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PROCEDURE FOR STATE REGISTRATION OF MARRIAGE WITH A MILITARY SERVANT UNDER THE CONDITIONS OF MARITAL LAW

The introduction of martial law in Ukraine by Presidential Decree N 64/2022 of February 24, 2022 entailed the need to amend most of the regulatory acts and legal procedures [1]. This need has not escaped the field of family law.

As a general rule, the state registration of marriage is regulated by Chapter 4 of the Family Code of Ukraine (hereinafter – the FC of Ukraine) and does not provide for any specifics regarding the registration of a marriage with a military serviceman or with a representative of any other profession [2]. However, this rule has found its exception.

According to the provisions of the FC of Ukraine, the state registration of marriage must take place with the mandatory presence of the bride and groom, and the participation of a representative is not allowed [2]. This condition prevents marriages from being concluded against the will of one or both brides. In the absence of the bride and/or groom during the state registration of marriage, such a marriage is considered uncompleted in accordance with Article 48 FC of Ukraine. However, during the period of martial law, the issue of the personal presence of a serviceman is not only difficult, but in some cases even impossible.

Taking into account the above, the Cabinet of Ministers of Ukraine decided to settle this problem by Resolution N 213 “Some issues of state registration of marriage under martial law” (hereinafter referred to as the Resolution), which was adopted on March 7, 2022 [3].

Thus, in order to carry out the state registration of a marriage, it is enough for a serviceman to submit a corresponding application to the immediate commander (supervisor). The latter will certify the authenticity of the signature and ensure the

transfer of the application to the department of state registration of civil status acts, where the application of the bridegroom/bride was submitted in person.

As for the content of such an application, the serviceman must indicate information about himself and the person with whom he/she intends to register a marriage [3]. Such information includes: surname, first name, patronymic (if available). If the future spouse (or one of them) wishes to change the surname, this must also be indicated in the application.

The Resolution clearly states that submitting an application to the immediate commander is confirmation of consent to marriage registration [3]. However, if the application for marriage registration is considered as consent, then why does the law not allow such a marriage to be concluded in a peacetime? Will such a marriage be considered unconcluded if, after submitting an application to the commander and registering the marriage, the serviceman declares his/her lack of consent? And also the question arises, how to withdraw the application after it has been certified by the manager?

In our opinion, in order to solve the above-mentioned issues, the procedure for state registration of such a marriage requires a more detailed legal regulation and a separate study.

The marriage certificate drawn up by the commander is a fact of marriage registration in accordance with the Resolution. Such an act is sealed with the seal of the relevant formation. Compilation of such an act can also take place without the personal presence of one or both brides and grooms using available means of video communication with one of the grooms who is absent, or with both absent brides [2].

It is worth noting that the effect of this Resolution applies not only to military personnel, but also to policemen, rank-and-file and senior members of the civil defense service, etc. This procedure of marriage registration is possible only during the period of martial law.

Thus, we can conclude that the procedure for concluding a marriage with a military serviceman, as well as with the persons specified by the Resolution, contains a number of features. Thus, the absence of a serviceman's bride/groom at the time of state marriage registration is allowed. However, it should be remembered that such a rule

does not apply in peacetime. The procedure of state registration of such a marriage needs improvement, because the Resolution does not provide for legal settlement of a number of issues.

Literature

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