

children in the trials stated in the United Nations Convention «On the Rights of the Child» 1989, who participants are both Ukraine and England. Article 12 obliges the member states that joined the Convention «to provide a child capable of forming his/her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity». For this purpose the child, in particular, is given the opportunity to be heard in any judicial and administrative proceeding affecting him/her, either directly or through a representative or an appropriate body, in a manner consistent with the procedural rules of the national law.

In contrast to the Ukrainian legislation, where judges have the right to consider disputes arising from different branches of law, English law defines special correspondence of judges to conduct family proceedings. Family proceedings should bring together a diverse range of experts and professionals who can and shall want to work closely together to understand the individuality of each, in order to enhance their role: «skills and relations of people, at least, are as important as legislation and proceedings».

Therefore English legal system is formed in a manner where it is of paramount importance to consider family law as a regulator of specific kinds of social relations. When resolving family disputes emphasis is put on the possibility to settle the dispute by the parties themselves or through alternative ways of solving. Hence are put forward important criteria for judges who may consider the dispute arising between the parties to family relations. Several reforms have been accomplished that led to direct participation of children in the trial and freedom of expression. To realize this possibility, special bodies were created that contribute to more comfortable bringing a child to the trial.

Consequently, management and resolution of family disputes is possible by alternative, out of court means, such as negotiation and mediation. Today, mediation has become widespread, while going through some criticism and public rejection.

When in 1989, at the initiative of several lawyers mediation began to be used in England and Wales, this was quite critically recognized both by public and professional lawyers. Thus the idea of the alternative method of resolving conflicts and disputes between the parties required the recognition and promotion among the public and in terms of professionals. To this end the Center for Effective Dispute Resolution (CEDR) was founded. As a non-profit organization it was engaged in the development and dissemination of the idea of using mediation to resolve disputes. The Centre for Effective Dispute Resolution trained and accredited mediators, offered a number of procedures

for resolving disputes, such as expert decision, prior neutral evaluation, an independent intervention.

On this basis another organization was founded – the Civil Mediation Council, which united prominent public figures, lawyers, judges in retirement. The main purpose of this organization was spreading mediation among lawyers to dispel doubts about the effectiveness of alternative methods of dispute resolution in respect of the British legal practice. However, the British lawyers objected, stating that in their opinion for the parties who argue mediator hardly can be more respectful than judge. For that reason, the retired judges who had considerable experience and required knowledge of dispute resolution were engaged as mediators. At this stage the mediation process is still voluntary.

In 2011, the law «On the family», 1996 was amended. It defined mediation as a necessary procedure for dissolution of marriage, and resolution of other disputes arising from family relationships. According to these amendments parties to the dissolution of marriage, must first apply to the mediator, who should help them resolve the conflict without going to court. If the parties insist on trial, they must submit evidence to the court that they were trying to solve family conflicts themselves. As one of the means of drawing attention to mediation the financial issue of judicial and alternative dispute resolution was covered in public. Statistical data provided concluded that the process of dispute resolution through mediation is less expensive and takes less time than a trial. Dispute resolution services by a mediator take an average of 110 days and cost 535 pounds, whereas the dispute resolution in the court takes 435 days and costs 2,823 pounds. Therefore, the difference is quite significant. The mentioned length of the family disputes trial is caused by two related factors. On the one hand during the trial parties often might not reach an agreement for the first time, as a result, the process is delayed. On the other hand, the courts not always cope with a number of cases that they have.

In 2004 the National Mediation Helpline was launched, which later in 2011 was renamed the «Civil catalogue of mediators». The purpose of the hotline was to create opportunities to resolve the dispute between the parties that do not want to compromise or meet in person to resolve the dispute. In addition, the practice of mediation on the phone is spread; there is even a website with the information on application the mediation procedure and the list of mediators. Those interested may obtain information and professional advice.

In 2006-2007, the Royal Judicial Service held two events in the «mediation weeks» to support the development of mediation. These activities

are conducted to an increasing interest for such alternative dispute resolution. The greatest part of disputes are resolved through mediation, derived from civil and family relationships. Therefore, involvement of society in the review process of mediation is one of the areas of development and functioning of the institution as a whole and mediation as a method of alternative dispute resolution.

Compared to Ukraine mediation in England imparts greater value. This is due to the impact of totally different legal systems and mentality. Moreover the legal system of England is influenced by the European Union, where the United Kingdom is a party. Under the European Parliament Directive «On certain aspects of mediation in civil and commercial matters» mediation is defined as a voluntary instrument, where parties themselves, at their own discretion express wish of mediation and have the right to terminate it at any time. However, the Directive does not prevent EU member states to introduce mediation as compulsory at national level.

Concerning the implementation of decisions taken during a mediation, the EU Directive obliges the states parties to ensure parties the possibility to demand execution of a written agreement, reached by the parties as a result of a mediation. As a result,

failure to perform the agreement gives the parties the indisputable right to apply to the court for protection.

Thus, summing up the abovementioned, we can draw attention to the fact that family disputes in England, as well as in Ukraine, for the most part are subject to regulation in the judiciary as well as disputes arising from the other social relations. County courts and Magistrates' courts adjudicate disputes between parties to family relations as courts of first instance. If the dispute involves a foreign element or a complicated set of circumstances, it can be considered and decided by the High Court, namely Family Division. The judges hearing family disputes are nominated by mandatory requirements according to their skills and professional knowledge in family law. A child and his/her interests are of paramount importance for the court in matters. Involving children in the trial to enable them to clarify their views and attitudes to the current situation is quite common. Along with the judicial resolution of family disputes there is an alternative method of conflict resolution and satisfaction of the interests of parties to family relationships. As for mediation, its use is rational, and will simultaneously let remove the burden of the judiciary, settle the dispute, and satisfy the interests of the parties as much as possible.

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FEATURES OF FAMILY DISPUTES UNDER ENGLISH LAW

The article discusses and analyzes the specifics of legal regulation of family disputes under legislation of England. It was stated that English law pays special attention to the judicial process of divorce, division of marital property and affairs that affect the direct interest of a child. In addition, in the article significant attention is paid to such settlement and resolution of family disputes, which can be carried out in alternative, extra-judicial means, such as negotiation and mediation. It was also considered the regularity and features of special state agencies, whose competence is settlement of disputes between members of family relations.

Keywords: family law, civil law, children's rights, the judicial system, features of the consideration of family disputes, divorce, mediation, juvenile justice.

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ОСОБЛИВОСТІ СІМЕЙНИХ СПОРІВ ЗА АНГЛІЙСЬКИМ ПРАВОМ

У статті розглянуто та проаналізовано особливості правового регулювання сімейних спорів за законодавством Англії. Так, було зазначено що англійське право приділяє особливу увагу судовому процесу розлучення, розподілу сімейного майна та справам, які безпосередньо впливають на інтерес дитини. Крім того, у статті важливу увагу приділено такому регулюванню та вирішенню сімейних спорів, яке може здійснюється альтернативними, позасудовими способами, такими як переговори та медіація. Також було розглянуто порядок та особливості спеціальних державних установ, до компетенції яких входить регулювання спорів між учасниками сімейних правовідносин

Ключові слова: сімейне право, цивільне право, права дитини, судова система, особливості розгляду сімейних спорів, розірвання шлюбу, медіація, ювенальна юстиція.

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ОСОБЕННОСТИ СЕМЕЙНЫХ СПОРОВ В АНГЛИЙСКОМ ПРАВЕ

В статье рассматриваются и анализируются особенности правового регулирования семейных споров Англии. Так, акцентируется внимание на то, что английское право обращает особое внимание судебному процессу расторжения брака, разделу имущества между супругами, который непосредственно затрагивает интересы ребенка. Кроме того, в статье особое внимание уделено такому регулированию рассмотрения семейных споров которое осуществляется альтернативными внесудебными способами, такими как медиация. Так же было рассмотрено порядок и особенности специальных государственных учреждений, в компетенцию которых входит регулирование споров между участниками семейных правоотношений.

Ключевые слова: семейное право, гражданское право, гражданский процесс, права ребенка, судебная система, особенности рассмотрения семейных споров, расторжение брака, медиация, ювенальная юстиция.