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Marriage with a "foreign element"

The key question while talking about regulation of so-called marriages "with a foreign element" (that is, when citizenship of one or both persons is foreign or marriage takes place in the foreign state), is the law of what country to be used, because the volume of rights and duties of the married couple will depend on it, as well as other aspects of relations between them and other family members, and children, in particular.

For solving of this question two factors are determining: citizenship of persons and place of entry in marriage.

I. Marriages "with a foreign element"

1. When marriage takes place in Ukraine

All marriages between the citizen of Ukraine and foreigner (by analogy of law persons without citizenship are also equated to foreigners), two foreigners, that are being registered in Ukraine, are conducted according to the Ukrainian legislation.

The proper procedure provides for, that at first, persons, that desire to marry hand in an application about it personally or through representatives (notarial witnessed) in organ for registration of civil status ("RATSS" in Ukrainian language) everywhere in Ukraine. From this moment they are betrothed. To such persons are explained their future rights and duties, they need to inform each other about their state of the health. A month later, or at presence of good reasons earlier, their marriage is solemnly registered by a worker of RATSS in a place selected by fiancées. Church marriages do not create legal consequences, unless they took place at the time, when organs of RATSS did not function.

In order to protect rights of citizens in a native foreign country, it is worthy to take care of recognition of this marriage there also. For this purpose before getting married in Ukraine a couple needs to make sure, that there are no obstacles for this marriage foreseen by legislation of country of foreign citizenship.

However from this common rule there is one exception - so called consular marriages, that take place between foreigners in embassies and consulates of the foreign states on territories of Ukraine, and are conducted according to the law of the state of this diplomatic representative office.

Such marriage is valid in Ukraine at the observance of two terms:

- reciprocity (this other state also acknowledges registration of marriage in the Ukrainian consulate or embassy on their territory)
- persons, that are getting married or at least one of them is to belong to citizenship of country, that appointed an ambassador or consul.

2. When marriage takes place abroad, in a foreign country

Citizens of Ukraine, which are found in a foreign country can register marriage in a consulate or embassy of Ukraine according to the Ukrainian legislation.

In addition, the citizens of Ukraine or our citizen and foreigner can register marriage in the proper establishment of the oversea state. This act will be valid in Ukraine, if it does not violate the terms necessary for marriage in Ukraine:

- age of man should be 18, and of women 17 or more years
- capable persons get married voluntarily
- simultaneously it is possible to be found in one marriage only
- they are not the relatives of straight line of bringing together, brother and sister, cousins, native aunt, uncle, and niece, nephew, adopted child and the persons who adopted a child.

II. Dissolution of marriages "with a foreign element"

If such dissolution is conducted in Ukraine (in organs RATSS or in a court, if the married couple has children), regardless of citizenship of persons (citizens of Ukraine, citizen of Ukraine and foreigner, two foreigners), it takes place on the grounds and in order foreseen by the Ukrainian legislation.

Dissolution of marriage can be carried out by a foreign country in the following cases:

- citizens of Ukraine are living abroad
- between the citizen of Ukraine and foreigner, when at least one of them lives outside Ukraine

III. Such acts of the civil state like marriage and divorce registered by foreigners in their home country according to its laws, are valid in Ukraine, even if do contradict its legislation. For example, polygamy marriages (like ones in Muslim countries) or marriages concluded through a representative.

However, it is not to conflict with the general principles of legal regulation of family relations (right to the personal freedom, impermissibility of self-willed interference with the personal life, equality, justice, consciousness, cleverness, according to the moral bases of society, taking into account interests of child and disabled family members, possibility of settlement by an agreement, right of judicial defense).

Documents that prove such acts of the civil state, given out outside Ukraine in relation to the citizens of Ukraine, foreigners, persons without citizenship, are valid in Ukraine on condition of their consular legalization.

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