

SUMMARY

Subject of the research thesis: The marital relations in international private law

Author: Tatul Atayan

Academic Adviser: Arutyunyan R.E., Assistant Professor, PhD, Juridical sciences

Organization: School of International Relations, Chair of International Relations, World Economy and International Law, Pyatigorsk State Linguistic University.

Relevance of the research issue: Nowadays, when people are moving freely across national borders, communicate with foreigners, regardless of their nationality or place of residence, are increasingly marriages and families are created when the spouses are of different nationalities or live abroad. There are relevant in our time some issues and conditions of such marriages, personal and property relations between the spouses, the signing of marriage contracts, establishing and challenging paternity, divorce, division of marital property and determining the fate of the common children, alimony child overseas adoptions by foreigners and moving them with adoptive parents in another country. It is relevant the investigation of these issues with scientific and practical points of view and spirit of the dictated times.

Conflict rules of family law are among the most complex in the conflict of laws rules of private international law, as family relationships involving foreigners linked directly with the two, and sometimes with several states and, accordingly, with two or more legal systems, often in different ways to solve questions marriage and family, which explains the complexity of their regulation. It is clear that with such a variety of norms can not be completely matched regulating marriage, its cancellation, personal and property relations between spouses. Collision-legal regulation of marital relations in private international law and measures to improve the regulation of this determined the choice of the theme of the research.

The object of the study research is marital relations, complicated by a foreign element arising in connection with the formation, dissolution of marriage, as well as the maintenance obligations, and protecting the rights of parents to communicate and children, regulated choice of law rules of private international law of the Russian Federation.

The subject of the study research are legal norms, principles and methods used in Referential legislative regulation of marriage and family relations with a foreign element; norms of Russian and international family law; decisions of international judicial and supervisory bodies.

The purpose of the research is to study features of collision-legal regulation of marriage and family relations in the private international law of the Russian Federation.

Research objectives:

- Show private-and public-legal principles in the legal regulation of marriage and family relations, complicated by a foreign element;
- Justify the need for flexible conflict rules in the Family Code of the Russian Federation;
- Identify the content and features of marriage and family relations and the international nature of their legal regulation;
- Formulate a system of Russian conflict rules in the field of detention, cancellation of foreign marriages and the legal regulation of moral and economic relations;
- Define the features collision-legal regulation of the rights and responsibilities of parents and children in the first place and the problems of establishing paternity and maternity; rights and duties of parents and children, alimony obligations in cases where the parents reside in different States; problem of child rights to communicate, adjustable rules of private international law;
- Justify the need to improve collision-legal regulation of marriage and family relations and formulate some recommendations.

Scientific novelty of the research is determined by the choice of topic, the character set of scientific problems and results. Author conducted a comprehensive study of the peculiarities of legal regulation of collision-marriage and family relations in private international law issues regarding marriage and divorce with a foreign element, the relationship between parents and children. Based on the study of national legislation, practices and international agreements offered recommendations for improving collision-legal norms and mechanisms for their implementation in the Russian Federation.

Structure: the introduction, the two chapters, the conclusion and the bibliography.

Summary: Justified position that the nature of the rule containing conflict rules determined by the predominance of private or public began in the legal regulation. This allows you to set limits for permissible and impermissible behavior of an individual who enters into the sphere of marital relations.

It seems appropriate to amend paragraph 2 of Art. 161 of the Family Code of the Russian Federation and to include in the article in the position according to which the parties' choice of law at the conclusion of the marriage contract or agreement alimony can not affect the operation of peremptory norms, which they are citizens. Also should be enshrined in law the position from which it follows that the parties have the right to choose only the law of the State of which they are or in which they have a common place of residence, that is, the parties must be a real connection with the country whose laws they want use in establishing their rights and responsibilities.

Improved implementation of conflict rules in practice will contribute to the legislative establishment of liability in respect of officials, their office nonuse conflict rules governing marital relations with a foreign element.

In determining the rights and duties of parents and children, it seems that as the main anchor is more correct to use the binding law of nationality of the child, and not to the law of the State in which parents and children have a common place

of residence. Usually the child's citizenship law coincides with the right of parents and common citizenship with the right to state their common residence. And when the child lives with one parent, his personal law, usually coincides with the law of the nationality of one parent. If a child is not living with his parents, his personal use of the law would not exclude the application of the rights of parents close.