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PROBLEMS OF LEGAL REGULATION IN TERMINATION OF THE MARRIAGE IN CASE LAW: EXPERIENCE OF LITHUANIA

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Abstarct

The relevance of this study. In modern society, the topic of ending a marriage is relevant due to the increasing number of divorces. According to the data of the Department of Statistics in 2019 8.7 thousand divorces were registered in Lithuania. The number of divorces in the courts of first instance was 8,641 in 2020. Most cases, i. y. 7313 cases were obtained for divorce by mutual consent of both spouses. There were 1263 cases of divorce due to the fault of one or both spouses, and 65 cases of divorce at the request of one spouse. In 2020 15.2 thousand were registered marriages and even 7.4 thousand of divorces. The high number of divorces reveals that couples use the institution of divorce. For this reason, the divorce process must not only be properly regulated but also properly understood. It should be noted that not only the spouses and their children, but also society suffer the negative consequences of the end of the marriage. The dissolution of a marriage, as a separate family institution, covers cases “in which one spouse dies or is declared dead by a court”, as well as divorce “by mutual consent of both spouses, at the request of one spouse or through the fault of the spouses”. The death of a spouse is a clear basis for ending a marriage, but the other three cases of divorce require deeper and more detailed analysis and discussion. **The main problems.** An analysis of the institution of divorce reveals the following problems: first, when the courts consider the possibility of derogating from the principle of equal shares of the spouses’ common property, an unjustifiably higher share of property is often awarded to one spouse upon divorce. Secondly, the divorce of one of the spouses in the event of the spouse’s appearance gives rise to contentious situations concerning the spouse’s rights to surviving property. Third, divorce through the fault of one spouse raises problems in proving and establishing the fault of the spouse. **The following tasks:** 1. To examine the legal acts regulating the dissolution of a marriage, individual cases of divorce, the procedure and procedures, the possibilities of conciliation of spouses and the legal consequences of divorce. 2. To compare the case law of national and international courts in identifying the problems arising from the institution of divorce. 3. Based on the data of the performed analysis, to submit proposals for the improvement of the legal regulation of the institute of divorce. **The aim of this work** to reveal the problems of legal regulation of the institute of divorce based on the mechanism of regulation of family law. **The paper concluded** the issue of divorce raises legal issues such as unjustified deviation of the courts from the principle of equal share of the spouses’ common property, divorce, the uncertainty of the spouse’s divorce through the fault of one of the spouses, and the exercise of the right to surviving property, when a spouse who has been declared dead appears. **The novelty** of the analyzed topic is manifested in the fact that in the work analyzing the research of Lithuanian and foreign scientists and the rich practice of Lithuanian and international courts, the problematic aspects and topicalities of this institute are distinguished. This work may be relevant to legal doctrine for a thorough analysis of case law and legislation, revealing issues related to divorce cases. It is hoped that the researchers and practitioners, using the results obtained in this thesis, will be able to analyze the issues of this topic more smoothly in search of more rational solutions. **As the result** it is quite common for case law in the case of divorce to encounter problematic situations where the aim is to deviate from the principle of equal shares of the spouses’ joint property. On this basis, the court also applies to the court sometime after the divorce, as well as to the court for the principle of deviation from the principle of equal shares of the spouses. **The used methodology** systematic analysis, document analysis, comparative analysis, logical – analytical and meta – analysis methods.

Keywords: divorce, spouses, spouses’ property, marriage.

Introduction

Statement of the problem

When the courts consider the possibility of derogating from the principle of equal shares of the

spouses’ common property, an unjustifiably higher share of property is often awarded to one spouse upon divorce. According to Article 3.123 of the CC of the Republic of Lithuania the principle of equal share of the spouses’ assets may be derogated from, depending on the interests of the minor children, the state of health of one of the spouses or his or her financial situation. The list of application of this principle is not exhaustive, and the court therefore has the discretion to consider other criteria as relevant, depending on the legally relevant facts

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established in the case. The divorce of one of the spouses in the event of the spouse's appearance gives rise to contentious situations concerning the spouse's rights to surviving property. If the court recognizes the circumstances of the person's disappearance as important, he or she has the right, regardless of the time of return, to demand the return of his or her property remaining with the heirs. It is up to the court to determine the relevant circumstances of the disappearance. Divorce through the fault of one spouse raises problems in proving and establishing the fault of the spouse. There are no requirements for the degree of guilt to establish guilt, at present it is sufficient to prove that the spouse has violated the rules of morality and conduct governing legal relations in families laid down in law. This situation precludes a more flexible assessment of the spouse's fault in deciding whether the spouse has violated the rules of family morality and conduct.

Relevance of the topic it should be noted that not only the spouses and their children, but also society as a whole suffer the negative consequences of the end of the marriage. The dissolution of a marriage, as a separate family institution, covers cases "in which one spouse dies or is declared dead by a court" (Civil Code of the Republic of Lithuania..., 2000), as well as divorce "by mutual consent of both spouses, at the request of one spouse or through the fault of the spouses". The death of a spouse is a fairly clear basis for ending a marriage, but the other three cases of divorce require deeper and more detailed analysis and discussion.

The aim of the research to reveal the problems of legal regulation of the institute of divorce based on the mechanism of regulation of family law.

Results

The increase in the number of divorces has been one of the most striking features of recent decades and the changes in the family institute. Some researchers believe this is a sign of social and moral collapse that is destroying the institution of the family and, at the same time, the foundations of society itself. Other scholars see trends that signal an increase in personal freedom leading to a relaxation of social customs. Ending a divorce by divorce is one of the most frequently mentioned important events in a person's life and can cause great stress and anxiety for many, but at the same time a sense of relief and opportunity for personal growth. Not surprisingly, divorce and family instability have received a great deal of attention from scholars in various fields (Gähler, 1998).

The term divorce itself is derived from the Latin word *divortium*, which means separation. It also corresponds to the word "*divort*" or "*divortere*". "Di" means to separate, and "vertere" means to turn in different ways. Diverter also meant to "direct," "get away," divorce, or leave a man. This word was traced in a French dictionary in the late 14th century and in English in 1350–1400 (History of Divorce, Origins and Meaning, 2022).

Today, although divorce is expressed or defined differently, it expresses one thought. The following definitions of divorce are common: 1) a court statement dissolving the marriage in whole or in part, releasing the husband and wife from the marital obligation to live together; 2) any formal separation of husband and wife in accordance with established customs; 3) complete separation, separation or dissolution of the marriage union. Due to the principles of individual self-determination and mutual consent, divorce is becoming increasingly acceptable in industrialized parts of the world.

The concept of ending a marriage

It should be noted that the termination of a marriage is also associated with the termination of the property and personal non-property relations and rights and obligations of the spouses and the emergence of new property rights and obligations, e.g. an obligation to maintain children or a spouse in need of support. In addition, the surviving spouse retains some personal non-property rights after the marriage, such as the right to retain the marital surname. A divorce or legal separation does not result from one specific situation. In many cases, however, this is the result of "gradual fragmentation". This means that communication in the couple gradually fades, monotony and boredom appear. The ultimate separation of the family becomes a trauma not only to the spouses but also to their children, who become particularly vulnerable. According to Aguilar and Galbes, "marital harmony is essential for maintaining family cohesion, which is crucial for the good psychosocial development of children (Aguilar and Galbes, 2002)". Children and adolescents are people in the growth phase; their personalities are not yet fully formed, and the support and example of a united home is needed to create a solid structure (Kudinavičiūtė – Michailovienė and Vėgelienė, 2012). The younger a child is, the more traumatized their parents are by divorce or separation, as their level of understanding of their problems is less complex than their ability to express their feelings properly. It should also be noted that,

on a psychological level, the most important period in the life of any individual is the first two years of a child's life (Bereikienė, 2017). Divorce can be painful and costly, and a final divorce can take years, as people argue over issues that are most important to them – usually child support, financial support and division of property (Assogba, et. al., 2021). To promote a speedy resolution of divorce issues, some states have launched a process called bilateral divorce.

Analysis of the problems related to the deviation from the principle of equal shares of the spouses in the case of divorce in case law

The division of the spouses' property usually begins when the spouses divorce, but it is quite common for the court to go to court sometime after the divorce. In order to substantiate this statement, it is expedient to provide examples of Lithuanian court practice. LAT in civil case no. 3K-3-191 / 2004 the Chamber of the Civil Cases Division examined the petitioner D. Ž. cassation appeal against the Švenčionys District Court in 2003 June 25 order. The plaintiff stated that she and the defendant A. Ž. are ex-spouses whose marriage was dissolved in 1999. On October 26, three children were born to the parties during the marriage. Two of them remained living with their mother, so child support was recovered from the defendant (The three-judge panel of the Civil Cases Division of the Supreme Court of Lithuania in 2004).

In many cases, the creditors of the spouses also apply to the court for a derogation from the principle of equal parts of the spouses, requesting the court to change the legal regime of the part of the spouses' property established by law, for example, in the Klaipėda District Court civil case no. EA2-2766-965 / 2020 on divorce by mutual consent of both spouses in the part concerning the division of matrimonial property, the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania examined the civil case orally divorce by mutual consent of both spouses in the part concerning the division of property acquired in the marriage, by way of derogation from the principle of equal parts. LR CK 3.53 str. 4 d. it has been established that the court shall not confirm the consequences of a divorce contract if it is contrary to public policy or substantially violates the rights and legitimate interests of the minor children of the spouses or one of the spouses (Klaipėda District Court Klaipėda City Hall..., 2020).

The principle of equal parts of the joint property of the spouses may be deviated from upon divorce

even if the fault of the other spouse is proved, for example, in the civil case of Šiauliai Regional Court no. In Case E2A-650-440 / 2018, the plaintiff I. D. applied to the court for the dissolution of the marriage between the defendant K.D. as well as the vehicle. The court found that in the present case it was possible to deviate from the principle of equal shares, as the defendant also agrees with such division of property – the plaintiff was awarded real estate in kind, and the plaintiff was compensated for the larger share of the plaintiff's property (The panel of three judges of the Civil Cases Division of Šiauliai Regional Court in 2019). In the present case, the court deviated from the principle of equal shares by dividing the entire assets of the parties, although there is no evidence in the case that the applicant's parents contributed to the acquisition of the land.

Analysis of the problems in proving guilt and establishing the guilt of a spouse in the event of divorce through the fault of one of the spouses

“A marriage is presumed to have broken down through the fault of the other spouse if he or she is convicted for an intentional crime or is unfaithful, ill-treats another spouse or family member, or has left the family and has not cared for it for more than one year.” Non-pecuniary consequences arise from the establishment of non-pecuniary damage, which in the case of divorce is understood to be due to the illegal and / or immoral actions of the spouse, which resulted in the violation of his or her marital duties and guilt (Vilnius District Court 2012 May 2 order in civil case no. 2-97-494/2012). LR CK 3.70 str. 2 d. it is stated that the spouse has the right to claim from the spouse guilty of the divorce spouse compensation for pecuniary damage related to the divorce, as well as non-pecuniary damage caused by the divorce. It happens that the courts draw unreasonable conclusions and determine the guilt of both spouses, thus unreasonably and unlawfully rejecting the injured party's claim for non-pecuniary damage (Civil Code of the Republic of Lithuania..., 2000), for example, the Civil Division of the SCL in case no. 3K-3- 398/2013, the defendant proved with admissible evidence that “during the marriage, the plaintiff suffered painful spiritual experiences through her fault: due to the plaintiff's intolerable behavior, she and her children were forced to move out of their homes, leave all their marital property, settle in alone, children. Due to the plaintiff's constant physical violence and threats, the defendant lived in constant fear and uncertainty, and her health deteriorated. Compensation for non-pecuniary

damage must be calculated and awarded after taking into account the legally significant circumstances, therefore it is considered that in the case under consideration the compensation of EUR 2973 is not excessive” (The three-judge panel of the Civil Cases Division of the Supreme Court of Lithuania..., 3K-3- 398/2013.).

Analyzing the case law on the issue under consideration, it can be stated that in Lithuania there is a legal possibility to award non-pecuniary damage from the spouse guilty of divorce, but the practical implementation of this institute is quite complicated and depends on the above circumstances. The system of compensation for non-pecuniary damage chosen by the legislator is not liberal – non-pecuniary damage is not compensated in all cases of its occurrence, but only when permitted by law. However, our state is not the only one to have such a procedure for compensation for moral damages.

In the Netherlands, for example, similar principles apply. It is worth noting that such a situation is influenced by the economic situation of Lithuania and the property situation of the spouses, as well as the needs of the spouses and children and other circumstances followed by the courts when making decisions on awarding non-pecuniary damage (Mikelėnas, 2009).

An analysis of the case law has shown that the courts may award ex-spouse maintenance to the ex-spouse who needs it, provided that the maintenance issues are not covered by the divorce agreement between the spouses. If the spouse’s assets or income are sufficient to support himself or herself, the spouse is not entitled to maintenance (The panel of three judges of the Civil Cases Division of the Kaunas Regional Court in 2018).

When deciding on the award and amount of maintenance, the court must take into account the duration of the marriage, the need for maintenance, the financial situation of both ex-spouses, their state of health, age, as well as their ability to work, employment opportunities and other relevant circumstances (Mizaras, 2014). If the spouse liable to maintain the other spouse is unable to provide maintenance to the spouse entitled to maintenance from him or her on the basis of his or her other income and assets, he or she shall provide maintenance only to the extent appropriate to the spouses’ needs and income and assets.

It should be noted that in the case of divorce through the fault of the other spouse, claims for maintenance of the spouse are considered quite often

in court practice, but plaintiffs have to apply to higher courts for the award of maintenance, for example in civil case no. 3K-3-500 / 2003 In a public court hearing, the Chamber of the Civil Cases Division of the LAT examined the civil case in cassation according to the complaint of the plaintiff S. T. against the Šiauliai Regional Court in 2002. December review of the order. Initially, the plaintiff S. T. applied to the Šiauliai District Court, later to the Šiauliai Regional Court for a maintenance order of LTL 200 (EUR59.46) after the divorce. The Šiauliai District Court upheld the claim in part, ordering the defendant to pay LTL 50 (EUR 14.87) in periodic benefits each month for the life of S. T. (The three-judge panel of the Civil Cases Division of the Supreme Court of Lithuania in 2003).

Maintenance for ex-spouses is also granted in other countries of the European Union. Under Belgian law, for example, members of the same family must provide mutual assistance in the interests of family solidarity: parents must feed, educate and support their children. This obligation is usually fulfilled by paying a certain benefit each month, called maintenance. The court determines the amount of the benefit and the conditions for changing it, but may release the father (mother) from this obligation if he / she agrees to accommodate, feed and care for the child. In principle, maintenance payments are personal and cannot be transferred to anyone else (Family maintenance Belgium..., 2022).

The French Civil Code stipulates that: in the event of a divorce, the spouses’ obligation to support each other ends in principle, but the spouse may at any time claim maintenance from the other spouse, the amount of which varies according to the former spouses’ needs and financial situation. The amount of the benefit is determined by the needs of the spouse to whom it is paid and the financial situation of the other spouse, taking into account the situation at the time of the divorce and how it may change in the future (Laquer Estin, 2017).

In summary, the main legal disputes concerning the divorce of property at the request of one spouse through the fault of the other spouse arise from the division and determination of the spouses’ property, as well as from the maintenance awarded to the former spouses. Another pecuniary consequence of divorce at the request of one spouse through the fault of the other spouse is monetary compensation for the greater share of the property acquired in the marriage. Meanwhile, the circle of non-pecuniary consequences of divorce is quite narrow.

Analysis of problematic cases of divorce in international case law

Many countries with a tradition of civil law recognize nationality as an appropriate basis for exercising jurisdiction over personal status matters, including divorce. Many U.S. courts have dealt with situations where foreign couples were settled in the United States before one of their spouses returned to their country of citizenship to seek a divorce. Even those states with which the United States shares a common law heritage and which exercise jurisdictional divorce jurisdiction may interpret the concept differently (Laquer Estin, 2017). In the European Union, jurisdiction to decide on divorce is governed by the Brussels IIA Regulation. Under this regulation, the courts of the EU Member States have jurisdiction over divorce, legal separation or marriage annulment. In addition, the court of the State in which both parties have their nationality or habitual residence may exercise jurisdiction on that basis. In addition to the issue of jurisdiction, the European Union has implemented an enhanced cooperation approach in 2010, known as the Rome III Regulation, to define the law applicable to divorce and legal separation (Laquer Estin, A. (2017).

The courts discuss personal jurisdiction in matrimonial and family matters over financial transfers under essentially the same conditions as are used in other situations. Although there are some differences between the states long-standing laws, courts generally agree on the types of minimum contacts required. For example, in the order of the U.S. Supreme Court in *Cooke v. Cooke* Appellant Hugh Cooke appealed the first-instance court's decision because his divorce appeal was dismissed for lack of jurisdiction. After reviewing the records, the court concluded that the trial court erred in finding that appellant Miranda Cooke did not have long-arm jurisdiction in Georgia and that Fulton County was not the appropriate venue for the case. According to the case, Hugh Cooke is an Irish national and Miranda Cooke is a British national. The parties married in the UK in 1991 and later moved to Ohio to oversee the management of their company, which is registered for business in the United States. 1992 the family moved their business to Georgia and bought a home in Fulton County. 1997 Hugh, Miranda, and their five eldest children received permanent U.S. resident status (the youngest child is an American citizen by birth). Since moving to the country in 1991, they have maintained a second home in the UK, where Miranda Cooke and the children

lived (U.S. Court Order *Cooke v. Cooke*, 594 S.E.2d 370, 372-73 (Ga. 2004). According to the court ruling in this case, the fact that the couple was married in the UK may not be a sufficient basis for jurisdiction to divorce in the US. The domicile of the spouses in the States at a particular point in the marriage is generally considered sufficient to confer personal jurisdiction on a spouse who no longer resides in the State of marriage, but even when that spouse resides in another country (U.S. Court Order *Venizelos v. Venizelos*, 216 A.D. 206 (N.Y. App. Div. 1995).

In another U.S. case, *Harris v. Harris*, 922 N.E.2d 626 (Ind. Ct. App. 2010) Anthony Harris appealed a first-instance court order for divorce of a minor child, ordered the husband to pay child support, and ordered the spouses to pay maintenance to the wife. Property acquired in marriage. The man has served in the U.S. Army since about 1990. The couple married in 1995. He was born in December 1996 in Waterertown, New York. April 11 the husband and wife met in Waterertown, New York, where they married and then "moved to Hinesville, Georgia and Kansas, and then to Germany. Since 2005 the couple did not live together in December and the wife moved to Indiana (U.S. Court Order *Harris v. Harris*, 922 N.E.2d 626, Ind. Ct. App. 2010). The husband paid financial support to the wife by sending her a check. 2008 September 12 his wife filed for divorce in Marion County, Indiana. In her petition, the wife stated that the husband was based in Germany and sought to end her marriage to the husband. The Georgia Court of First Instance dismissed her action, holding that she did not have personal jurisdiction in Georgia and that Fulton County was not the appropriate venue for the proceedings. While not entirely clear, the trial court also ruled that Hugh had not proved that he was currently domiciled in Georgia (U.S. Court Order *Harris v. Harris*, 922 N.E.2d 626, Ind. Ct. App. 2010). Analyzing the consequences of divorce reveals a group of problematic situations related to spousal maintenance. For example, the international case *AN v FN* (I 1839/2015) [2017] NAHCMD 154 (6 June 2017) dealt with the issue of spousal maintenance – the spouse in need of such maintenance has proved and justified this. The court exercised its discretion in awarding such maintenance because the applicant did not receive a regular income (U.S. Court Order *AN v FN* (I 1839/2015), 2017 NAHCMD 154). This case is a divorce case brought by the plaintiff (husband) against the defendant (wife) based on allegations of constructive desertion. The wife filed a notice

of intent to defend the lawsuit and in turn filed a counterclaim, also demanding an order restoring the marital rights and failing to do so, and an order for divorce for malicious divorce. The main issues in this judgment were: (a) which party succeeded in fulfilling its burden of proving a malicious withdrawal leading to a restitution order; income from the sale of a motor vehicle, (c) whether the defendant is jointly and severally liable for 50% of the debts of a close undertaking, and (d) whether the defendant is entitled to maintenance from the spouse. Problems with divorce also arise in the event of divorce. In the Iowa Supreme Court case Hansen, 733 NW 2d 683, for example, child custody issues were addressed. The district court granted joint legal custody and joint physical custody of the children of the two spouses to Lyle and Delores Hansen. The district court also distributed the property in the marriage, awarded alimony to Lyle, and ordered child and medical care. The case was referred to the Court of Appeal (U.S. Court Order Hansen, 733 NW 2d 683..., 2022).

The Court of Appeal overturned the district court's decision on the physical custody of the children, granting Delores physical custody of the children. The Court of Appeal reduced the amount Lyle had to pay to Delores for the distribution of the assets and increased the monthly amount and duration of the alimony payment. The Court of Appeal also adjusted the amount of child support and medical assistance and awarded compensation for the services of a lawyer. In the light of the above principles and after a de novo review of the case, the court agreed with the appellate court that general physical care was not in the best interests of the children in the light of the facts of the case. Because Delores was the primary guardian of the children for most of the marriage. The court found that the concepts of continuity, stability and closeness are in stark contrast to general physical care as a qualitative alternative that least disturbs children and promotes their long-term physical

and emotional health (U.S. Court Order Hansen, 733 NW 2d 683..., 2022).

Summarizing the case law of international courts, a group of problematic situations emerges regarding the application of jurisdiction and jurisdiction, as well as the choice of law principles concerning the property and non-property interests of the former spouses, spousal support, divorce and custody of children.

Conclusions

1. Depending on the method of divorce chosen, divorce creates legal consequences, which include the division of property between the spouses, maintenance obligations between the spouses, maintenance of children, as well as the choice of the former spouse after divorce through no fault of the spouse.

2. The main non-pecuniary legal disputes concerning divorce due to the fault of one spouse arise from the surname of the former spouses, compensation for non-pecuniary damage, determination of the child's place of residence and restriction of meetings with minor children.

3. There are no requirements for the degree of guilt to determine the spouse's guilt; it is sufficient to prove that the spouse has violated the rules of morality and conduct governing legal relations in families, which are enshrined in law. In such a case, often due to a slight violation of the spouse's moral or behavioral norms, the spouse's fault in the dissolution of the marriage is unreasonably determined, thus distorting the real content and purposes of the legal norms governing divorce due to the spouse's fault.

4. The case law of international courts reveals a group of problematic situations regarding the jurisdiction and jurisdiction of cases, as well as the principles of choice of law related to the property and non-property interests of ex-spouses, spousal maintenance, problems in Lithuania, as well as child maintenance and custody determination.

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ПРОБЛЕМИ ПРАВОВОГО РЕГУЛЮВАННЯ ПРИПИНЕННЯ ШЛЮБУ У ПРАВОВІЙ СИСТЕМІ: ДОСВІД ЛИТВИ

Анотація

Актуальність даного дослідження. У сучасному суспільстві тема розірвання шлюбу є актуальною через збільшення кількості розлучень. За даними Департаменту статистики, у 2019 році в Литві було зареєстровано 8,7 тисячі розлучень. Кількість розлучень у судах першої інстанції у 2020 році склала 8641. Отримано 7313 справ про розірвання шлюбу за взаємною згодою обох подружжя. Було 1263 випадки розірвання шлюбу з вини одного або обох подружжя, 65 випадків розірвання шлюбу за заявою одного з подружжя. У 2020 році зареєстровано 15,2 тисячі шлюбів і навіть 7,4 тисячі розлучень. Велика кількість розлучень свідчить про те, що пари використовують інститут розлучення. З цієї причини шлюборозлучний процес має бути не тільки належним чином врегульований, а й належним чином усвідомлений. Слід зазначити, що негативні наслідки припинення шлюбу страждають не лише подружжя та їхні діти, а й суспільство. Розірвання шлюбу, як окремого інституту сім'ї,

охоплює випадки, «в яких один із подружжя помер або оголошений померлим за рішенням суду», а також розірвання шлюбу «за взаємною згодою обох подружжя, за клопотанням одного з подружжя або через з вини подружжя». Смерть подружжя є чіткою підставою для припинення шлюбу, але три інші випадки розлучення вимагають глибшого та детальнішого аналізу та обговорення. **Основні проблеми.** Аналіз інституту розірвання шлюбу виявляє такі проблеми: по-перше, коли суди розглядають можливість відступу від принципу рівної частки спільного майна подружжя, при розлученні одному з подружжя часто присуджується невинновданно більша частка майна. По-друге, розірвання шлюбу одного з подружжя у разі появи подружжя породжує спірні ситуації щодо прав подружжя на майно, що пережило. По-третє, розлучення з вини одного з подружжя породжує проблеми у доведенні та встановленні вини подружжя. **Завдання:** 1. Вивчити нормативно-правові акти, що регулюють розірвання шлюбу, окремі випадки розірвання шлюбу, порядок і порядок, можливості примирення подружжя та правові наслідки розірвання шлюбу. 2. Порівняти практику національних та міжнародних судів при виявленні проблем, що виникають з інституту розлучення. 3. На підставі даних проведеного аналізу внести пропозиції щодо вдосконалення правового регулювання інституту розірвання шлюбу. Мета даної роботи розкрити проблеми правового регулювання інституту розірвання шлюбу на основі механізму регулювання сімейного права. У статті зроблено висновок, що питання про розірвання шлюбу порушує такі юридичні питання, як невинновдане відхилення судів від принципу рівної частки спільного майна подружжя, розірвання шлюбу, невизначеність розлучення подружжя з вини одного з подружжя та здійснення права на майно, що залишилося в живих, при появі подружжя, оголошеного померлим. Новизна аналізованої теми виявляється в тому, що в роботі, яка аналізує дослідження литовських та зарубіжних вчених, а також багату практику литовських та міжнародних судів, виокремлено проблемні аспекти та актуальність цього інституту. Ця робота може мати відношення до правової доктрини для ретельного аналізу судової практики та законодавства, розкриття питань, пов'язаних зі справами про розлучення. Сподіваємося, що дослідники та практики, використовуючи результати, отримані в цій дипломній роботі, зможуть більш гладко аналізувати проблеми даної теми в пошуках більш раціональних рішень. У зв'язку з цим досить часто судова практика у разі розлучення стикається з проблемними ситуаціями, коли метою є відхилення від принципу рівності часток спільного майна подружжя. На цій підставі суд також звертається до суду через деякий час після розірвання шлюбу, а також до суду за принципом відступу від принципу рівності часток подружжя. **Використовується методологія** системного аналізу, аналізу документів, порівняльного аналізу, логічного – аналітичний та мета – методи аналізу.

Ключові слова: розлучення, подружжя, майно подружжя, шлюб.

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