

**Shyian Yu. V.**, seeker  
for the first (bachelor's) level of higher education,  
National Aviation University, Kyiv, Ukraine  
Scientific advisor: Filinovych V. V., PhD in Law

## **ATTACHMENT FORMULAS IN MARRIAGE AND FAMILY RELATIONS**

The movement of people from one place to another, whether within a country or across international borders, has become a major trend in the modern world. In the past, Ukraine has been known for its tendency towards emigration, with individuals and families seeking better opportunities abroad. However, due to the full-scale invasion of the country, the number of Ukrainians who have been forced to flee their homes has increased dramatically. As a result of this increased mobility, legal regulations have become necessary to address issues that were not as relevant in the past. These issues include complicated family legal relations that involve a foreign element, such as custody disputes, international marriages, and adoption.

Family relations with a foreign element are relations in which the subject is a foreigner or stateless person, the object of which is located abroad, or the creation, modification or termination of these relations takes place on the territory of a foreign state [1, c. 141].

In private international law, conflict-of-laws rules usually govern the termination of legal relations. These rules typically include: 1) *lex patriae* (national law), which is the law of the country where an individual holds citizenship; 2) *lex domicilii* or *lex habitual residence* (law of the place of residence or habitual residence), which is the law of the state where an individual permanently resides; 3) *lex fori* (law of the court), which is the law of the state where the court proceedings take place; 4) *lex loci celebrations* (law of the place of marriage), which is the law of the state where the marriage was registered; 5) *lex connectionis fermitatis* (law of the closest connection), which is the law of the state that has the closest connection to the legal relationship; and 6) *lex voluntatis* (law chosen by the parties), which is the law agreed upon by the parties involved in the legal relationship [2, c. 226–227].

Each country has its own regulations for determining the legal capacity and capability to act of individuals in marriage. Some experts believe that substantive legal rules are included in domestic legislation, and the issue lies in selecting the law that defines the preliminary legal conditions for a marriage to be considered valid in the states of both partners. To address this, there are specific conflict-of-laws rules in place. One such rule is personal law, which is interpreted and enforced differently across various countries. For instance,

citizens of Kazakhstan, Italy, Germany, Spain, Greece, Austria, Belgium, Egypt, and Sweden are subject to the law of citizenship, known as *lex patriae* (or *lex nationalis*). On the other hand, the law of residence applies in Australia, New Zealand, and the United Kingdom. Some countries, like Bulgaria and France, use a mixed form of binding laws by combining the law of citizenship with the law of domicile. Another binding law is *lex loci celebrationis* - the law of the place of marriage, which is in force in the United States and Latin America. This law is part of the broader binding law known as *lex loci actus* or *lex loci contractus* (law of the place of performance or law of the place of conclusion of the transaction) [3, c. 283].

When it comes to international family relationships, conflict-of-laws rules play an important role in determining which legal system should be applied. In this context, the legal orders that are closely connected to such relationships include *lex loci celebrations*, *lex personalis*, *lex rei sitae*, and the law chosen by the parties involved. The “law of the place of marriage” clause has traditionally been significant in private international law for regulating family relationships. This clause determines which law should be applied to a marriage based on the country where the marriage was registered. However the regulation of marriage and family relationships with a foreign element is characterized by a combination of conflict-of-laws rules, including those mentioned above [4, c. 126].

Overall, conflict-of-laws regulation is essential in resolving legal disputes involving foreign elements. It helps ensure that the most appropriate legal system is applied, taking into account the interests of all parties involved. Conflict-of-laws regulations that pertain to family relationships with foreign elements differ between countries, with personal law, law of residence, and law of the place of marriage being the most commonly employed rules. The regulation of international family relationships that involve foreign elements is characterized by a combination of conflict-of-laws rules.

#### *References*

1. Корнєєв Ю., Берегович Л. Колізійне врегулювання сімейних правовідносин в міжнародному приватному праві: шляхи подолання конфлікту. Юридичний вісник. 2018. №. 4(49). P. 140–145. URL: [http://www.law.nau.edu.ua/images/Nauka/Naukovij\\_jurnal/2018/statji\\_n4\\_49\\_2018/20.pdf](http://www.law.nau.edu.ua/images/Nauka/Naukovij_jurnal/2018/statji_n4_49_2018/20.pdf) (date of access: 01.03.2023).
2. Prostybozhenko O. Divorce with a foreign element: connecting factors on applicable law in legislations of the EU, USA, China, Russia and Ukraine. International law almanac. 2020. No. 23. P. 225–235. URL: <https://doi.org/10.32841/ila.2020.23.26> (date of access: 02.03.2023).
3. Ткаченко В. Колізійні питання реалізації права на шлюб у міжнародному приватному праві. Entrepreneurship, Economy and Law. 2020. № 6. P. 282–286. URL: <https://doi.org/10.32849/2663-5313/2020.6.47> (date of access: 02.03.2023).