition of marriages concluded abroad;
4. To explore the procedure for the dissolution and recognition a marriage invalidation of involving a foreign element;
5. To explore and analyze in detail the personal non-property and property rights and obligations of the spouses in the presence of a foreign element.

The theoretical value of the research this work is to identify current problems in the field of legal regulation of marriage and family relations complicated by a foreign element that are to be studied, and also, the work identifies proposals for the development of rules in Russian law that will correspond to modern approaches of conflict of laws regulation in the sphere of marriage and family relations.

The practical value of the research is to substantiate the conclusions and proposals for improving the norms of the legislation in the field of marriage and family relations. The research results can be used in the development of new laws.

The results obtained:

1. The Family Code of the Russian Federation does not contain a definition of marriage, however, by examining and analyzing the existing definitions of the concept of marriage proposed by such scholars as: M.V. Antokolskaya, O.V. Aleshina, O. Yu. Kosovo and others, it can be concluded that marriage should be understood as a process aimed at joining a man and a woman in the manner prescribed by the legislation of the Russian Federation. It should be noted that these definitions of marriage do not correspond to the right of all states, so the legislation of

many European states allows polygamous and same-sex marriages.

2. Despite the long history of the development of family law in Russia, the institution of marriage is currently undergoing significant changes, influenced by trends in the development of social relations. Investigating and analyzing Russian family law for compliance with international law, we concluded that in the area of marriage and family relations, all basic transnational standards of human rights and freedoms are respected in Russian family law.

3. Each state establishes its own rules for regulating in the area of marriage and family relations. This circumstance influenced the emergence of a conflict-of-laws rules in the area of marriage and family relations, which was caused by the inconsistency of the norms of family legislation of different states, which was an obstacle to the unification of material and conflict-of-laws rules in family law.

4. It is also important to note that compliance with the conditions and procedure for entering into marriage is mandatory. This circumstance is necessary for the marriage to have legal force. It should be noted that the current Family Code of the Russian Federation provides for the application of not only Russian but also foreign law. This means that persons entering into a marriage have the opportunity to choose which state's law will be applied in marriage.

5. Divorce law in different countries is very diverse and there is a need to correctly determine the law of which state is applicable in the divorce process, as well as the competent authority to dissolve the marriage.

6. Analyzing personal property rights and obligations of spouses, namely the contractual regime of property, we can conclude that the Russian Federation has developed its own system of marriage contracts, which does not coincide with the system existing in common and continental law countries. Neglecting such a legal instrument as a marriage contract is not always appropriate. The need for its conclusion arises mainly in persons with different material and social situation, who have something to divide and for what to fight.

Recommendations:

1. The problem of invalid marriages in the modern world is very relevant. In this regard, it is necessary to conduct a comprehensive study of laws, conventions and international contract that are sources of legal regulation of marriage and family relations, complicated by a foreign element. It is necessary to analyze the factors contributing to the emergence of «limping marriages», as well as factors preventing the ratification of the conventions aimed at regulating marriage and family relations complicated by a foreign element.

2. The Family Code of the Russian Federation stipulates in Article 15 a medical examination of persons entering into marriage, but it is not mandatory. It is necessary to make changes to the Russian legislation and make mandatory medical examination of persons entering into marriage. The presence of diseases cannot be an obstacle to entering into a marriage, but concealing this fact gives rise to the responsibility of the person who has the disease, which may later lead to the recognition of the marriage as invalid. Also, the detection of diseases in the early stages will have a positive impact on both the demographic situation and life expectancy in general.

3. According to Russian family law, a marriage contract can regulate only the property rights, but not the personal rights and obligations of the spouses. This is the most significant difference compared to foreign law. The marriage contract institute demands legislative adjustment and completion. In our opinion, it is necessary to make changes to the Russian family law, namely the introduction of imperative legal provisions that will regulate not only the property relations of the spouses, but also their personal non-property rights and obligations, similar to European practice.

