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Tetiana V. Poharchenko, Candidate of Science of Law (Ph.D.), Associate Professor, Department of International, Civil and Commercial Law, State University of Trade and Economics. Kyiv, Ukraine.
ORCID 0000-0003-0207-3468, Scopus 57221995862

Legal Consequences of Concluding a Marriage Contract in Ukraine

Abstract: The article studies theoretical and practical issues of the marriage contract in Ukraine. The study object is the legal relations of spouses during the conclusion and execution of a prenuptial agreement in Ukraine. The subject of the study is the legal consequences of entering into a prenuptial agreement in Ukraine. The purpose aims to determine, based on theoretical analysis and considering law enforcement practice, the essence of the prenuptial agreement, the legal consequences of the conclusion of the prenuptial agreement, and the identification and solution of theoretical and practical problems related to the legal implications of the prenuptial agreement under the legislation of Ukraine. The study course used general scientific and unique methods of cognition of legal phenomena: historical, normative-comparative, dialectical method, formal-logical and others. It has been found that the central family law contract is the marriage contract of spouses, which is becoming increasingly widespread in Ukraine. The content of the marriage contract, which has certain legislative restrictions regarding the subject of the contract, is analysed. The features of the marriage contract are outlined, which indicate the difference from other types of family-law contracts that spouses can conclude. The evolution of the development of the legal regulation of the marriage contract in the territory of Ukraine is traced, and a comparative legal characterisation of the marriage contract in Ukraine and foreign countries where such restrictions regarding its content are not provided is performed. The article pays special attention to the study of the legal consequences of concluding a marriage contract in Ukraine: the features of the legal regulation of changing the conditions or termination of the marriage contract are disclosed, the procedure and grounds for recognising the marriage contract as invalid are analysed based on judicial practice, and the procedure for the spouses to refuse the marriage contract is determined.

Keywords: marriage contract, legal regime of marital property, restrictions on the content of the marriage contract, features of non-property legal relations of spouses, legal consequences of concluding a marriage contract, refusal of the marriage contract, changes in the terms of the marriage contract, termination of the marriage contract, recognition of the marriage contract as invalid.

Тетяна Віталіївна Погарченко, кандидат юридичних наук, доцент, кафедра міжнародного, цивільного та комерційного права, Державний торговельно-економічний університет. Київ. Україна.
ORCID 0000-0003-0207-3468, Scopus 57221995862

Правові наслідки укладення шлюбного договору в Україні

Анотація: Стаття присвячена дослідженню теоретичних та практичних питань шлюбного договору в Україні. Об'єктом дослідження є правовідносини подружжя під час укладання та виконання шлюбного договору в Україні. Предметом дослідження є правові наслідки укладення шлюбного договору в Україні. Метою дослідження є визначення на основі теоретичного аналізу та з урахуванням правозастосовчої практики сутності шлюбного договору, правових наслідків укладення шлюбного договору, виявлення та вирішення теоретичних та практичних проблем, пов'язаних із правовими наслідками шлюбного договору за законодавством України. У процесі дослідження були використані загальнонаукові та спеціальні методи пізнання правових явищ: історичний, нормативно-порівняльний, діалектичний метод, формально-логічний та інші. З'ясовано, що основним сімейно-правовим договором є шлюбний договір подружжя, який в Україні набуває все більшого розповсюдження. Проаналізовано зміст шлюбного договору, який має певні законодавчі обмеження стосовно предмету договору. Окреслено ознаки шлюбного договору, які вказують на відмінність від інших видів сімейно-правових договорів, що можуть укладати подружжя. Простежено еволюцію розвитку правового регулювання шлюбного договору на території України та здійснено порівняльно-правову характеристику шлюбного договору в Україні та зарубіжних державах, де не передбачено таких обмежень стосовно його змісту. Особлива увага у статті приділяється дослідженню правових наслідків укладення шлюбного договору в Україні: розкрито особливості правової регламентації зміни умов або розірвання шлюбного договору, на підставі судової практики проаналізовано порядок та підстави визнання шлюбного договору недійсним, а також визначено порядок відмови подружжя від шлюбного договору.

Ключові слова: шлюбний договір, правовий режим майна подружжя, обмеження щодо змісту шлюбного договору, особисті немайнові правовідносини подружжя, правові наслідки укладення шлюбного договору, відмова від шлюбного договору, зміна умов шлюбного договору, розірвання шлюбного договору, визнання шлюбного договору недійсним.

Abbreviations:

CC is the Civil Code of Ukraine,

FC is the Family Code of Ukraine,

SC is the Supreme Court of Ukraine,

SCRA is State Civil Registration Authority.

Introduction

According to the Constitution of Ukraine, the principles of marriage and family regulation are determined exclusively by the laws of Ukraine. Thus, the state ensures the family's protection and guarantees equal rights and responsibilities to each spouse in marriage and family (*Constitution of Ukraine, 1996*). The material foundation of the well-being of any family lies in the spouses' ownership of property, which serves to meet their personal and everyday needs. Therefore, establishing an effective mechanism for legally regulating property relations between spouses is very important. Accordingly, the legislation of many countries, including Ukraine, recognises the institution of the prenuptial (marital) agreement as an alternative way to regulate the relationship between husband and wife. Despite the specific legal regulation of this institution in different countries, its purpose consistently lies in enabling spouses to settle their relationships according to their individual needs. At the same time, the legislation imposes specific requirements on the

content of the prenuptial agreement, which to some extent limits the parties' freedom of will. Nevertheless, this type of agreement remains relatively common in foreign countries.

As for Ukraine, statistics show that the number of concluded prenuptial agreements decreased at the beginning of the full-scale war. However, it subsequently began to increase, despite a general decline in registered marriages. In 2024, 2,762 prenuptial agreements were concluded in Ukraine, which is 7% more than in 2023, although still not as many as before the start of the full-scale war. For comparison, in 2021, Ukrainians concluded 4,099 prenuptial agreements. There is one prenuptial agreement per 54 registered marriages (*Unified web portal…, n.d.*).

The theoretical basis for researching the legal aspects of the prenuptial agreement consisted of the works of scholars such as V.A. Vatras, H.O. Garo, K.A. Kazaryan, O.M. Kalitenko, V.O. Kozhevnikov, O.S. Oliinyk, O.I. Safonchyk, V.I. Truba, Y.V. Fliazhnykova, etc. An analysis of the works by I.V. Zhilinkova was also conducted, as she was one of the first to classify the property agreements between spouses and identify and characterise the prenuptial deal within the system of spousal contracts (i.e., family law rather than civil law agreements) (*Vatras, 2024, p. 20*).

However, the definition and features of the prenuptial agreement, and thus its legal nature, remain a matter of scholarly debate. Some scholars consider the prenuptial agreement to fall strictly under civil law, since it is subject to the general legal provisions concerning transactions. Others, however, regard the prenuptial agreement as part of family law in the part that does not regulate property relations between spouses. This, in turn, leads to contentious issues in the practical application of certain legal norms regarding prenuptial agreements.

Clarifying the content of the prenuptial agreement is also necessary since the proper specification of its terms determines the legal consequences of its conclusion. To avoid invalidating contractual legal relations in the future, it is necessary to strictly adhere to the legal provisions concerning the limitations of the parties' rights under the agreement.

Therefore, the chosen research topic is highly relevant both from the standpoint of family law doctrine and in developing proposals for improving family legislation and its application in practice. This includes clarifying the content of the prenuptial agreement, determining its features and legal nature, regulating changes or termination of the agreement, defining the procedure and grounds for declaring the agreement invalid, and regulating the legal consequences of a couple's refusal of the agreement.

The study object is the legal relationship between spouses during the conclusion and implementation of a prenuptial agreement in Ukraine.

The study subject is the legal consequences of concluding a prenuptial agreement in Ukraine.

The study aims to determine, based on theoretical analysis and considering legal practice, the essence of the prenuptial agreement and the legal consequences of its conclusion, and to identify and resolve theoretical and practical issues related to the legal implications of a prenuptial agreement under Ukrainian law.

To achieve this purpose, specific tasks have been set:

- clarify the role and place of the prenuptial agreement in the system of family law agreements;
- analyse the content of the prenuptial agreement, to define the limitations of its content;

- trace the evolution of legal regulation of prenuptial agreements in Ukraine;
- provide a comparative legal analysis of prenuptial agreements in Ukraine and other countries;
- characterise the legal consequences of concluding such agreements;
- develop proposals and practical recommendations for improving the current legislation concerning the research topic.

The study course used general scientific and unique methods of understanding legal phenomena, such as historical, normative-comparative, dialectical, formal-logical, and others.

Results

Legislative Regulation of the Content of a Prenuptial Agreement

Family and civil legislation generally govern the legal regime of matrimonial property in Ukraine, and in cases involving a foreign element in the marriage relationship, by private international law. Under the so-called statutory legal regime, the following principles apply: the principle of joint ownership of property acquired by the spouses during the marriage, and the principle of separate ownership of property that each spouse possessed before the marriage registration. However, the spouses may change these principles by mutual agreement, in which case a contractual legal regime of property applies to their assets.

The FC allows spouses to enter into any agreements between themselves that are not prohibited by law. These agreements may concern property that is jointly owned as well as property that constitutes the personal private ownership of each spouse. The Ukrainian legislature provides for the following types of agreements through which spouses may alter the statutory legal regime of their property:

- Agreement on the division of matrimonial property (Art. 69 & 70, FC);
- Agreement on the procedure for using property jointly owned by the spouses (Art. 66, FC);
- Agreement on the transfer by one spouse to the other of their share in the joint ownership without allocation of this share (Par. 2 of Art. 64, FC);
- Agreement on the allocation of one spouse's share of real estate from the total matrimonial property (Par. 2 of Art. 69, FC);
- Agreement on maintenance (Art. 78, FC) (this concerns obligations, a type of matrimonial property relationship);
- Agreement on the termination of the right to maintenance in exchange for the acquisition of property ownership (Art. 89, FC);
- Prenuptial (marital) agreement (Art. 92–103, FC) (*Family Code of Ukraine, 2002*).

Special attention should be paid to these agreements, as they may incorporate all the conditions in individual contracts between spouses and additional terms. This makes the prenuptial agreement a more universal instrument for settling matrimonial and family matters, including future-acquired property. For this reason, legal scholars often classify this type of agreement as a mixed contract (V.O. Kozhevnikova, H.O. Garo, etc.) (*Kozhevnikova, 2016, p. 443*).

However, there is no unified opinion in legal doctrine regarding the legal nature of the prenuptial agreement. Some scholars classify it as a civil-law agreement, others as a family-law agreement, and others as a mixed type. As aptly noted by I.V. Zhilinkova, family legislation lacks general provisions on contracts, unlike civil law, which necessitates constant reference to contractual norms set out in the CC. The scholar suggests a detailed development of specific contractual constructs within the family law domain (*Zhilinkova, 2011, p. 94*).

V.A. Vatras, who researched the place of contracts within the system of family law sources, noted that family-law agreements have their distinctive features that set them apart from civil-law contracts, and that the prenuptial agreement is the principal family-law contract (*Vatras, 2019, p. 117*).

Scholar H.O. Garo explains the prenuptial agreement's mixed nature by stating that it is, on the one hand, a family-law contract with civil-law features and, on the other, a civil-law contract with family-law specifics (*Garo, 2012, p. 14*).

The prenuptial agreement differs from other types of spousal contracts in that it may also be concluded by engaged couples, i.e., from the moment they submit an application for marriage registration to the civil registration authority until the moment of official registration of the marriage (*Family Code of Ukraine, 2002*).

Thus, the parties (spouses or engaged couples) may include in the prenuptial agreement terms regarding: the legal regime of the spouses' property (both existing and future-acquired), the use of property (including housing, by the spouses or other family members), and the provision of maintenance (regardless of disability or need for financial support). Moreover, as noted by O.I. Safonchyk in her research on prenuptial agreements and IT, the parties may also regulate the legal regime of virtual property in the agreement (such as virtual intellectual property objects, electronic money, etc.), by analogy with the regulation of real property owned by the spouses (*Safonchik, 2017, p. 85*).

All of the above should make this type of agreement quite popular among married couples and engaged partners who seek to protect their property rights. However, it should be noted that the legislature has established specific prohibitions (limitations) regarding the content of a prenuptial agreement. For instance, its terms may not place one spouse in a highly unfavorable financial position or diminish a child's legal rights (Par. 4 of Art. 93, FC), and Par. 8 of Art. 7 (FC) states that family relationships must be regulated with the maximum possible consideration of the interests of disabled family members and children (*Family Code of Ukraine, 2002*). In this way, the legislator ensures the protection of the legal rights and freedoms of the most vulnerable family members.

Additionally, unlike other contracts, spouses cannot use a prenuptial agreement to transfer real estate ownership or other property subject to state registration (*Family Code of Ukraine, 2002*). As V.O. Kozhevnikova correctly concluded about the freedom of contract between spouses, the legislator has imposed some limitations on the parties' rights, which underscores both the legal significance and the practical direction of such agreements (*Kozhevnikova, 2016, p. 459*). Moreover, Y.V. Fliazhnikova highlights the following disadvantages of entering into a prenuptial agreement: the emotional atmosphere of mistrust between partners and the time and financial costs for the parties (*Flyazhnikova, 2024, p. 252*).

Furthermore, under Ukrainian family law, parties to a prenuptial agreement cannot use it to regulate their non-property relations, nor the personal non-property ties between them and their children (*Family Code of Ukraine, 2002*). This restriction remains a subject of debate in family law doctrine. Some scholars argue for the appropriateness of allowing prenuptial agreements to cover the spouses' non-property rights. In particular, O.M. Kalitenko emphasises that it is entirely feasible for a prenuptial agreement to regulate not only property relations but also personal non-property matters, given the substantial legal recognition and regulation of personal non-property spheres in individuals' lives today (*Kalitenko, 2011, p. 307*).

However, the constitutional guarantee of the inviolability of personal non-property rights of spouses must be considered, making the legislative prohibition of contractual regulation of such rights reasonably justified. Nevertheless, this does not prevent spouses from including in the agreement provisions for compensation for moral harm caused by the improper behavior of the other spouse (e.g., infidelity or actions harmful to the family's interests) (*Safonchik, 2017, p. 84*).

At the same time, many foreign legal systems do not impose such prohibitions. This, in turn, may be seen as appropriate, especially in Muslim countries where the legislation does not adequately ensure the principle of gender equality in family relationships. For example, in some Muslim states, a prenuptial agreement may be used to prohibit polygamy (by stating that the husband will not marry other women while in the current marriage), to grant the woman the right to initiate divorce without citing statutory reasons, and to prohibit the husband from restricting the wife's employment or travel outside the country (*Menjul, 2019, p. 72*). Such provisions allow women to establish conditions that promote equality in family relations through a prenuptial agreement. However, women often do not take advantage of these opportunities in these countries due to traditional and religious norms.

In Anglo-Saxon legal systems and European countries following the Romano-Germanic legal tradition, the prenuptial contract is relatively standard. Legislation allows spouses (or fiancés) to include terms not only regarding property relations but also personal non-property matters, such as child-rearing, fidelity in marriage, family behaviour rules, and more (*Kazaryan, 2016, p. 77*).

Therefore, although a prenuptial agreement can address a wide range of family issues important for cohabitation, spouses primarily use this type of contract to regulate property relations in the event of divorce, aiming to avoid lengthy court proceedings and preserve amicable ties.

Development of Ukrainian Legislation on Prenuptial Agreements

As for Ukraine, it can be stated that as early as the 12th century, the practice of concluding a marriage agreement before the wedding was widespread on its territory. However, it was referred to as a "riadna hramota" (or "riadny zapis"), and was concluded by the parents or matchmakers of the future spouses. Later, such agreements came to be called "marriage letters" or "dowry letters," and during the period of the Grand Duchy of Lithuania, these written agreements were known as a "marriage agreement" or "marriage intercession." (*Kazaryan, 2016, p. 63*)

However, during the Soviet era, the imperative method of regulating marital and family relations prevailed, and as such, the marriage contract was not used to govern the relationship between spouses. Because of the above, it can be said that the history of the institution of the marriage contract in Ukrainian legislation is relatively short. Only after Ukraine gained independence did provisions for the legal regulation of marriage contracts appear in the bill. Thus, in 1992, a provision (Art. 27-1) was added to the then-current Code on Marriage and the Family of the Ukrainian SSR, allowing individuals entering into marriage to agree on resolving family life matters related to the property rights and obligations of the spouses (*On Amendments and Additions…, 1992*). At the same time, the legal consequence of concluding such an agreement was the establishment of a special legal regime for the property of the husband and wife after marriage registration. Although with the adoption in 1993 by the Cabinet of Ministers of Ukraine of a resolution approving the procedure for concluding a marriage contract, its subject matter also included personal non-property rights and obligations (*On the Procedure…, 1993*). Therefore, a legal conflict existed between the regulatory legal acts mentioned above. Only the FC, which came into force in 2004, clearly stated that the subject of a marriage contract may include only the property rights and obligations of the spouses.

Thus, as of now, the main provisions regarding the regulation of the marriage contract (though not the only ones, as Ukrainian family law allows for the subsidiary application of civil law norms) are contained in Art. 92–103 of the FC, where various legal consequences of concluding a marriage contract are also specified (*Family Code of Ukraine, 2002*).

Characteristics of the Legal Consequences of Entering into a Prenuptial Agreement

With the help of Ukrainian legislation and judicial practice, it is necessary to consider the legal consequences of concluding a prenuptial agreement, which takes effect from the moment it comes into force. According to the provisions of Art. 95 of the FC and Clause 2 of Chapter 5, Section II of the Procedure for Notarial Acts by Notaries of Ukraine, approved by the Order of the Ministry of Justice of Ukraine dated February 22, 2012 No. 296/5, the moment a prenuptial agreement comes into force depends on the legal capacity of the parties on the day of its conclusion and notarisation (*Procedure…, 2012*; *Family Code of Ukraine, 2002*).

If spouses agree, it comes into force immediately after being notarised. If fiancés agree, it also requires notarisation but becomes effective from the moment of marriage registration by the SCRA body. If one (or both) of the fiancés is a minor who has received court permission to marry before reaching the age of majority (16–18 years), a written statement from the parents or guardian is additionally required, with the authenticity of their signatures certified by a notary.

At the same time, the date the prenuptial agreement enters into force must be stated in the agreement itself. It may also specify the general term of its validity, the effect of the agreement or specific clauses after the termination of the marriage, and the duration of particular rights and obligations (*Procedure…, 2012*). Once the prenuptial agreement takes effect, it applies to the property relations of the spouses that exist at that time and those that arise in the future. In addition, other legal consequences of such an agreement may arise. For example, the law allows the parties, during the validity of the agreement, to:

(1) amend its terms;
(2) terminate the agreement;

(3) cancel it; or
(4) declare it invalid (*Family Code of Ukraine, 2002*).

Scholars propose different—and sometimes radically divergent—interpretations of the content of these legal consequences. This, in turn, negatively affects the practical application of these legislative options by spouses. Therefore, it is appropriate to make a comparative analysis of all legal consequences. For instance, the amendment of the agreement, refusal of the agreement, and termination of the contract all share the following features:

First, the law prohibits unilateral action by either party; mutual consent is required. Second, if mutual consent is absent, the agreement can only be amended or terminated through court proceedings (refusal is only possible by mutual consent). Third, only spouses (not fiancés or former spouses) currently in a registered marriage may amend, refuse, or terminate the agreement. Fourth, all such actions must be formalised through a notarised agreement signed by both parties.

The law distinguishes among these legal consequences: according to the law, a court may amend the agreement unilaterally at the request of one party only if the party's interests (or those of children or incapacitated adult sons/daughters) require it. These interests must be significant, and the claimant has the burden of proof (*Family Code of Ukraine, 2002*).

The concepts of "termination" and "refusal" of a prenuptial agreement remain a matter of scholarly debate. Some consider them identical in consequence, while others distinguish between them. O.S. Oliynik notes that in both cases, the agreement ceases to apply in the future while preserving the legal repercussions that arose during its validity, unlike declaring it invalid, which entails bilateral restitution and invalidity from the moment of conclusion (*Oliynik, 2010, p. 120*). However, this cannot be fully agreed with, since Part 2 of Article 101 of the FC allows the parties, when refusing the agreement, to determine whether it should be considered terminated from the date of submission of the refusal to the notary or from the date of the agreement's conclusion. In the latter case, the parties may apply bilateral restitution, as in invalid contracts (i.e., each party returns everything received under the agreement, including financial support received by one spouse). Thus, refusal of a prenuptial agreement is an option for spouses to apply the consequences of an invalid agreement without the grounds for formally declaring it invalid. This is also supported by Part 4 of Article 214 of the Civil Code, which states that "the legal consequences of refusal from a transaction are established by law or by the agreement of the parties." (*Civil Code of Ukraine, 2003*)

Regarding the termination of a prenuptial agreement, it is necessary to understand the relationship between the concepts of "termination" and "cessation" of the agreement. The latter is broader and includes termination as one of the means. The following are grounds for cessation of a prenuptial agreement:

(1) dissolution of marriage (unless the agreement contains clauses that remain in effect afterward, e.g., division of property or financial support);
(2) termination of the marriage due to the death (or declaration of death) of one or both spouses;
(3) termination of the agreement by mutual consent or unilaterally by court order (the latter only in cases of substantial grounds such as impossibility of execution);
(4) expiration of the term stipulated in the agreement.

In all such cases, the moment of cessation coincides with the moment of the underlying cause. However, if the agreement is declared invalid, it is considered terminated from the moment of its conclusion.

The FC refers to civil legislation when regulating invalid prenuptial agreements. According to Art. 103 of the FC, a prenuptial agreement may be declared invalid by the court on the grounds established in the CC. Additionally, a claim for invalidation may be filed by one of the spouses or by another person whose rights or interests are violated by the agreement (*Family Code of Ukraine, 2002*).

When analysing civil law on invalid transactions, the following provisions of the Civil Code (CC) are worth noting: declaring a transaction invalid is one of the means of protecting civil rights and interests through court proceedings. A transaction is presumed valid unless its invalidity is directly established by law (a void transaction) or unless it is declared invalid by a court (avoidable transaction). Grounds for a void transaction include violation of the conditions of validity specified in Art. 203 of the CC and other provisions, including the FC (*Civil Code of Ukraine, 2003*).

Based on the above, the grounds for declaring a prenuptial agreement invalid may include:

(1) the agreement contradicts legislation, public interest, or moral principles;
(2) lack of free will of the parties (fiancés or spouses), including cases of mistake, fraud, coercion, or difficult circumstances;
(3) the agreement is fictitious and not intended to create actual legal consequences;
(4) one or both parties lack the required civil legal capacity;
(5) the agreement, concluded by parents (adoptive parents), violates the rights or interests of minor or incapacitated children;
(6) the agreement contains terms regulating personal non-property relations between spouses or between spouses and their children;
(7) the agreement diminishes the rights of a child or places one spouse in a highly disadvantageous financial position;
(8) the agreement includes provisions transferring real estate or other property subject to state registration into one spouse's ownership.

It is worth noting that the concept of "extremely disadvantageous financial position," as used in the agreement, is considered evaluative in judicial practice and must be proven by the party making the claim. V.I. Truba argues that such legal constructs are unviable and fail to protect the parties' rights effectively, suggesting that evaluative terms are worth avoiding in legal definitions (*Truba, 2014, p. 88*). However, this view is debatable. For example, in case No. 755/5802/20, the SC ruled on May 10, 2022, that both the existence of grounds for invalidating a contested prenuptial agreement and the violation of a subjective private right or interest must be determined at the time of the agreement's conclusion. The court disregarded the plaintiff's argument that the sole marital property was granted to the other party under the agreement, as this property had been acquired in the other party's name after the agreement's execution, and the plaintiff was fully aware of its terms. Thus, the plaintiff failed to prove grounds for invalidation (*Supreme Court Ruling…, 2022*).

Part 5 of Art 93 also requires clarification of the FC, which prohibits the transfer of ownership of real estate or other registrable property to one spouse under a prenuptial

agreement. In case No. 200/1546/19, the SC denied the request to declare the prenuptial agreement invalid, as it did not transfer property ownership but merely outlined how property would be divided in the event of divorce. The court also noted that Part 5 of Art. 93 of the FC applies to personal property already wholly owned by one spouse and transferred to the other under the agreement (*Decision…, 2021*).

As for the failure to notarise a prenuptial agreement results in its invalidity (voidness), which is directly prescribed by law and does not require a court decision. However, under civil law, a court may recognise such an agreement as valid if the parties agreed on all essential terms (confirmed by written evidence), have already fully or partially performed it, and one party avoided notarisation. After such a court decision, notarisation is no longer required.

Discussion

Despite the significant number of scholarly works devoted to the institution of the prenuptial agreement, specific issues remain insufficiently explored within the doctrine of family law. Over time, judicial practice continues to evolve, with courts offering clarifications on the interpretation of family law provisions regarding the legal regulation of prenuptial agreements—provisions that themselves are subject to change.

Further study is needed on the legal nature and content of prenuptial agreements, since the legal consequences of entering into such an agreement depend on the specific terms included. Additional research is also required concerning the spouses' right to withdraw from a prenuptial agreement, particularly concerning the right to terminate such an agreement.

The understanding of the term "extremely disadvantageous financial position" remains a subject of debate, although judicial practice has attempted to provide answers to this issue. Moreover, the grounds for declaring a prenuptial agreement invalid also require deeper examination, especially in cases involving the transfer of real estate or other property subject to state registration to one of the spouses under the agreement.

Conclusion

Thus, the prenuptial agreement is the primary family-law contract between spouses, becoming increasingly widespread in Ukraine. Despite the decline in registered marriages in recent years, statistical data show a growing number of prenuptial agreements being concluded. The mixed nature of the prenuptial agreement indicates that it is a family-law contract with specific characteristics of a civil-law contract. This agreement may regulate only the parties' property relations. The parties may be spouses or engaged couples, distinguishing this agreement from other marriage and family contracts.

Once a prenuptial agreement enters into force, it applies to the spouses' property relations existing at that time and to those that may arise in the future. This includes future maintenance obligations and property to be acquired during the marriage.

An analysis of the legal norms of family and civil law leads to the conclusion that the legal consequences of terminating or withdrawing from a prenuptial agreement are not identical. The parties may withdraw from the prenuptial agreement only by mutual consent, and the date from which the agreement will be considered terminated is determined at their discretion. This allows

the parties, upon withdrawal, to apply bilateral restitution as if the contract had been declared invalid.

Analysing judicial practice, it can be concluded that in cases where a prenuptial agreement is declared invalid due to provisions that place one spouse in a highly disadvantageous financial position, the decisive factor is that such a position must exist at the time of the agreement's conclusion—not as a result of the acquisition of property during the marriage.

Courts also point out that under a prenuptial agreement, it is impossible to transfer sole ownership of real estate (or any other property subject to state registration) to one spouse that the other privately owns. In other words, spouses may only establish the procedure for dividing such property in the event of divorce.

Conflict of interest

The author declares that there is no conflict of interest.

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