

CONFLICT-OF-LAW ISSUES OF MARITAL PROPERTY RECOGNITION AND DIVISION IN INTERNATIONAL PRIVATE LAW

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Abstract

This article studies conflict-of-law issues regarding recognizing marital property and dividing shares in international private law. It examines the main approaches to determining the applicable law when resolving property disputes arising in international marriages and the principles of property distribution between spouses in different jurisdictions. Special attention is paid to conflict-of-law norms regulating property regimes and ways to modify them through prenuptial agreements. The mechanisms for resolving conflicts related to international jurisdiction, applying foreign law, and protecting spouses' rights in cross-border disputes are also explored.

Keywords: international private law, conflict-of-law norms, marital property, division of shares, prenuptial agreement, international marriages, property regime, foreign law, cross-border disputes, international jurisdiction.

Introduction

One of the most complex and multifaceted issues in international private law is the recognition and regulation of marital property and the division of shares in the event of property division after the dissolution of marriage. These issues have become particularly relevant with the increase in international marriages due to globalization. Migration processes, economic and cultural ties, and the general internationalization of family relationships lead to situations where spouses may own property in different jurisdictions and encounter legal systems with other approaches to regulating marital relations and property regimes.

International private law seeks to create mechanisms that effectively regulate such conflict-of-law situations. However, the diversity of legal systems and the need for unified regulation in this area create significant challenges. One of the critical problems is determining the legal status of property acquired during marriage and the procedure for its division in the event of divorce or the death of one of the spouses. Depending on the applicable jurisdiction, approaches to recognizing marital property can vary, from the strict separation of property to the presumption of equal shares in jointly acquired property.

These legal differences become particularly acute when it is necessary to determine which law should apply to property located in different countries or when the spouses hold citizenships of other states. The legal systems of various countries may vary significantly in recognizing marital property, determining the applicable law, and resolving disputes. In this regard,



conflict-of-law regulation plays a crucial role in deciding which law will apply to the marital property relations of spouses when a foreign element is involved.

International practice widely uses treaties and conventions to harmonize legal approaches to family property relations, such as the Hague Convention of 1978 on the Law Applicable to Matrimonial Property Regimes. However, even international agreements only eliminate some conflict-of-law issues, as each state retains its legal autonomy and may have a different approach to marital property matters. Additionally, legal conflicts may be complicated by the inconsistency of judicial practices and the need to harmonize national legal systems completely.

Thus, conflict-of-law issues related to the recognition of marital property and the division of shares in international private law require deep theoretical analysis and the development of practical recommendations to ensure legal certainty and the fair resolution of disputes. This article will examine the main approaches of various legal systems to marital property issues, analyze the mechanisms of conflict-of-law regulation, and propose ways to improve international legal regulation of spouses' property relations in the context of modern challenges. Initially, we will examine the concept of "marital property." Marital property refers to a legal regime where property acquired by spouses during the marriage is considered the joint property of both spouses, regardless of who purchased it or contributed to its acquisition. In doctrinal terms, this property regime implies that both spouses have equal rights to possess, use, and dispose of the property, and their shares are not determined until the moment of division.

In academic literature, the legal relations of spouses in the context of comparative and international private law are typically studied with an emphasis on certain aspects, such as marital property regimes, prenuptial agreements, or through comparative analysis of the legislation of two states, one of which is often the Russian Federation. Russian legal scholars have significantly contributed to studying transboundary family law, highlighting conflict-of-law and substantive law aspects of regulating marital relations.

In Uzbekistan, the legal regulation of family relations, including spouses' property and personal relations, is gradually developing in line with modern international trends. Uzbekistan attaches great importance to strengthening the institution of the family and the legal protection of spouses, which is reflected in the improvement of national legislation aimed at ensuring fairness and protecting the interests of both parties.

One of the key achievements in this area has been the reform efforts to harmonize family law with international standards. This is especially important in the context of the growing number of cross-border marriages, where spouses may be citizens of different countries. In recent years, Uzbekistan's legal system has actively adapted norms regulating spouses' marital and property relations in line with the country's international obligations and the experience of other states. Additionally, efforts are underway in Uzbekistan to raise legal awareness among citizens regarding family legal relations. Educational programs and online platforms are being introduced to improve legal literacy on family and international private law matters, which is especially relevant for spouses entering into international marriages.

It is important to note that Uzbekistan is developing cooperation with international organizations in the field of family law. A notable example is the country's participation in



international conferences and forums dedicated to the legal regulation of family relations, which fosters experience exchange and the adaptation of best international practices.

Thus, Uzbekistan is committed to improving the legal protection of spouses, developing family law, and integrating it into the international legal community. The country continues to enhance its legal framework to protect spouses' rights amid globalization and the rise in cross-border marriages, taking significant steps toward creating a harmonious legal regime in family legal relations.

The doctrinal foundations of Uzbekistan's family law concerning spouses' personal and property relations are based on a combination of national traditions, the legal system, and international standards. The regulation of marital and family ties is examined both from the perspective of national legal norms and with consideration of international obligations, creating a unique approach to regulating these issues.

According to the Republic of Uzbekistan legislation, specifically the Constitution, men and women have equal rights, which implies gender equality in all spheres of life and the unrestricted exercise of rights. This principle also applies to family relations and is enshrined in Article 19 of the Family Code of the Republic of Uzbekistan. In doctrinal practice, the "principle of cohabitation" concept exists in family law. This principle suggests that the regulation of spouses' personal and property relations is governed by the country's legal system where they have a joint residence. This principle plays a vital role in international private law, especially in determining the applicable law when a foreign element is present in marital and family relations.

Foreign legislation addresses the regulation of personal non-property and property relations between spouses. For example, Article 161 of the Family Code of the Russian Federation stipulates that the personal non-property and property rights and obligations of spouses are determined by the laws of the country where they jointly reside. In the absence of such a place of residence, the country's legislation where they had their last joint residence should apply. This aspect needs to be explicitly provided in Uzbekistan's legislation, as administrative-territorial divisions are not structured similarly. While the Russian Federation has distinct territories with its legal regulations, Uzbekistan applies uniform legal acts across all regions and cities, making such norms unnecessary.

In summary, the property relations of spouses are regulated by the law of the corresponding country. In addition to legislative regulation, there is a dispositive method – the prenuptial agreement. A prenuptial agreement is used to regulate property relations between spouses optimally. This document is an agreement between individuals entering into marriage or those already married, regulating their property rights and obligations during the marriage and in the event of its dissolution. Through a prenuptial agreement, spouses can modify the statutory regime of joint property, establishing a different regime – joint, shared, or separate property – for all property or certain types.

According to the Family Code of Uzbekistan, foreign citizens and stateless persons permanently residing in the Republic of Uzbekistan enjoy equal rights and bear obligations in family relations on par with citizens of the Republic of Uzbekistan. This norm implies that marital legal relations on the territory of Uzbekistan are subject to Uzbekistan's laws, and



normative legal acts on family law establish their rights and obligations. If we compare this with the Russian Federation's Family Code, we find that Russia provides the "autonomy of will" principle, allowing spouses to choose the law of the state they wish to apply.

Property relations between spouses are also addressed in various international conventions, such as the Minsk Convention of 1993 and the Chisinau Convention of 2002, which contain provisions that:

1. Property relations between spouses are regulated by the law of the country where they jointly reside. If spouses live in different countries but have the same citizenship, their property relations will be governed by the law of their citizenship.
2. If one spouse is a citizen of one state, and the other is a citizen of another, and they live in different countries, their property relations are governed by the law of the country where they last lived together.
3. If spouses have never lived together in the territory of contracting states, the law of the state where the case is being heard applies.

Uzbekistan has bilateral agreements with foreign countries on the choice of law in marital relations, such as the Treaty between the Republic of Uzbekistan and the Republic of Latvia on Legal Assistance in Civil, Family, Labor, and Criminal Matters.

Understanding the essence of marital property relations allows us to move on to the next question regarding property division. Divorce-related property disputes are increasing in Russia, and courts must determine which law applies.

Additionally, real estate disputes are governed by the law of the country where the property is located. This creates a problem if the spouses own property in different countries, as each property may be subject to the law of the country where it is located. Therefore, spouses need to consider the differences in national legislation when preparing prenuptial agreements or dividing property in case of divorce.

It is also important to note that the institution of prenuptial agreements, as provided in both Russian and Uzbek law, can significantly simplify the division of property between spouses in cases involving a foreign element. Such an agreement allows the spouses to predetermine the legal regime of their property in case of divorce and avoid conflicts between the legal systems of different countries. However, the absence of a prenuptial agreement forces spouses to rely on conflict-of-law rules and court decisions, complicating the process and increasing legal risks.

Thus, regulating spouses' property relations in international marriages requires a comprehensive approach, including improving national legal norms and expanding international cooperation in this area. Successful resolution of such disputes necessitates strengthening work on the conclusion of international treaties on legal assistance, the unification of approaches to property division, and the harmonization of the legislation of different countries. The introduction of standards for recognizing and enforcing foreign court decisions and expanding the use of prenuptial agreements will help reduce the number of legal disputes and enhance the protection of spouses' rights in cross-border cases.

Given the modern trends toward international integration and the increase in the number of international marriages, the issue of the division of property between spouses involving a



foreign element remains relevant. It requires special attention from legislators, courts, and practicing lawyers. Legal practice aimed at protecting spouses' rights and ensuring the fair resolution of property disputes must consider national and international law enforcement aspects to ensure fair and predictable regulation of family relations.

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