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LEGAL ISSUES AND PROBLEMS OF SPOUSES NON-PROPERTY RIGHTS AND DUTIES REGULATION

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Annotation.

The relevance of the study: the priority of ensuring family rights has long been separated into an individual institute with civil law attributes. Although the regulation of family relationships is also separated in a individual book, but these relations are also considered as civil relations, which include both legal and illegal relations. **The problem of the research** most of the legal relations regulated by the law are more dedicated to regulate family property relations, leaving non-property personal out-of-bounds. Although most scholars and lawyers unanimously agree that the state should not interfere in the non-property personal family relationship at all, it is noticed that most of the spouses, as the basis of the family, arising from the legal relationship are non-property personal relations related to property relations.

The object of the research- personal non-property relations of spouses and their legal regulation. **The aim of the research** is to analyze the legal regulation of personal non-property spouses relationships in court practice. Personal rights and duties of the spouses are marked by rights and duties related to the personal interests of the spouses, which are especially informal, therefore it is difficult to legally define and settle them. The basic principles of non-property relations between spouses are: equal rights of the spouses, loyalty, equal rights and responsibilities for children. The essential difference between property and non-property rights and duties of the spouses is that the exercise of non-property duties depends on the conscience and moral standards of each of the spouses, because it is impossible to enforce this duty performing.

Methods - analysis and synthesis, abstraction, logical and historical, comparative analysis.

Results. The personal rights and duties of the spouses named the rights and duties which are relating to the personal interests of the spouses. 'The spouses can not refuse the rights or cancel the duties which by law arise as a consequence of the marriage. Personal non-property

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relations are related to the formation, dissolution, invalidation of marriages, establishment of the child's origin, spouses names, children's education, adoption, etc. The name of these legal relations means that this type of legal relationship is not related or their regulation does not give priority to material values (property). The object of personal non-property relationships is a particular inborn or acquired feature inseparable from a person. The opposite to property rights, the person with a personal non-property right can not transfer it to other persons or objectively evaluate a particular material expression.

Conclusion. Legal regulation of marital relations in the Republic of Lithuania is based on the principles of monogamy, marriage volunteering, equal rights of spouses, priority protection and defense of children's rights and interests, raising children in the family, the principles of universal protection of motherhood and other principles of legal regulation of civil relations.

The essential difference between property and non-property rights and duties of the spouses is that the exercise of non-property duties depends on the conscience and moral standards of each of the spouses, because it is impossible to enforce this duty performing. However, failure to fulfill the non-property duties of a spouse has an effect on the spouses when they decide to make a termination of marriage - if one of the spouses (or both) has not performed non-property duties, this may be the reason for the basis of the divorce.

Key words: *family, spouses, non-property rights, legal regulation.*

INTRODUCTION

The relevance and issues of the topic. The priority of ensuring family rights has long been separated into an individual institute with civil law attributes. Although the regulation of family relationships is also separated in a individual book, but these relations are also considered as civil relations, which include both legal and illegal relations.

The problem of the research It is noticed that most of the legal relations regulated by the law are more dedicated to regulate family property relations, leaving non-property personal out-of-bounds. Although most scholars and lawyers unanimously agree that the state should not interfere in the non-property personal family relationship at all, it is noticed that most of the spouses, as the basis of the family, arising from the legal relationship are non-property personal relations related to property relations. For example, a marriage contract

automatically arises from the personal non-property rights of the spouses, but the legislator allows the content of this agreement to determine only property-type agreements.

Personal non-property relationships are characterized by a certain specificity: they are more moral, non material character, and therefore it is practically impossible for the legislator to regulate them in detail.

Object of research: personal non-property relations of spouses and their legal regulation.

The aim of the research: to analyze the legal regulation of personal non-property spouses relationships in court practice.

Methods of the research. To achieve the aim of the research, various scientific methods of research are used. The linguistic method helped to interpret the concept and principles of non-property spouses relationships. The systematical method was used to investigate the

regulation of non-property personal spouses rights in Lithuania.

Results

The concept of non-property personal relationships of spouses and their essential principles

The personal rights and duties of the spouses named the rights and duties which are relating to the personal interests of the spouses. 'The spouses can not refuse the rights or cancel the duties which by law arise as a consequence of the marriage.' After marriage, a man and a woman acquire a specific legal status, i.e. they become spouses and at the same time acquire relevant personal non-property rights and duties. Personal non-property family relationships are especially informal, thus it is often impossible to regulate them all legally or maybe it is possible practically desirable. The right regulate family relations only as much as is it necessary to protect the public interest. Personal non-property relations are related to the formation, dissolution, invalidation of marriages, establishment of the child's origin, spouses names, children's education, adoption, etc.

The name of these legal relations means that this type of legal relationship is not related or their regulation does not give priority to material values (property). The object of personal non-property relationships is a particular inborn or acquired feature inseparable from a person. The opposite to property rights, the person with a personal non-property right can not transfer it to other persons or objectively evaluate a particular material expression.

Civil law specialist, professor Valentinas Mikelėnas identifies one of the main features of personal non-property relations, the fact that this type of relationship is essentially not subject to legal regulation. Due to the material uncertainty of these relationships, law can not regulate the values associated with a person's spiritual world. According to Alfonsas Vaišvila, 'the law does not regulate all human relationships, but only the most significant, because the principle is valid: *de minimus noncuratlex et pretor* (law and judge do not deal with details). Therefore, the law does not regulate relations of friendship, religious beliefs, sports, games, except gambling, some internal family relationships, such as the distribution of rights and responsibilities of a husband and wife in a family, because this is not a relationship significant with other people's rights'. For this reason, at the stage of establishing the legal norms of the state, attention was focused on those areas of public life in which it is possible to see the interests of certain state leaders. Some legal relationships are left not to the legal regulation of the state, but to customary law and jurisprudence. In some areas of law, people are not guided by law, in consciousness, as a result, the state standardization of human behavior becomes not only undesirable, but even harmful.

Marriage as an agreement must ensure equal rights of the spouses and satisfy their needs in the same way. By doing this, in basis of the the marriage, relationship between the spouses is based on the principle of equality. The origins of this principle

of law can be found in the thoughts of Ancient Greek philosopher Aristotle: equal human relations was regarded as one of the characteristics of citizenship. In these days, equality is seen as one of the fundamental principles of human rights and is widely established and quite often highlighted in both international and national legislation. Describing the concept of equality in jurisprudence Saulė Vidrinskaitė states that ‘equality does not mean that people are equal, but that the law does not take account on their difference.’

Attention is also drawn to the fact that the principle of the equality of the spouses does not require an absolutely equal contribution of the spouses to meeting the material or personal mutual needs of the spouses. In paragraph 2 of the Article 3.27 of the CC establishes the obligation of one of the spouses to make greater efforts to ensure family needs, if the other spouse can not do this for objective reasons. Although at first glance, this norm implies a violation of the principle of equality, but scientists and the jurisprudence do not anticipate the violation of the principle by interpreting this norm. According to V. Mikelėnas, ‘The principle of equality is not affected by the fact that the material contribution of the spouses to the implementation of these duties may be different <....>. Equality requires that each spouse contribute to the fulfillment of family responsibilities according to his or her potential, and not to a completely equal material contribution.’ Therefore, the laws do not anticipate how specific each spouse has to

contribute to satisfying family needs. The fact that the implementation of the spouse's duties is carried out as far as possible is left to the discretion of the court, having assessed all the circumstances. Contribution to the needs of spouses according to their possibilities, even it is not legally regulated, but the jurisprudence has established that the spouse's lack of involvement in meeting the general needs of the family according to their possibilities, justifies the fact that the spouse is guilty of divorce. If these actions were carried out by both spouses, this is the basis for the court to determine the fault of the both spouses due to the divorce.

Although the laws do not provide more detailed content of this norm, the Supreme Court of Lithuania (further - SCL) has stated that ‘The duty of loyalty means that the spouse must always act in the interests of another spouse and the whole family both within and outside the family, can not confront his personal interests with the interests of another spouse or family. The duty of mutual assistance means that the spouses must respect each other's opinions, be loyal to each other, and resolve all matters of family life by mutual agreement. Moral and material support means that spouses must care for each other: both in terms of material and physical and psychological’.

Another case of the SCL details the significance of spouses 'mutual loyalty to marriage: ‘The duty of loyalty is required from the spouses mutual trust and openness in each other. Loyalty means reasonable tolerance and forbearance, without

which a sustainable family life is impossible. The duty to respect one another means that spouses must respect each other's views, be loyal, and resolve life issues by mutual agreement <...>. Emphasizing the importance of spouses mutual loyalty to the existence of a marriage as the cornerstone of the family, the courts consistently keep to the practice that loyalty is considered as one of the essential circumstances underlying the guilt of one or both spouses in resolving the issue of divorce.

In conclusion, it can be said that the personal rights and duties of the spouses are marked by rights and duties related to the personal interests of the spouses, which are especially informal, therefore it is difficult to legally define and settle them. The basic principles of non-property relations between spouses are: equal rights of the spouses, loyalty, equal rights and responsibilities for children.

Analysis of the problems of the regulation of the personal non-property rights and duties of spouses in the jurisprudence

The probability of non-property affairs arising from the spouses personal non-property relationship is most likely to arise in the circumstance of termination of the marriage due to the spouse's fault. If the marriage is terminated by mutual consent of both spouses or at the request of one spouse, then according to Article 3.69 of the CC, in paragraph 1, 'the spouse after the divorce may keep his spouse surname or the surname which was held before marriage'. In the meantime, if the marriage was terminated due to the

fault of one of the spouses, at the request of another spouse, the court may prohibit the spouse who is guilty by divorce to keep his spouse surname, except when the spouses have common children.

Article 3.60 of the Lithuanian CC, paragraph 1 provides that the spouse may claim the termination of marriage if it has actually been dissolved due to another spouse's fault. By Article 3.60, paragraph 2 the spouse is found guilty of divorce if he has substantially violated his duties as a spouse and, therefore, the total life of the spouses became impossible. In the CC, the spouse's guilt on divorce is defined as the substantive violation of the marriage duties provided for in the civil code. There is a violation of loyalty, mutual assistance and moral and material support, full care of the family, and other duties established by the law, requiring the spouse to always act in the family and outside in the interests of another spouse, the whole family, not to oppose his personal and other spouse or family interests, to respect one of the other's opinions, to be faithful to each other, to deal with all matters of family life by mutual agreement, to take care of each other both materially and physically and psychologically. The violation of the essential duties of the spouse recognizes the behavior of the spouse, which is not taken from the legal and moral point of view.

It is presumed that a divorce is due to another spouse's fault if he is convicted of an intentional crime or is unfaithful, or he is cruelly treating to other spouse or family members, or has left the family and is not

completely concerned about them more than one year. In basis to applied Article 3.60 of the CC, paragraph 1 other acts of the spouse, such as the permanent non-performance of his duties, the unconcern of the family members, their humiliation, etc. can be recognized.

However, the presumptions set out in Article 3.60 of the CC are disputable - the other spouse can provide evidence and give factual circumstances to support the fact that the marriage did not actually terminated due to reasons stated by the first spouse but for other reasons.

Article 3.70 of the CC, paragraph 2 provides that the other spouse is entitled to claim from the guilty spouse of the divorce to repay the non-property damage caused by the divorce. Non-property damage in the case of divorce is understood as the result of an unlawful and / or immoral actions of spouse, which resulted in the violation and guilt of his marital duties and which resulted in the dissolution of the marriage, the spiritual experiences of the other spouse, suffering, mental and / or physical pain, moral distress, psychological impact, emotional depression, discomfort, humiliation in the eyes of the same spouse, other family members and in the eyes of surroundings, diminished honor and dignity, spouse's value disturbance, deterioration in reputation, change in social assessment and other negative emotions of an intangible nature and changes in work, social, family and also in the spiritual life spheres. In the present case, the applicant suffered

severe spiritual experiences, psychological shock, emotional and physical pain, nervous tension due to the violation of marital duties of the defendant, mentioned in the above, which led to the breakdown of the family and the divorce. The non-property damage as a condition of civil liability, the fact of the breach of the applicant's marital duties and the causal link between these violations and the physical and mental suffering experienced by the applicant form the basis for the civil liability of the defendant for non-property damage and to decide on the amount of such liability for the court. In determining the amount of compensation for a spouse who is suffering non-property damage, account must be taken not only of the general criteria in Article 6.250 of the CC, paragraph 2, such as the consequences of non-property damage, the fault, the wealth situation, the principles of justice, reasonableness and integrity, but also specific criteria such as the form of guilty spouse, degree, the nature of the violation of marital duties, duration, the duration of the marriage, the negative consequences of the divorce upon the victim the spouse in various spheres of his life, the property situation of the spouses both of the victim and the person convicted of divorce, etc. In the present case, the breach of the defendant's marital duties resulted in the brutal, deliberate, disloyal, disrespectful, violent conduct of the applicant, the use of insults, the abandonment of the spouse and juvenile children, the lack of care for the family, the total burden on household maintenance,

maintenance, upbringing, raising and moral support for the applicant, suffered from negative emotional experiences. The marriage lasts for about ten years, the spouses have not lived together for four years now. Considering of all these circumstances and criteria, as well as the conduct, wealth, justice, reasonableness and integrity of the defendant guilty of the divorce, and also as well as jurisprudence in similar cases, however the applicant's claim for non-property damage is to be considered reasonable, satisfactory from the point of view of partly by awarding the applicant for compensation of non-property damage of LTL 1,000 per defendant.

As already analyzed in the past, one of the fundamental rights and principles of the non-property of the spouses is their equality, therefore, the court, speaking on certain aspects of the principle of equality of the spouses, explained what is the duty of loyalty and mutual respect, the cassation court has stated that in Article 3.60 of the CC the embed equality of the spouses means not only equal rights but also equal duties and responsibility for the whole family. 'The duty of loyalty means that the spouse, always, both within and outside the family, must act in the interests of other spouse, of the whole family and can not to oppose his personal interests with the other spouse or family interests. The duty of mutual respect means that the spouses must respect each other's views, be loyal to each other, and resolve all matters of family life with mutual agreement. The loyalty together

means a reasonable tolerance and forbearance, without them the family life is impossible. The spouse must tolerate the profession, occupation and interests chosen by the other spouse, to the extent that it does not violate the rights and interests of the other spouse and of the whole family. Disagreeing with the conclusion made by the first and appellate courts that the marriage was dissolved due to the fault of both spouses, the plaintiff's fault in her disloyalty to the defendant, the court of cassation noted that the expression of emotion due to failure to fulfill the family responsibilities of the other spouse can not be considered a lack of loyalty to another spouse. On these grounds, the cassation court ruled that the courts of the first and appellate violated the provisions laid down in the Article 3.60 of the CC, paragraph 2 regarding the recognition of the spouse as divorce because they did not establish any substantive violations of the duties of the applicant as a spouse. The Court of Cassation also noted that pursuant to Article 265 of the Code of Civil Procedure, paragraph 2 the court is required to rule on all the claims made by the applicant and the defendant, therefore, in case of a claim (counterclaim) to terminate the marriage due to the spouse (spouses) guilty, the operative part of the judgment must indicate, for which (or both spouses) the marriage is terminated.'

One of the spouses non-property duties in the family is the fact that parents must to maintain their minor children. By the Article 3.192 of the

CC, paragraphs 2 and 3 the amount of maintenance must be proportional to the needs of the children of the juvenile and the wealth of their parents and to ensure the conditions necessary for the child to develop. The SCL in formulating a uniform practice by applying the rules of substantive law in the area of maintenance of minor children, noted that the indicative criteria for the amount of maintenance awarded should be determined in accordance with Article 6.461 of the CC, paragraph 2 provisions that the maintenance value of one month may not be less than one minimum monthly salary. This maintenance amount is indexed annually in accordance with the Government's order in relation to inflation.

Litigation concerning the spouses personal non-property rights is often encountered in examining the application of the appropriate measure to restrict parental authority and ensuring the rights of the child to family relationships. The European Court of Human Rights often takes decisions in such cases by the application of Article 8 of the Convention. On several occasions, the Court has noted that family separation is a very serious restriction. Such a step must be based on sufficiently sensible and relevant assessments taking into account the interests of the child. The court must determine whether the grounds for the restriction are relevant and sufficient in a particular case. The presence of the father (mother) and the child together is an essential part of the family's life. The relationship between the

biological family can not be interrupted because of the transfer of the child to public custody. The court has noted that the transfer of a child to custody should be regarded as a temporary measure, the application of which should be suspended as soon as circumstances permit it. Every case of temporary custody should be aligned with the main goal of combining biological parents and the child.

Although parental cooperation with competent authorities is a factor that can be taken into consideration when deciding on a violation of Article 8 of the Convention, it is not decisive, since authorities still have the obligation to implement appropriate measures to maintain family ties. The jurisprudence has also established that, although public authorities have a wide margin of appreciation, analyzing the need for the transfer of a child to a public custody requires stricter diligence in addressing the issue of further restrictions (such as the parental right to communicate with children). These restrictions endanger the relationship between parents and the child's family. The least expected of the authorities is to review the family situation from time to time, to see if it has improved. The possibilities for family unification will gradually decrease and ultimately disappear if biological parents and their child are not allowed to be seen each other at all or so seldom, so that their natural connection disappear. In judgement *K. A. vs. Finland*, the Court found a violation of Article 8 of the Convention because the national authorities failed to take sufficient

action to bring about the unification of the applicant and his children. The court noted that the case material revealed the position of local social welfare institutions and administrative courts not to consider the unification of a biological family as a serious option, but the actions were carried out with a strong presumption that children would need long-term care. Among other things, the strict restraint of the applicant's right to attend children reflected the intention of social welfare institutions to strengthen their children's relationships with the family of custodians rather than to unite the biological family.

The jurisprudence of the court also emphasizes that the right balance must be established between the child's interest to remaining in public custody and the parents interest to being together with the child again. In resolving this task, particular attention is given to the best interests of the child, which depending on their nature and seriousness, may to excel the interests of the parents. Parents can not be entitled to the use of measures that would harm the child's health and development in accordance with Article 8 of the Convention. In another case, the court stated that the child had suffered many serious and traumatic experiences, but such a radical measure as the prohibition of full communion with the mother could only be justified in exceptional circumstances. The court has emphasized that it appreciates the importance of preparatory consultation. The renewal of the relationship between the biological

parents and the child who lived for some time in the family of custodians requires preparation, its character and extent may depend on the circumstances of each case, as well as active and understandable cooperation between all stakeholders. In cases where communication with the real parents could harm the interests of the child or restrict the rights, the right balance must be sought.

For restrict of parental authority and substraction of communication rights with child the court's jurisprudence notes that the court recognizes the application of these measures as exceptional. Such measures should apply only in exceptional circumstances and by defending the best interest of the child. In case Johansen vs. Norway, soon after birth, the daughter of the applicant for mother's mental problems was transferred to the family of custodians, with the aim for the adoption of the girl in the future. In a specific case, the court found that there had been an violation of Article 8 of the Convention, arguing that the national authorities had failed to fulfill their positive obligation to unite the applicant with his daughter by failing to take into account the relevant facts of the case. Among other things, in this case, the court considered it important to ensure that the process of establishing the child's relations with the custodians would not be interrupted. The court took into account the fact that the girl was at a stage of development where it is particularly important to live in a safe and emotionally stable environment. The court had no reason to doubt that

the transfer of a child to a custodians home had better prospects for success if these actions were taken in order to adopt the girl in the future. However, in the specific case, the Court found the strict limitation of the biological mother's rights to be incompatible with the requirements of Article 8 of the Convention. Thus, in each case, the national court has an important task to strike the right balance between the right of the child to ensure his best interests, growth in a safe and stable environment and the right of parents to reunite with children, ensuring their rights of communication with children in custody of others, and so on.

According to the data of the case, in the absence of a child and parents relationship, the court should consider the possibility of applying the appropriate measure of limitation of parental authority established by law, in combination with the law enforcement measures for the exercise of children's rights, as well as the possibility to restore contact with the family. Thus, the child's temporary care is ensured by the best interests of the child, but the right of the biological parents to have opportunities to communicate with the child can not be denied at the same time.

The temporary limitation of parental authority is often used as a preventive measure for parents to change their behavior and lifestyle, as well as a way to protect the child from future harm, without waiting for it to be done.

Another non-property consequence of divorce may be that a

spouse after divorce may be banned from seeing a minor child or attending certain places where he or she may meet a child if he has sexually exhausted a child, used physical or mental violence against him, in other cases where his communication with the child could be harmful to this health.

As a result of divorce, spouses may make to adjudge the non-property damage of the former spouse. There is no currently established jurisprudence on the amount of non-property damage pleaded. The SCL in civil case no. 3K-3-580 / 2004 LTL 10,000 for the spouse who asked for the husband's failure to perform the duties of the spouse provided for in the law: left the family, did not fully care for the child and the family, irregularly provided maintenance to the child, did not care for his child, communicated with another woman, awarded LTL 1,000.

It can be argued that it is possible to adjudge a non-property damage in Lithuania, but it is quite difficult. The non-property damage compensation system chosen by the legislator is not liberal - non-property damage is not compensated for in all cases of its commission, but only when the law allows it. However, our state is not the only one that has established such moral damages procedure. For example, similar principles are followed in the Netherlands. On the other hand, the economic situation in Lithuania and other circumstances influence the fact that the amounts of non-property damage awarded by our courts are small in comparison with

the population of other European Union countries.

Summarizing the experience of court practice in the analysis of spouses personal non-property relationships, it can be stated that the circle of consequences of non-property divorce is much narrower in comparison with the property consequences of legal relations between spouses. The main dispute of the non-property relationship is mainly arise due to the surname of former spouses and the setting or limitation of meetings with minor children. The courts also deal with spouses non-property damage during the marriage, but non-property damage, such as spouses experiences, compensation for damage to health, disregard of the principle of loyalty and equality of rights in relation to another spouse, leads to property relations, and therefore the spouses property and personal non-property relations are closely interrelated.

Conclusions and recommendations

1. Legal regulation of marital relations in the Republic of Lithuania is based on the principles of monogamy, marriage volunteering, equal rights of spouses, priority protection and defense of children's rights and interests, raising children in the family, the principles of universal protection of motherhood and other principles of legal regulation of civil relations.

2. The essential difference between property and non-property rights and duties of the spouses is that the exercise of non-property duties

depends on the conscience and moral standards of each of the spouses, because it is impossible to enforce this duty performing. However, failure to fulfill the non-property duties of a spouse has an effect on the spouses when they decide to make a termination of marriage - if one of the spouses (or both) has not performed non-property duties, this may be the reason for the basis of the divorce.

3. Spouses' personal property relationships are regulated only by law, in the marriage contract spouses can not impose restrictions on their personal non-property rights, for example, who will supervise the children, who drops the dishes, or brings debris, etc. - restrictions can only be imposed on property rights.

4. The law regulates the personal non-property relationships between the spouses, which may affect their mutual property relations, for example, a spouse who has violated the principle of loyalty and the marriage terminated due to his fault, loses the right to maintenance; the state of health of the spouse or other personal reasons may justify departing from the principle of equal parts of the matrimonial property.

5. The circle of consequences of a non-property divorce is considerably narrower than property. The main non-property litigation is due to the restriction of the surnames of former spouses and meetings with minor children.

6. Parental rights and duties for children are one of the important non-property rights and duties of the spouses. The performance of spouses rights and duties for children is not

only their private affair, but the parental duties of children has a public interest. As a result, the spouses can not waive the rights or duties of their children, as this may violate the interests of the children and, at the same time, the public interest.

7. In the case of non-performance of non-property spouses in their children, parents may remain without financial support in the future as the court may exempt adult children from the duty to retain their incapacitated parents if they find that parents have avoided fulfilling their duties to juvenile children or if children have been separated from their parents permanently due to the fault of their parents.

The legal regulation of spouses non-property rights and duties in Lithuania partially ensures the needs of the spouses, as the law does not elaborate the concept and compensation of spouses moral or other non-property damage, for example, the spiritual experiences of spouses, economic pressure, humiliation, etc. Also, the contractual matrimonial property relations loses the regulation of the rights and duties of non-property personal spouses. The principle of the equality of the spouses is also not regulated in detail by legal acts, in order to ensure that this equality of the spouses would exist in practice.

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ЮРИДИЧЕСКИЕ ВОПРОСЫ И ПРОБЛЕМЫ НЕИМУЩЕСТВЕННЫХ ПРАВ СУПРУГОВ И РЕГУЛИРОВАНИЕ ИХ ОБЯЗАТЕЛЬСТВ

Аннотация. Актуальность исследования: приоритет обеспечения прав семьи уже давно выделен в отдельный институт с атрибутами гражданского права. Хотя регулирование семейных отношений также разделено в отдельной книге, но эти отношения также рассматриваются как гражданские отношения, которые включают как правовые, так и незаконные отношения. Проблема исследования правовых отношений, регулируемых законом, в большей степени посвящена регулировать семейно-имущественные отношения, оставляя неимущественное личное за границей. Хотя большинство ученых и юристов единодушно согласны с тем, что государство вообще не должно вмешиваться в неимущественные личные семейные отношения, отмечается, что большинство супругов, являющихся основой семьи, вытекающих из правовых отношений, являются неимущественными личными отношениями, связанные с имущественными отношениями. Объект исследования - личные неимущественные отношения супругов и их правовое регулирование. Целью исследования является анализ правового регулирования личных неимущественных отношений супругов в судебной практике. Личные права и обязанности супругов отмечены правами и обязанностями, связанными с личными интересами супругов, которые являются

особенно неформальными, поэтому их юридически трудно определить и урегулировать. Основными принципами неимущественных отношений между супругами являются: равные права супругов, лояльность, равные права и обязанности детей. Существенное различие между имущественными и неимущественными правами и обязанностями супругов заключается в том, что выполнение неимущественных обязанностей зависит от совести и моральных норм каждого из супругов, поскольку принудительно исполнять эту обязанность невозможно. Методы - анализ и обобщение, абстракция, логический и исторический, сравнительный анализ. Полученные результаты. Личные права и обязанности супругов называются правами и обязанностями, которые касаются личных интересов супругов. 'Супруги не могут отказаться от прав или отменить обязанности, которые по закону возникают вследствие брака. Личные неимущественные отношения связаны с образованием, расторжением, инвалидностью браков, установлением происхождения ребенка, имен супругов, воспитанием детей, усыновлением и т. д. Название этих правоотношений означает, что данный тип правоотношений не связан или их регулирование не отдает приоритет материальным ценностям (имуществу). Объект личных неимущественных отношений представляет собой особую врожденную или приобретенную особенность, неотделимую от человека. В противоположность имущественным правам лицо с личным неимущественным правом не может передавать его другим лицам или объективно оценивать конкретное материальное выражение. Вывод. Правовое регулирование брачных отношений в Литовской Республике основывается на принципах моногамии, добровольного брака, равных прав супругов, приоритетной защиты и защиты прав и интересов детей, воспитания детей в семье, принципов всеобщей защиты материнства и другие принципы правового регулирования гражданских отношений. Существенное различие между имущественными и неимущественными правами и обязанностями супругов заключается в том, что выполнение неимущественных обязанностей зависит от совести и моральных норм каждого из супругов, поскольку принудительно исполнять эту обязанность невозможно. Однако невыполнение неимущественных обязанностей супруга влияет на супругов, когда они решают расторгнуть брак - если один из супругов (или оба) не исполнял неимущественных обязанностей, это может быть причина для основания развода.

Ключевые слова: семья, супруги, неимущественные права, правовое регулирование.

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ЮРИДИЧНІ ПИТАННЯ І ПРОБЛЕМИ НЕМАЙНОВИХ ПРАВ ПОДРУЖЖЯ ТА РЕГУЛЮВАННЯ ЇХ ОBOB'ЯЗКІВ

Анотація. Актуальність дослідження: пріоритет забезпечення прав сім'ї вже давно відокремлений в індивідуальний інститут із ознаками цивільного права. Хоча регулювання сімейних відносин також відокремлено в окремій книзі, але ці відносини

також розглядаються як цивільні відносини, що включають як правові, так і протизаконні відносини. Проблемі дослідження правових відносин, регульованих законом, більш присвячені регулюють сімейні майнові відносини, залишаючи немайнові особисті поза межами. Хоча більшість науковців та адвокатів одноставно погоджуються, що держава взагалі не повинна втручатися у немайнові особисті сімейні відносини, зауважує, що більшість подружжя як основа сім'ї, що виникають із правовідносин, є немайновими особистими відносинами, пов'язані з відносинами власності. Об'єкт дослідження - особисті немайнові відносини подружжя та їх правове регулювання. Метою дослідження є аналіз правового регулювання особистих немайнових відносин подружжя у судовій практиці. Особисті права та обов'язки подружжя позначені правами та обов'язками, пов'язаними з особистими інтересами подружжя, які є особливо неофіційними, тому їх законодавчо важко визначити та врегулювати. Основними принципами немайнових відносин між подружжям є: рівні права подружжя, лояльність, рівні права та обов'язки дітей. Суттєвою відмінністю між майновими та немайновими правами та обов'язками подружжя є те, що виконання немайнових обов'язків залежить від сумління та моральних норм кожного з подружжя, оскільки неможливо примусити виконання цього обов'язку. Методи - аналіз та синтез, абстрагування, логічний та історичний, порівняльний аналіз. Результати. Особисті права та обов'язки подружжя назвали права та обов'язки, які стосуються особистих інтересів подружжя. "Подружжя не може відмовити у правах або скасувати обов'язки, які за законом виникають внаслідок шлюбу. Особисті немайнові відносини пов'язані з утворенням, розірванням, інвалідністю шлюбів, встановленням походження дитини, іменами подружжя, навчанням дітей, усиновленням тощо. Назва цих правовідносин означає, що цей тип правовідносин не пов'язаний або їх регулювання не надає пріоритету матеріальним цінностям (майну). Об'єктом особистих немайнових відносин є певна вроджена або набута ознака, невіддільна від людини. На протигагу майновим правам особа, яка має особисте немайнове право, не може передати її іншим особам або об'єктивно оцінити певний матеріальний вираз. Висновок. Правове регулювання шлюбних відносин у Литовській Республіці базується на принципах моногамії, добровільного шлюбу, рівних прав подружжя, пріоритетного захисту та захисту прав та інтересів дітей, виховання дітей у сім'ї, принципів загального захисту материнства та інші принципи правового регулювання цивільних відносин. Суттєвою відмінністю між майновими та немайновими правами та обов'язками подружжя є те, що виконання немайнових обов'язків залежить від сумління та моральних норм кожного з подружжя, оскільки неможливо примусити виконання цього обов'язку. Однак невиконання немайнових обов'язків подружжя впливає на подружжя, коли вони вирішують розірвати шлюб - якщо один з подружжя (або обидва) не виконував немайнових обов'язків, це може бути причина для розлучення.

Ключові слова: сім'я, подружжя, немайнові права, правове регулювання.

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