

SUMMARY

Key Words: the matrimonial relations, foreign element, age of consent, same-sex marriages, monogamy in marriage, maintenance obligations, protection of the rights of the child, personal property and the non-property rights of spouses, the marriage contract, the division of property.

Subject matter: International legal problems of the matrimonial relations in private international law.

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Topicality (novelty): Commonly, the questions of family protection, children care, regulation of marriage and divorce processes have to be regulated by the state. Moreover, today we observe a fast development of the international relations. Every year the number of so-called marriages with «a foreign element» or simply «mixed» marriages is increasing. So, it should be noted that the most actual questions are: the marriages and divorces with foreign citizens, the relations between spouses having the personal property and non-property character, formation and action of marriage contracts, the questions about the division of property of spouses, features of establishment and contest of paternity questions which regulate definitions of position of the common children of spouses. Also, problems often arise at establishment of an origin of children in a foreign state and collecting child maintenance while being abroad. The research of these problems is significant not only from the scientific, but also from the practical point of view.

The aim of the research: is to study the features of conflict legal regulation of the matrimonial relations within private international law and the law of the Russian Federation, to create ways of improvement of the current legislation on the basis of the studied material.

Objectives:

1. To investigate the concept «matrimonial relations of the international character» to consider its legal contents;
2. To consider the concept «foreign element» to study cases of its application in the law of the Russian Federation and private international law;
3. To study the main problems in the sphere of the matrimonial relations within private international law and the law of the Russian Federation, to establish the reasons of development of the listed problems and to analyze possible ways of their solution;
4. To analyze and reveal the main problems in a scope of the personal property and non-property relations between spouses;
5. To investigate the main problems in the sphere of legal relationships between parents and children, to formulate some recommendations in the field.

The theoretical and practical value of the research: The importance of this master research is that its conclusions and ideas of process of improvement of the matrimonial relations of the international character, has scientific significance for the international law of domestic relations, and also private international law in general.

Along with it, these ideas can be used in legislative and law-enforcement activity when forming normative legal acts.

The results obtained: It is necessary to develop the concept of legal regulation of the matrimonial relations of the international character, reflecting the questions connected with the legal relationships between spouses, and also between parents and children. The concept in this case includes not only process of improvement of the legislation, but also process of control of the state of ensuring the rights and duties by authorized bodies.

Recommendations:

1. For improvement of the legislation, it is considered necessary, to enter norms into the Civil code of the Russian Federation which will bind courts to request the relevant information on the foreign normative legal act, in cases when this information is necessary during judicial proceedings;
2. In order to increase the efficiency of implementation of conflict precepts of law it is necessary to establish responsibility concerning the public officials allowing non-use, ignoring of the conflict norms reflecting the matrimonial relations with a foreign element;
3. It is recommended when establishing and regulating the paternity to use application of the right of nationality or the father's domicile, but not the right of the nationality of the child which is used by courts everywhere. That does not allow the person to fulfill the father's duties properly;
4. It is quite reasonable to fix a binding to the law of the general nationality of spouses, than to the law of a joint residence as the main binding in the field of the personal relations of spouses to the Russian legislator;
5. It is found it possible to fix, in the course of carrying out sessions, behind each body a certain list of tasks because simultaneous consideration of questions of the child's rights by several bodies, conducts to lack of accurate coordination of actions between them;
6. To expand the competence of Committee on the rights of the child, to reserve the right to make its own investigation in case of receiving reliable information about systematic violation of the corresponding rights of the child in the territory of the State Party of the Convention.