

PROCESSUAL FEATURES OF THE DIVORCE PROCEDURE

The formation of Ukraine as a sovereign and independent state is accompanied by the creation of a new legal framework for modern society, which requires not only the systematization of existing legislation, but also the need for in-depth scientific research in the field of family relations and their legislative regulation.

The importance of family relations is determined by the fact that the family affects the development of society, its moral health and is one of the factors of increasing people's social activity. It is worth to emphasize that the foundations of a person's character, his attitude to work, moral, ideological and cultural values are formed in family. Therefore, every society is interested in a strong, spiritually and morally healthy family.

The family as a social entity was the most important element of development in all civilizations. The ideology of family priority, its inevitable value for man and society is enshrined in many normative acts. One of the main provisions of these documents is the strengthening and protection of family institution of the by society, the development of a national family policy.

The importance of proper regulation of the termination of marriage has increased dramatically today with the adoption of the Family Code of Ukraine, which entered into force on January 1, 2004. In this regard, the institution of termination of marriage has undergone significant changes, has been replenished with many novels that require detailed study and in-depth research.

In connection with the increasing number of terminated marriages, many problems related to termination of marriage arise in the practical activity of lawyers. Such a situation requires the systematization of knowledge in this area, the search for new solutions that would allow to approach the solution of issues related to the termination of marriage at the modern level. All this makes it necessary to study the grounds, order and consequences of the termination of marriage, study

the experience of legal regulation of these issues in other countries, as well as determine the conformity of the norms of the current legislation of Ukraine with the urgent needs of practice.

Ideas about the institution of termination of marriage have changed significantly in different eras. In ancient Rome, divorce was considered as a civil act that did not require a special procedure. Ancient legal sources make it possible to conclude that despite the effort to establish specific grounds for divorce in antiquity, it was relatively simple and often depended on the will of the spouses.

In medieval Europe, the termination of marriage according to canonical ideas was either considered completely unacceptable (in Catholic countries), or it was allowed only under strictly limited conditions, and only by the decision of the church authorities. The place of the religious prohibition is taken by the norms of morality, as well as the understanding of the public and legal order.

Despite the significant scientists' attention of to this problem, a lot of questions still remain unexplored, and therefore, the analysed issues are relevant and theoretical from the theoretical and practical points of view, and therefore there are all grounds for studying this problem.

The definition of marriage as a free, monogamous, equal union of a man and a woman, aimed at creating a family, concluded in compliance with the order and conditions stipulated by the law, which creates mutual personal and property rights and obligations between the spouses, seems to be the most successful.

The emergence of a family is based on such a legal fact as marriage, which formalizes the legal ties of the family.

A family is a team united by various ties. Some of them are related to feelings, others to considerations of a moral and even material or business order. The desire to live together usually explains the desire to get married. The absence of such a desire may indicate a fictitious marriage.

Marital and family legal relations arise on the basis of specific legal facts (entry into marriage and its termination, birth of children). Legal facts – states (marriage, consanguinity) acquire special importance in family law. Administrative

and legal acts of state bodies are often elements of a legal structure that gives rise to legal consequences – registration of marriage, its termination, etc.

Marriage as a union of a man and a woman, which has social significance, determines the legal status of children born in this union, property relations between spouses and their inheritance rights. Regarding these rights, marriage is a legal fact, but the conclusion of such a union depends on the will of the future spouse and is a deed.

A special case is the situation when a man and a woman live together for a long time, actually create a family, but do not register their union. Art. 21 of the Civil Code of Ukraine establishes that living in the same family of a man and a woman without marriage is not the basis for their rights and obligations as spouses. However, at the same time, the Code contains a number of articles (for example, Articles 74, 91) that establish the same property rights for persons in a de facto marriage relationship as for spouses (the right to joint ownership of property, the right to maintenance).

Termination of marriage is the termination for the future of legal relations between spouses arising from a registered valid marriage, caused by certain legal facts.

The legislation provides for two procedural solutions for divorce – by applying to the court or to the RACS authorities. In case of dissolution of marriage in the state bodies of the RAC, the marriage is considered terminated from the moment of registration of the dissolution of marriage in the bodies of the RAC, and in the case of dissolution of the marriage by the court – from the date of entry into force of the court's decision.

Grounds for termination of marriage are regulated by the norms of the SC of Ukraine. Depending on the occurrence of a certain legal fact, the following grounds for termination of marriage are distinguished: 1) as a result of the death of one of the spouses or their declaration as deceased; 2) as a result of the dissolution of marriage at the request of one or both of the spouses.

Family legislation nevertheless needs further improvement, and some of its conceptual provisions need additional rethinking in order to ensure the rights and interests of citizens in connection with the termination of marriage.

In the modern concept of family legislation of Ukraine, it is noted that the marriage is terminated due to the death of one of the spouses or due to the dissolution of the marriage. Termination of marriage is placed under the control of the state and can be carried out only by the relevant state bodies: the RATS body or the court in cases directly provided for by the SC of Ukraine. This or that order of divorce is provided for in the Family Code of Ukraine depending on certain circumstances and cannot be determined by the wishes of the parties.

Termination of marriage affects not only the personal, but also the property relations of the former spouse (one of the spouses, if the marriage is terminated not as a result of dissolution, but as a result of death or declaration of his death), as well as other persons.

Termination of marriage is an important process in the lives of many people, therefore, the correct solution of emerging problems and questions regarding its implementation will affect former spouses, their minor children, other persons, property and non-property relations, regardless of how the marriage was terminated.

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