

FEATURES OF DIVORCE PROCEEDINGS IN CIVIL COURTS IN UZBEKISTAN

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***Abstract.** Currently, the published statistics confirm that the number of divorces in Uzbekistan is increasing year by year. One of the reasons for the increase in early rulings in these cases, especially among young families, due to the breakdown of family relations due to various disagreements, is that some unregulated relations in this area, gaps in our legislation, errors in the application of legal norms are to a certain extent the cause. In this article, the legal system of Uzbekistan of divorce cases is analyzed based on the norms of the law, its differences from other disputes, and what aspects are paid more attention by the courts when considering these disputes. In addition, in practice, what problems arise in the process of considering divorce cases and their solutions are discussed.*

***Keywords:** divorce, termination of marriage, adjournment, issue of legality, maintenance of children.*

Divorce is one of the grounds for ending a marriage. In accordance with the norms of the Family Code of the Republic of Uzbekistan, divorce is carried out in civil registry offices if both parties (spouses) agree to it, if there are no minor children between them, and if there are no other disputes. But in all other cases these disputes are considered by civil courts. In some cases where the issue of divorce falls within the jurisdiction of the civil registry office, it can also be carried out in court, for example, if one of the spouses refuses to file an application for divorce or has the opportunity to

appear in person to file an application at the civil registry office or if he is not present to file and register the divorce.

The Matrimonial Causes Act from 1857 was the first divorce law which found the general application¹². From this period, the divorce already assumes juridical connotation, its competencies are handed over to state bodies, more specifically to the civil courts.

Courts in Uzbekistan should take into account several important aspects when considering these types of disputes.

Firstly, in accordance with Article 39 of the Family Code of the Republic of Uzbekistan, during the pregnancy of the wife and within one year after the birth of the child, the husband has no right to file for divorce without the consent of the wife. It is necessary to pay attention to this aspect when the courts accept applications for divorce. This norm is also applied to cases where the child's father is not recorded in the birth register, the child was stillborn or died before reaching one year of age. If a lawsuit is filed in violation of the above norm, the court will reject the lawsuit in accordance with Article 122, Clause 8 of the Civil Procedure Code of Republic of Uzbekistan. But this does not deprive the husband of the opportunity to file a claim again after a year. If the claim application is accepted despite this defect and it becomes known during the process of consideration of the case, the application will be left without consideration. But in this case, the wife can file a lawsuit with the court and there is no limit to this.

Second, a marriage certificate, copies of children's birth certificates, monthly salary and other income of the spouses, state tax and postage documents on the payment of expenses, evidence confirming the demands of the claim, as well as the conclusion of the reconciliation commission of the citizen assembly at the place of residence of the plaintiff, which indicates that the divorce dispute was resolved before the court, are attached.

Thirdly, according to the norms of the Law "On State Duty", a state duty in the amount of 2 times of the base calculation amount is charged for divorce petitions. Postal costs are set at no more than ten percent of the same base calculation amount for

all types of work. Failure to pay the state duty and postal costs will result in the return of the application.

Fourthly, it is necessary to pay attention to the aspects of jurisdiction in this matter. According to the general rules of jurisdiction of the court provided in Article 33 of the Code of Civil Procedure, a claim for divorce must be filed with the civil court in the place where the respondent permanently lives. But there are some exceptions. That is, if the plaintiff has minor children, as well as because of his disability or serious illness, he has difficulty going to the inter-district, district (city) court for civil cases in the place where the defendant lives, the annulment of marriage claims may also be filed in the court of the plaintiff's place of residence. The claim must be accepted in compliance with the rules of judicial procedure. If it contradicts the rules of jurisdiction, the claim will be returned. If it is known that these rules have been violated during the hearing of the case, the case must be transferred to another relevant court.

Fifth, after accepting the application for divorce, the judge must prepare it for hearing in court in accordance with Chapter XXI of the Code of Civil Procedure. In particular, in order to prepare the case for hearing in court, as a rule, he should call the other party and determine his attitude towards the application. For these purposes, the judge will hold a conversation with the parties on the issue of preserving the family. The judge also determines whether there are other disputes between the spouses that should be resolved at the same time as the divorce action, explains to the parties the right to order alimony for the support of their minor children, determines other issues that are important for.

Sixthly, according to Article 44 of the Family Code, when a husband and wife are separated from marriage by court decision, with whom their minor children will live, the procedure for paying funds for providing support to children and (or) a husband or wife who is incapacitated and in need of help, this amount can submit to the court for consideration of the agreement on the division of the joint property of the spouses. In the event that there is no agreement between the husband and wife on these

issues, as well as in the event that this agreement is found to be against the interests of the children or one of the spouses, the court:

determining with which of the parents the minor children will live after the divorce;

determining from which parent and how much alimony will be collected to provide for minor children;

at the request of a husband and wife (one of them) to divide their jointly owned property;

the wife, who has the right to receive maintenance from her husband, must determine the amount of this maintenance according to the request of the husband.

In cases where the division of property affects the interests of third parties, the court shall separate the request for division of property for separate proceedings. Also, disputes related to the transfer of property found before the marriage, bringing it into the house, and the upbringing of children should be separated into separate proceedings. It is not allowed to see such cases together.

Seventh, the court should also take action to preserve the family during the process of considering the case, and the legislation also provides several ways to ensure it in cases where it is possible to preserve the family. In other words, courts have the right to postpone the hearing of the case and appoint up to six months for reconciliation when the circumstances confirming the possibility of saving the family (the presence of children, duration of marriage, characteristics of family relations, temporary disagreement, etc.) are determined. However, it is not allowed to give this deadline for less than three months, and it is stated in the law that a deadline of less than three months is ineffective. However, the court has the right to shorten the period for reconciliation at the request of the husband and wife or one of them in cases where there are serious reasons and to consider the case until the end of this period. The issue of shortening the period for reconciliation will be resolved at the court session by notifying the parties and issuing a decision.

Eighth, according to Article 41 of the Family Code, if the court finds that there is no possibility for the husband and wife to live together and save the family from now on, it will divorce them. Temporary disagreements in marriage and disagreements between the spouses due to accidental reasons, as well as the unwillingness of one or both of the spouses to continue the marital relationship without serious reasons, cannot be sufficient grounds for divorce. In this case, if there are no sufficient grounds, the court will refuse to satisfy the claim. Another difference between divorce cases and other types of cases is that even if the claim is rejected, the parties retain the right to appeal to the court again. After six months after the decision enters into legal force, they have the right to appeal to the court with a petition for divorce.

Ninthly, it should be explained to the courts that the husband (wife) who changed his surname during the marriage has the right to remain in this surname even after the divorce. However, according to her wish, when issuing a divorce decree, the court may return her pre-marital surname. If this issue has not been resolved by the court at the time of issuing a decision, the change of surname will be resolved by the registry office at the time of registration of divorce.

During the 9 months of 2022, 45 thousand 853 divorce cases were considered by the civil courts in the courts of the first instance. Of them, 24 thousand 416 were satisfied, 18 thousand 698 were rejected, 3 thousand 649 were left unreviewed, and proceedings on 1 thousand 855 were completed.

According to Sunnat Mahmudov, a teacher of the Tashkent State Law University, some unregulated norms in our legislation cause the number of early divorces to increase. In other words, the insufficiency of the norms of the current law on divorce, which preserve family relations and limit the divorce, leads to an increase in the number of divorces among young families. Unlike ours, in the laws of countries such as Great Britain and China, it is not allowed to divorce within one year from the conclusion of the marriage. This norm is also promoted in the concept of controlling the divorce process and preserving the family. According to a 2020 change to China's Civil Code, parties will be given another thirty days to consider before formalizing a

divorce, which has led to a much lower number of divorces than in previous years, according to statistics. data confirm.

Now, if we turn to the problems arising in practice in this matter, most of these problems arise from the deadlines set by the court. There are a number of pros and cons to setting an appropriate deadline in divorce cases. The positive side is that during the period given by the court, the husband and wife will have the opportunity to reconcile with each other and restore the family. But there are many problems that arise due to this deadline. During this period, as a result of increasing disagreements, in practice, there are cases where the husband inflicts physical injuries on the wife, as a result of which the woman becomes disabled, or even leads to death. Therefore, I would like to introduce into the legislation, as a proposal, divorce without delay for the parties who apply for divorce on the grounds of such violence (if it is proved by sufficient evidence). There are norms in the legislation of Uzbekistan that women who have suffered violence can obtain a "protection warrant" by applying to the internal affairs department. But the implementation of these norms does not give the expected result. This requires further improvement of this mechanism.

REFERENCES:

1. Khemile Saliu. Study analysis on the marriage and divorce institute in normativ aspect. University of Tetova, RNM. UDC: 347.62(091). <https://eprints.unite.edu.mk/351/2/19.pdf>
2. Sunnat Mahmudov. Nikohdan ajratish muddatini o'zgartirish kerak. "Inson va qonun" gazetasi, №4. 31.04.2023.
3. Civil Procedure Code of the Republic of Uzbekistan. 22.01.2018, Number: 03/23/833/0236. <https://lex.uz/docs/-3517337>
4. Family Code of the Republic of Uzbekistan. 30.04.1998. Number: 03/23/838/0257. <https://lex.uz/docs/-104720>

5. Decision of the Cabinet of Ministers of the Republic of Uzbekistan “On measures to improve the system of protection of women and girls against violence”, Number: 3. 04.01.2020. <https://lex.uz/ru/docs/-4676892>
6. The Decision of Plenum of the Supreme Court of the Republic of Uzbekistan “On the practice of law enforcement by courts in divorce cases”.
7. <https://stat.uz/uz/matbuot-markazi/qo-mita-yangiliklar/33756-o-zbekistonda-2022-yil-davomida-qancha-nikohdan-ajralish-holatlari-qayd-etildi>