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TERMINATION OF MARRIAGE, AS A SIGNIFICANT ASPECT OF FAMILY AND CIVIL LAW

ПРИПИНЕННЯ ШЛЮБУ ЯК ВАЖЛИВИЙ АСПЕКТ СІМЕЙНОГО ТА ЦИВІЛЬНОГО ПРАВА

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Divorce is a multifaceted legal and social phenomenon that impacts spouses, children, and society. This study examines the legal mechanisms for protecting spouses' rights during divorce, identifies challenges, and proposes improvements. The research emphasizes grounds for divorce, mediation as a dispute resolution tool, European practices, legal gaps, and recommendations for Ukraine and Azerbaijan.

The grounds for divorce in Ukraine are regulated by the Family Code, with judicial proceedings often prolonged due to disputes and reconciliation periods. Reducing the reconciliation period to three months for couples without children is proposed to streamline the process. Mediation emerges as an effective tool for resolving disputes, offering benefits such as confidentiality, reduced stress, and faster resolution. European countries often incorporate mediation, legal separation, and pre-trial consultations, prioritizing children's best interests.

Legal gaps in Ukraine include insufficient protection for economically weaker spouses and limited technological integration, leading to inefficiencies. Recommendations for Ukraine include shortening reconciliation periods, mandating mediation, and implementing digital platforms for case management.

For Azerbaijan, adopting international practices could modernize its divorce process. Recommendations include mandatory mediation, alignment with international conventions, digitalization of divorce procedures, and enhanced protection for economically vulnerable spouses. The study also emphasizes integrating child-centered practices and promoting public awareness of alternative dispute resolution methods.

The research concludes that comprehensive legal frameworks in Ukraine and Azerbaijan should prioritize fairness, efficiency, and transparency. Incorporating European standards, popularizing mediation, and leveraging digital technologies can significantly improve divorce procedures. Legislative changes must safeguard the rights of spouses and children, reduce stress, and ensure equitable outcomes in family disputes.

Key words: Divorce, Mediation, Family Law, Spouses, Spousal Rights.

Розлучення є багатограним правовим і соціальним явищем, яке впливає на подружжя, дітей та суспільство. У даному дослідженні розглядаються правові механізми захисту прав подружжя під час розлучення, визначаються проблеми та пропонуються шляхи їх вирішення. Дослідження акцентує увагу на підставах для розірвання шлюбу, медіації як інструменті вирішення спорів, європейських практиках, правових прогалинах та рекомендаціях для України й Азербайджану.

Підстави для розлучення в Україні регулюються Сімейним кодексом, при цьому судові процеси часто затягуються через спори та тривалі періоди примирення. Пропонується скоротити період примирення до трьох місяців для пар без дітей. Медіація визнана ефективним інструментом вирішення спорів, оскільки забезпечує конфіденційність, знижує стрес та пришвидшує розв'язання конфліктів. У європейських країнах часто застосовуються медіація, юридичне розділення та досудові консультації з пріоритетом інтересів дітей.

Правові прогалини в Україні включають недостатній захист економічно слабших подружжів та обмежену технологічну інтеграцію, що спричиняє неефективність процесів. Рекомендації для України передбачають скорочення періодів примирення, обов'язкову медіацію та впровадження цифрових платформ для управління справами.

Для Азербайджану запропоновано прийняття міжнародних практик для модернізації процесу розлучень. Рекомендації включають обов'язкову медіацію, адаптацію до міжнародних конвенцій, цифровізацію процедур розлучень та посилений захист економічно вразливих подружжів. Також наголошується на інтеграції практик, орієнтованих на дітей, та підвищенні обізнаності щодо альтернативних методів вирішення спорів.

Дослідження робить висновок, що комплексні правові рамки в Україні та Азербайджані мають пріоритизувати справедливість, ефективність і прозорість. Впровадження європейських стандартів, популяризація медіації та використання цифрових технологій можуть значно покращити процедуру розлучення. Законодавчі зміни повинні забезпечувати захист прав подружжя та дітей, зменшувати стрес і гарантувати справедливі результати у сімейних спорах.

Ключові слова: розлучення, медіація, сімейне право, подружжя, права подружжя.

Introduction. The termination of marriage, as a significant aspect of family and civil law, garners increasing attention due to a range of social and legal challenges associated with protecting the rights of spouses. In this context, mechanisms aimed at safeguarding the rights and interests of the parties during divorce proceedings are particularly noteworthy. The relevance of studying forms of protection for spousal rights grows amidst a rising number of divorces and evolving attitudes toward the institution of marriage in modern society.

Each state is interested in maintaining strong and stable family relationships and seeks to create conditions that prevent the dissolution of marriage without substantial

grounds. However, the current legislation of most countries ensures the realization of the principle of freedom to dissolve a marriage, which is an integral part of the right to freely enter into marriage.

The right of spouses to terminate marital relations arises immediately after marriage registration and is exercised by filing an appropriate application with a court or a civil status registration authority.

The Family Code of Ukraine (hereinafter referred to as the FC) stipulates in Article 55 the duty of spouses to care for their family. A husband and wife must jointly work on strengthening family relationships based on mutual love, respect, friendship, and support [1].

However, in practice, situations often arise where marital relationships deteriorate, spouses' views on marriage significantly differ, continuous conflicts, and other circumstances make it impossible to preserve the family. In response to these challenges, the law provides for the possibility of divorce, which simultaneously necessitates ensuring the rights of each party during the divorce process.

At the same time, divorce procedures involve several complex issues concerning both property and non-property rights of the spouses. Special attention should be given to protecting the interests of children, determining alimony obligations, property division, and other aspects requiring thorough regulation to balance the rights and obligations of the parties. In these circumstances, mechanisms for protecting spousal rights during divorce are the foundation for achieving justice and adhering to the principles of equality.

Purpose and Objectives. The purpose of this study is to examine the legal mechanisms and forms of protecting spousal rights in the process of divorce, identify practical issues in their application, and develop proposals to improve the legal regulation of these relations within the context of modern Ukrainian legislation and international standards.

The study's objectives include. Analyzing theoretical approaches to the concept and types of spousal rights protection during divorce.

Evaluating the role of courts and other institutions (notaries, mediators, etc.) in ensuring justice and effective protection of spousal rights, as well as exploring pre-trial settlement procedures between spouses, including mediation and contractual regulation.

Analyzing international experience in protecting spousal rights during divorce to identify prospects for implementing foreign legislative norms and international standards in national law.

Research Methods. To study the forms of spousal rights protection during divorce, methods of analysis and synthesis were employed to examine the legal norms governing the divorce process and highlight key aspects of protecting spousal rights, synthesizing the obtained data into a systematic representation of the legal mechanism. The comparative method was used to compare Ukrainian national legislation with the laws of other countries and international standards. The formal-legal method was applied to analyze and interpret the texts of legal acts regulating the divorce process. The legal forecasting method was used to develop recommendations for improving legal regulation based on current trends.

Main Text. Under family law norms in Ukraine, marriage is terminated either by the death of a spouse (or declaration of death) or through divorce.

According to Article 104 of the Family Code (FC), the list of grounds for marriage termination is exhaustive. A spouse's change of gender, while a topic of scientific discussion, does not supplement this list and may only serve as grounds for judicial divorce.

The FC outlines two main approaches to judicial divorce:

1. Joint application by both spouses (Part 2, Article 105);
2. Lawsuit filed by one spouse (Part 3, Article 105).

Judicial proceedings in divorce cases have distinct characteristics. A notable feature is the potential disagreement of one spouse with the divorce, allowing the decision to be contested. This often complicates and prolongs the divorce process, especially if additional claims are considered.

Importantly, the court may, at the respondent's request, suspend proceedings and grant the spouses a reconciliation period, which cannot exceed six months. However, this measure frequently proves ineffective. Reducing the maximum reconciliation period to three months could optimize the process, while retaining the six-month period for couples with minor children.

During court proceedings, reasons for divorce—such as disputes, alcohol abuse, psychological violence, or prolonged animosity—may be considered. However, Ukrainian

legislation does not mandate specific grounds for divorce. The court issues a ruling if further cohabitation contradicts the interests of the spouses or children.

Court processes also provide for reconciliation efforts, but this remains at the court's discretion. Procedural legislation mandates that lawsuits be filed at the respondent's registered address, with exceptions for plaintiffs with minor children, health issues, or other valid reasons. If the respondent's whereabouts are unknown, the court independently seeks updated information from registration authorities.

Divorce cases are often handled via simplified procedures, and physical presence in court is not required—communication with the court can be conducted through correspondence. This simplifies the procedure and reduces time costs.

The divorce procedure through joint application is significantly simpler and faster. Under Article 109 of the FC, spouses with children may file a joint divorce application, accompanied by a written agreement on child residence, alimony, and participation in upbringing. If the application reflects the genuine will of both spouses and does not violate the rights of the children or parties involved, the court issues a divorce ruling one month after the application is submitted.

Divorce in Ukraine is possible administratively through civil status registration offices or judicially. The administrative procedure applies to couples without children or when one spouse is declared missing or incapacitated. However, considering the importance of this institution, exclusive judicial divorce is recommended.

In contemporary practice, mediation is gaining popularity as an alternative method for resolving family disputes. Mediation aims to achieve consensus through constructive dialogue facilitated by an independent mediator. In Europe and the U.S., mediation is a mandatory prerequisite for judicial proceedings in many jurisdictions. For instance, in the UK, courts require parties to attend at least one mediation session before filing a lawsuit [5, 6]. Ukrainian legislation is only beginning to adapt mediation to its legal system.

Thus, Ukrainian family law is grounded in the principle of marital freedom, with the primary reason for termination being the impossibility of continued cohabitation, which infringes upon the interests of the spouses or children.

The legislation of Ukraine states that before opening the gateway, it must be completed clearly, but the procedure may not be complete, but it can be thoroughly refined. In order to shorten the lines for reconciliation between friends up to three months, and for couples with minor children, leave them at about six months. It is important for judges to take an individual approach to each case to ensure a smooth, objective and effective review of disputes that respects the rights of all parties.

Radchuk O.P. [2] analyzed the problems of choice of law in transborder court-family marriages have been analyzed. The main respect is given to the importance of statutory law in the sphere of the love contract, the dissolution of the love, and the rights of the child. The role of international conventions, including Gaazka, in the regulation of collision norms is described.

Safonchik O.I. observed the similarities and similarities between the legal regulation of the industry in Ukraine and the EU countries. Particular respect is given to food alimony, child care and custody. It is respected that in EU countries, the interests of children are always a key criterion in judicial decisions, which is often used in Ukraine. The author advocates the improvement of legislation to protect economically weak sides and the creation of minds for the effective promotion of media [3, p. 81].

Dyakovich M.M. The procedure for opening the gate in Ukraine has been christened, through the courts and the administrative route. It has been noted that the complexity of the ship's hatch opening procedures often causes troublesome repairs. The differences in judicial

decisions that arise through the lack of clear rules in legislation are analyzed. The author emphasizes the thorough development of mechanisms for high-level disputes, including the promotion of a unified electronic database for filing court separation certificates, which is also important [4, p. 130].

Gejten E. pays respect to the protection of the rights of friends in the process of dissolving the US gateway. Zokrema, on such methods of breaking up the gateway as separation and breaking up the gateway. It is appreciated that in the rich states of the United States, financial obligations between partners can be changed after actual separation (for example, like funds accumulated after separation) [6].

Another example is Malta. The legislation of Malta regulates marriage regimes and separation processes with an emphasis on fair division of land and protection of the interests of friends. Zokrema, shlyubnye modes provide the ability to collect assets between the separate mine and separate mining modes. The combined mode transfers an equal part of the lane, which is boiled for an hour, to the sluice, while the separate mode deprives the skin of the skin of its actives. In the hour of separation, the court is dominated by food, child care, child support, and family support. Separation does not officially accept the relationship, but it gives the opportunity for friends to live separately and arrange their financial and family obligations. In addition, the Maltese courts are trying to ensure a balance between the interests of both parties, taking into account the protection of children and financial stability. Once the minds of the separation are destroyed, the party may fight for legal protection. Friends can place love or love interests in order to maintain the mine mode and regulate potential disputes. The Maltese approach is aimed at promoting fairness in marriage and family relationships and ensuring clear legal regulation during the crisis in family relationships [7].

Thus, European approaches to legal separation can be formulated as follows:

1) EU member states have the right to separation and legal separation subject to the national legislation of each country. Decisions of courts in one region regarding separation, separation or custody of children are recognized in other member states without the need for additional confirmation.

2) Legal separation allows the girlfriend to settle down their married life without breaking up the relationship and remains a transitional stage before separation, or an alternative for those who do not want to officially separate through special circumstances, religious conversions.

3) As a result of an international relationship, the girlfriend has the right to choose in which country to file for separation. Choose to stay in the place of residence of a friend or community. If the offending parties file an application in different countries, the first filing of documents determines the jurisdiction.

4) The EU Regulation will ensure clarity and communication among trans-national parties regarding separation and custody of children. The main principle is to promote the deepest interests of children.

5) The EU actively supports local mediation to regulate family disputes. This reduces emotional attraction on the part and speeds up the process of achieving home ownership [6].

Summary of Key Findings

1. **Grounds for Termination:** The list of grounds for marriage termination is exhaustive, including death, declaration of death, or divorce through judicial or administrative means. Judicial divorce has two main approaches: joint application or lawsuit. The litigation process is complex, often prolonged by disputes, additional claims, and lengthy reconciliation periods. Optimization proposals include shortening the reconciliation period to three months for childless couples while retaining six months for couples with minors.

2. **Mediation:** Recognized as an effective tool for resolving family disputes, mediation offers confidentiality, reduces dispute resolution time, and lowers emotional strain.

Pretrial agreements on property division, child custody, and alimony can reduce the burden on courts and ensure flexible conflict resolution.

3. **European Practices:** Divorce in EU countries often involves mediation, legal separation, and mandatory pretrial consultations, prioritizing the best interests of the child in all court decisions. Ukraine should incorporate international standards, such as the Hague Convention, for cross-border marriages and disputes [5].

4. **Technological and Legal Gaps:** Deficiencies in regulating the legal status of parties during divorce, particularly regarding economically weaker spouses, and insufficient technological integration slow case reviews and increase costs.

Recommendations for Improvement

1. **Reconciliation Periods:** Tailor reconciliation periods to case circumstances; three months for childless couples and six months for those with minors.

2. **Mediation:** Mandate mediation as the first step in divorce proceedings.

3. **Digitalization:** Introduce digital platforms for filing applications and managing cases to enhance transparency and accessibility.

Conclusions

The process of divorce is a complex legal and social phenomenon that affects the interests of spouses, children, and society as a whole. This study covered the legal mechanisms and forms of protecting spouses' rights, identified key issues, and proposed ways to improve them.

As a result of the conducted research, the following conclusions were made:

1. Grounds for Divorce:

The list of grounds for marriage termination is exhaustive and includes the death of a spouse, declaration of death, or divorce through judicial or administrative means. Judicial divorce proceedings are regulated by Articles 104–109 of the Family Code of Ukraine, which provide for two main approaches: joint application by spouses or a claim filed by one of them. Judicial proceedings are more complex and often delayed due to disagreements between the parties, additional claims, and extended reconciliation periods. It is proposed to optimize the divorce process by reducing the maximum reconciliation period to three months (for couples without children) while keeping six months for couples with minor children.

2. Mediation as a Tool:

Mediation is increasingly recognized as an effective tool for resolving family disputes. Its advantages include maintaining confidentiality, reducing time to resolve disputes, and lowering emotional stress. Pre-trial agreements, particularly regarding property division, child custody, and alimony, help reduce the burden on courts and provide more flexible conflict resolution.

3. European Practices:

Divorce in EU countries is often accompanied by mediation procedures, legal separation, and mandatory pre-trial consultations, which help protect the interests of spouses and children. European practices emphasize the best interests of the child as the primary criterion in all judicial decisions. The necessity to consider international standards, including the Hague Convention, in cross-border marriages and disputes has been highlighted. Notably, Malta and the USA's experience with legal separation allows couples to address financial and family issues without dissolving the marriage, reducing conflicts.

4. Legal Gaps:

Legal gaps have been identified in regulating the status of parties during divorce, especially concerning the protection of economically weaker spouses. There is also an insufficient level of technology implementation in the divorce process, which slows down case handling and increases costs for the parties.

5. Recommendations for Ukraine:

To improve the forms of protecting spouses' rights during divorce, it is necessary to:

- Shorten reconciliation periods and adapt them to the circumstances of each case.
- Mandate mediation as the first stage in divorce cases.
- Introduce digital platforms for filing applications and managing cases to increase transparency and accessibility of the process.

6. Recommendations for Azerbaijan:

Azerbaijan could benefit from adopting practices aimed at modernizing and enhancing the efficiency of its divorce process. Specifically:

- Introduce mandatory mediation as a preliminary step in divorce cases to reduce the emotional and legal burden on spouses and streamline court proceedings.
- Align family law with international conventions, such as the Hague Convention, to address cross-border marriage disputes effectively.
- Implement digital systems for divorce applications and case management to ensure efficiency and accessibility for all parties.

– Focus on the protection of economically vulnerable spouses through detailed legal provisions regarding alimony, property division, and financial support.

– Encourage the integration of child-centered practices in divorce decisions, ensuring that the child's best interests remain paramount.

– Promote public awareness of alternative dispute resolution methods like mediation to foster a culture of dialogue and compromise.

By incorporating these measures, Azerbaijan can establish a more equitable, transparent, and effective system for addressing family disputes, drawing from successful international practices.

General Note. The protection of the rights of spouses and children during divorce in both Ukraine and Azerbaijan should be comprehensive, focusing on fairness, efficiency, and transparency. The implementation of European standards, the popularization of mediation, and the active use of digital technologies can significantly improve the procedure. Legislative changes should prioritize the interests of children and ensure the proper resolution of disputes with minimal stress and maximal equity.

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