Divorce as a Way of Marriage Dissolution According to the Positive Right in Kosovo with a Comparative Overview on Albanian, French and German Legislation

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Abstract: The principle of free initiative in civil relations in general, and in those statutory in particular, enables citizens' freedom of choice in establishing statutory relations, which in this case is marriage. Having reached adulthood, all physical persons have the ability to find a person whom they want to marry, without any imposition. Marriage is an ongoing communion between a man and woman, where both have rights and where both have their obligations. Matters of marital harmpny belong to the spouses, as some of the provisions belong to the dispositive nature, so the spouses decide how to fulfill the purpose of marriage. Other family matters are of imperative nature, for which spouses can not decide otherwise, except as required by imperative provisions. The subject of research is the dissolution of marriage through divorce, from a comparative point of view. The questions we are asking in this research paper are: the causes of divorce in Kosovo, the way of divorce in Kosovo, and based on comparative research, what will be the recommendations for supplementing the legislation in the sphere of marriage and the family?

Keywords: Marriage; divorce; consequences of marriage dissolution

1. Marriage Dissolving Causes

Caring for family and marriage is of particular importance, since within it are created values that have consequences or effects on society. If family and marital affairs are treated only as something private, it would hurt and disrupt the stability of family and society in general. Therefore, the initiative of creating marriage and family is a personal, free right, but the issue of its resolution goes beyond free initiative, and imposes the fulfillment of imperative norms or conditions.

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Imperative norms are mandatory in the divorce part, as a fulfillment of the spouse's compliance component. (Podvorica, 2005, p. 121)

In the past, the causes of divorce showed the reality of time, the degree of social, economic and cultural development, starting with the most absurd ones: the lack of children, the circumstantial influence, disobedience, etc.

In the Family Law of Kosovo, it is stipulated the cause of divorce, where in Article 69 appears: The spouse may seek divorce when marital relations are seriously or persistently distorted or when for other reasons marriage is irretrievably dissolved. Causes of divorce include: unbearable life of spouses, adultery, criminal offenses against spouses' life, serious ill-treatment, deliberate and unreasonable dismissal, incurable mental illness and continued inability to act, unreasonable interruption of factual life for more than a year and divorce by mutual agreement. Also in the Family Code of the Republic of Albania, Article 132, are given causes of divorce: *Each of the spouses may seek the termination of marriage when, due to constant disputes, maltreatment, serious insults, adultery, incurable mental illness, severe criminal sentence of the spouse or any other cause that constitutes repeated violation of the obligations arising from marriage, joint livelihood becomes impossible and the marriage has lost its purpose for the spouse or the spouses.* Even in the French Civil Code, in art. 242, it is foreseen if the marriage obligations are not fulfilled so that the continuation of the conjugal life is unbearable. At the same time, in the German Civil Code, the cause of the divorce is specified in the article (Section 1565 (1) BGB). Marriage can be dissolved if relationships between husbands have become unbearable (marriage breakdown). Unbearable life implies, if the parties to the marriage can no longer coexist and if it can not be expected that the spouses will resume married coexistence. Also, the German Civil Code does not recognize as a cause for divorce only the faults of one of the spouses.[1]

Theory on divorce issues is divided into their categorization (Podvorica, 2005, p. 123): in general reasons, which are considered to be interpreted and do not stop in their decisive determination, these circumstances arise in the event that marital relations are disordered to that extent, and make the continuation of marriage impossible. These circumstances should be constant and inevitable, and of high intensity, so that the continuation of marriage is impossible. (Gashi, Aliu & Vokshi, 2013, p. 193)

[1] http://ec.europa.eu/civiljustice/divorce/divorce_ger_en.htm.

Defining the general causes in this form leaves room for interpretation, since personal reports are of such a nature that at times they can not even be decisively determined. In addition to the general causes, specific causes are explicitly defined in a manner, such as unbearable conjugal life; marital infidelity, criminal offenses against spouses, serious abuse, unreasonable abandonment, incurable mental illness, persistant inability to act, interruption of factual life for more than a year and spousal agreement for divorce. If in the agreement or in the indicment of one of the spouses, as a reason for divorci is mentioned any of the aforementioned causes, then it is easier for the judge because the only requierement is to prove that. (Gashi, Aliu & Vokshi, 2013, p. 196)

2. Principles of Divorce Procedure

Family issues, because of their inherent nature, are of a controversial nature, but based on lex species, the Family Law has an advantage in applying in disputed family affairs, and for supplementation, in the absence of FLK norms, apply provisions of the Law on Contested Procedure of the Republic of Kosovo. The procedure for divorce is initiated by a private lawsuit, or even by the joint agreement of the spouses, which may be presented as an agreement from the beginning or even later, if the claim is not contested by one of the parties. Even in the Family Code of the Republic of Albania it is stipulated that the spouses have the right to initiate the divorce proceedings, whether based on a one-sided claim or by agreement. Initiating the procedure is the equal and exclusive right of spouses. Equal in the sense that in the past, the issue of divorce was a mere male right, but now with the international convention, the Constitution of the Republic of Kosovo and the Family Law of Kosovo, a basic principle is set, the equality of the parties and their will, the construction, continuation and termination of marriage. As an exclusive right, this personal right can not be transfered nor inherited. But the second part of the provision 68 of FLK allows to continue with the divorce proceedings initiated by lawsuit, even if one or both parties have died during the procedure, so it permits the continuation of initiated procedure. An exception to the exclusivity of filing a lawsuit only by the spouses is allowed exceptionally the filing of the lawsuit by the guardian, if he/she files a lawsuit for a spouse who has mental illness or mental development, (Gashi, Aliu & Vokshi, 2013, p. 192) Article 74 of the FLK: Article 74. The custodian may file a divorce lawsuit on behalf of a spouse suffering from diagnosed mental illnesses or on behalf of a person unable to act, solely with the prior consent of the Custodian Body.

Due to the special nature of the divorce procedure, several basic principles are required: the principle of the special protection of a category of persons in the procedure; the principle of exclusion of the public; the principle of dispossession; the principle of limiting disposition to the subject of the dispute. The principle of the special protection of a category of persons during the proceedings is one of the basic requirements: in marriage children may be born, the children are considered persons who need special care in the procedure, as well as persons with a mental disability or development. Even the child's mother, during the period of pregnancy and one year after childbirth, cannot claim for divorce. Article 70 FLK: *Spouses shall not file a claim for divorce during wife's pregnancy and until their joint child becomes one year old.* Also in Article 137 of the FCRA*: - When a woman is pregnant, the court may, at her request, suspend the trial of the divorce lawsuit, but not more than 1 year from the moment of childbirth*. Probably for the majority, this implies social and judicial (Gashi, Aliu & Vokshi, 2013, p. 198) interference and obstrusion for the judge not to dissolve the marriage within these deadlines, but it is established that the condition of the woman during and after pregnancy is emotional, which also brings about a change and increase of responsibilities, and in this way could lead to the decision to divorce as a result of momental feelings. In this way, such principle fulfills one of the basic principles of family law, the principle of social protection of the family, marriage and children. Protection of children and spouses during the procedure is also guaranteed by International Conventions. (Gashi, Aliu & Vokshi, 2013, p. 198) Based on this, the judge should throughout the procedure take ex-officio care for the children and for procedural subjects that have developmental or mental disabilities. Presenting a joint spousal agreement for divorce differs when they have minor children from the presentation of the divorce agreement when the spouses do not have minor children. (Podvorica, 2005, p. 125)

At the time of submitting a joint proposal for divorce when a minor child is involved, the proposal must also include the joint agreement of the spouses regarding the minor children, like with whom will the child stay, the meetings with the other parent, the food, etc. The presentation of the agreement on the child does not oblige the court to approve it, but it must certify the request ex-officio in how to best meet the child's needs. (Gashi, Aliu & Vokshi, 2013, p. 200) If the parties have not submitted the agreement for the child, the court rejects this agreement by a ruling, as the request for the solving of the marriage by agreement is not complete. In this way the FLK: Article 70, point 2: *Together with the proposal for divorce by mutual agreement, spouses are obliged to submit a written agreement*

for care, education and maintenance of their common children as well as a written proposal on how personal contacts between the child and both parents will be guaranteed in the future.

Even during the divorce proceedings, the Court may suspend the issuance of a divorce decision in order to protect the interests of children, in this way: in Article 70, paragraph 3 of the FLK: *A divorce permit may not be granted or may be postponed even though marriage has failed only in special cases if and while the preservation of the marriage is made for specific reasons necessary for the child's interest.*

The court also ex-officio carries out temporary measures for the obligation of maintenace of children and spouses in need. In this way, Article 71 of the FLK: *During the proceedings of marital disputes, the court may, by a decision based on the lawsuit, impose temporary measures for the provision of financial support and housing for the spouse. The appeal against the decision from paragraph 1 of this Article shall not stop the execution of the decision. Another principle of the divorce procedure is the principle of exclusion of the public. Marriage as a social institution requires that it be protected from society and the state, through imperative legal norms*. Family protection must be carried out during all phases of the procedure, this is best achieved with the exclusion of the public, as spousal relationships are sensitive and very personal issues. (Gashi, Aliu & Vokshi, 2013, p. 206) In this way Article 75 of the FLK: *The public is excluded from marital dispute proceedings.* Although it is guaranteed that court proceedings are open to the public, personal integrity, honor and dignity are guaranteed values that need to be safeguarded and respected. This is guaranteed by the International Conventions, such as the European Convention on the Protection of Human Rights in Article 8. Par. 1 *Everyone has the right of respect for private and family life.* Another important principle of the procedure is the principle of dispossession. (Podvorica, 2005, p. 129) The parties to the proceedings have the right and initiative to collect facts and present them as evidence, but this principle is also combined with the principle of officiality that the court should take care of certain categories of persons, such as children. Guided by this principle, the court has the right to collect facts when this is considered reasonable. Also, during the procedure, unlike the rules of the procedure on contests, the parties have no right of access to the object of the dispute.

3. Divorce Proceedings

The divorce procedure as a contestious procedure is guided by the basic principles of the Family Law of Kosovo as a special law and the Law on Contested Procedure as a law that applies to marital disputes in the absence of provisions of the Family Law of Kosovo.

When it comes to competence, always the first to be assigned is the Court with general territorial jurisdiction, ie the place where the defendant has his or her place of residence or the Court where the spouses had their last place of residence. Article 72 of the FLK states: *In marital disputes, territorial jurisdiction other than the court with general territorial jurisdiction, competent is also the court of the territory in which the spouses have had the last joint residence. Also in the Court of First Instance, judges a panel made of a single Judge and two lay judges, while in the second instance the trial panel consists of three judges.* While the FLK defines the competence of the Court, defining in detail the quorum for trials in family affairs, the Family Code does not specify but merely mentions that the divorce proceedings are the competence of the Court to further apply the provisions of the Civil Code of the Republic of Albania. Functional competence in civil affairs stipulates that the divorce procedure goes through the following stages: *spousal reconciliation, the stage of taking precautionary measures, the stage of gathering evidence, and eventually issuing the verdict.* (Podvorica, 2005, p. 120)

For each society, the family represents an important institution, a sublime value of society. Therefore, the state also cares for its preservation, from the moment of its creation, and offers very special care even during its dissolution. Often, the decision to divorce comes as a result of the uncertainty or the effect of the moment, so the court for the purpose of eliminating these afflictions and in order to preserve this union and also for the interest of the children involved, has a legal obligation to make efforts for reconciliation of spouses. The effort must be serious and always in cooperation with other bodies, using experience, because the judge may issue a decision on divorce, only when there is no possibility for reconciliation of the spouses. (Gashi, Aliu & Vokshi, 2013, p. 211) Article 77 of the FLK states: *In the disputes of divorce, the court is obliged to try to achieve formal reconciliation. The divorce verdict is sent to the parties only after the termination of the proceedings and only if the reconciliation has not succeeded*.

During the proceedings, the court must comply with the principles set forth in Article 76 of the FLK: The verdict on divorce shall be taken after a period of reconciliation efforts, conducted by the court in separate sessions, unless:

1. one of the spouses is unable to act;

2. one or both spouses live abroad;

3. the whereabouts of one of the spouses is unknown.

The reconciliation period will allow spouses a period to review and evaluate their decision taking into account all the circumstances and consequences. Also in the Family Code of the Republic of Albania in Article 134, it is stipulated that: *In the examination of the lawsuit for the dissolution of marriage, the court initially appoints a conciliation hearing, in which the spouses must be presented personally. The judge can hear them separately each and then jointly, without the presence of their representatives. When reconciliation is reached, a record is held and the trial is dismissed for this reason.*

During the reconciliation procedure, the spouses should take part personally, as the purpose of this part of the procedure is to reconcile the spouses. In order to develop this procedure the spouses must have the capacity to act, as its absence prevents the continuation of the conciliation procedure. The court, when trying to reconcile, uses social methods, but when the spouses have children, the conciliation procedure is carried out by the guardianship body, and finally the custodian is obliged to report to the court on the procedure he or she has undertaken. Article 80 of the FLK states: *If the spouses have one or more minor children, the conciliation procedure is conducted before the Custodian Body by applying social work methods, other professional methods and using marriage and family counseling services as well as other professional institutions.* All these procedures will be carried out by the Court as long as it deems fit, but a period of time is set, which may also change because the period of conciliation which should last only up to three months, may also change. Article 83 of the FLK: The reconciliation procedure by the Custodian Body can not last more than three months, but may be continued if the spouses agree to continue such proceedings after the expiration of this term. In the Family Code of the Republic of Albania, the Court is granted a broader authorization in terms of the length of the procedure for spousal reconciliation; Article 136 of the FCRA: *The court may postpone the promulgation of the decision for up to one year, when it has not been convinced that all possibilities for reconciliation of the spouses have been used.*

The phase of the imposition of interim measures is mentioned in the principles that must be met during the divorce proceedings. In this way determines the article 139 of FCRA: *the Court, at the request of the interested party, may take provisional measures for the maintenance and education of a child, obligation for spouse maintenance when seen reasonable, for housing, as well as the administration and use of property gained in marriage, if applicable. The decision to grant provisional measures is valid until a final decision, but it can be amended or repealed by the court, when assessing the circumstances have changed or when a decision is taken on inaccurate data.*

The third stage to be met during the divorce procedure is the stage of obtaining and evaluating the evidence. While in the contested procedure the basic principle is that the parties themselves make sure to verify their facts, in the divorce proceedings the basic principle is that the court ex officio will take care of verifying the facts presented or not presented by the parties. Based on this, the Court must always take care to maintain the balance between the right of spouses to divorce. We say this because one of the basic principles is the free initiative of couples to marry but also to divorce, at the moment and for the reasons they consider reasonable. But on the other hand, there are children who are creatures that in most cases are small and need the comfort of the family, therefore the court confirms the facts even when there is no dispute between the parties, those presented by the parties during the proceedings or the joint agreement for divorce. (Gashi, Aliu & Vokshi, 2013, p. 220) In this way Article 84-85 of the FLK-: *When the procedure has started with the proposal of the spouses for divorce by mutual agreement, the facts supporting the proposal are not investigated, however, the court may decide to conduct evidentiary proceedings, as in the lawsuit for divorce, if in the conciliation procedure it is considered that for fundamental reasons the minor children seek to preserve the marriage*. If the spouses have a common child, the court may investigate the facts and apply the evidence procedure on the part of the spouse's proposal concerning the custody, education and financial maintenance of the children if it is satisfied that the parent's proposal on these matters does not provide the necessary guarantee that the interests of their minor or disabled children, by this agreement, will be adequately protected.[1]

After issuing and certifying the facts by means of evidence, the court issues a judgment. The judgment contains the possibility for the court to allow the

[1] Article 85 of FLK: The facts on which a party supports its claim in marital disputes, the Court may consider them as disputable even when those facts are not disputed between the parties.

dissolution of marriage, or not to allow the dissolution of marriage. The judgment of the court through which it permits the dissolution of the marriage entails the decision and the reasoning for deciding on the divorce. The issue of guilty plea is of a dispositive character, so the court decides only on the parties' request. Article 133 of FCRA stipulates: *the Court decides on guilt, when dissolving a marriage, only when this is required by one or both of the spouses. The enacting clause of the court's decision may also contain the decision on the mantenance of the former spouse, the personal contacts of the child, the removal of the parental right, if considered necessary for the protection of the child's interest.* (Podvorica, 2005, p. 134)

4. The Consequences of Divorce

Upon issuance of the final judgment, the marriage ends. Such effect of the verdict proves also the inability to appeal to the enacting clause of the decision by which the marriage is resolved. (Podvorica, 2005, p. 135) It is natural that from that moment the spouses are free to start a new life. This is also regulated by the Family Code of the Republic of Albania, Article 145: *In the event that the former spouses who have resolved the marriage wish to re-marry again, they must apply all the procedures necessary for the establishment of a new marriage.* Divorce has consequences of personal and material nature. Personal consequences for both spouses and personal consequences for the children. The material consequences are related to the division of property. The consequences of the personal nature are related to: the surname, the division of common property, the return of the gifts, the maintenance, the right of residence, the inheritance, the consequences for the child. (Podvorica, 2005, p. 136)

The surname is a decision that during entering into marriage the spouses decide whether they wish to keep the previous surname, or either add or take the spouses's surname. In cases when they have added or taken their spouses surname, after the divorce they are free to decide upon keeping the spouse's surname or changing it into the previous surname. If they wish to change their surname into the previous one, it should be done within six months, at the civil registrar. (Gashi, Aliu & Vokshi, 2013, p. 237) So the dispositive nature allows the parties to decide regarding their surnames.[1] Civil Code of Republic of Albania determines the

[1] Article 96 of the FLK: The spouse who at the time of wedlock has changed the surname, after the disspolution of marriage, may acquire the previous surname. The statement of acquiring of the

automaticity of obtaining the previous surname, except in the case of: Article 146 - *The spouse who, by marriage bond has changed the surname, after the divorce may use the surname that he/she had before the marriage. The court may, at the request of the spouse, and when it is in his/her own or the children's interest, allow him/her to keep the last name he/she has received by marriage.* One of the grounds for inheritance in the Law on Inheritance in Kosovo is marriage. The spouse represents the indispensable heir, who is always entitled to inheritance.[1] Therefore, based on this, divorce extinguishes the right to seek inheritance from the former spouse. (Podvorica, 2006, p. 56)

One of the consequences of divorce is also the obligation of former spouse maintenance. The fact that the spouses shared a life with all the good and bad things in it, obliges the spouses as an imperative, humane and without any compensation, to maintain the former spousewho is in need and has no material means or is unable to secure an income. Therefore, the obligation on maintenance, provides the former spouse with the material means or things which ensure further existence. In this way, also the FCRA defines the criteria for allocating material means. Article 148: The compensatory allowance is determined according to the needs of the former beneficial spouse and the incomes of the other, taking into account the situation at the moment of the marriage settlement and its duration in the foreseeable future. The duration of the awarding of the compensatory allowance is determined by the court, according to the needs of the former benefiting spouse. If the former spouse enters into a new marriage, the compensatory allowance is terminated.[2] One of the obligations is also the return of gifts. It is always compulsory to return gifts if they are of great value, but if they have little value or are given in case of profesional advancements or celebrations, they do not return. (Podvorica, 2005, p. 137)

previous surname must be given within six months of the dissolution of marriage. The statement shall be submitted with the registrar who keeps the register of marriages for the country in which the marriage was officialised, according to the residence of the claimant.

[1] Article 98 of the FLK: If the marriage is dissolved or annulled by a court decision, the spouse loses the right to legal inheritance due to the previous marriage.

[2] Article 149 of the FCRA: In determining needs and resources, the court takes into consideration:
a) the age and health status of the former spouses;
b) the time spent and what it has to spend on the education of children;
c) their professional qualification;
d) their predisposition for new jobs;
e) the rights they enjoy and those foreseen for the future;
f) their property, either as capital or as income, after the liquidation of the marital property regime.

One of the material consequnces of divorce is the division of assets between former spouses. It is known that the marital wealth is made of the common wealth that spouses create since entering into marriage and with joint work, and the separate wealth.[1] Common wealth is assumed to be equal, until it is required to be separated, whether during marriage or after its dissolution. (Gashi, Aliu & Vokshi, 2013, p. 229) Based on this, the issue of asset allocation may happen during marriage, or even as a result of a joint agreement called a contract for the division of assets that is also mentioned by FCRA: Article 108: *Spouses, in the marriage contract, may change the legal union by agreement, which should not contradict Articles 66 and 67 of this Code. Spouses may agree that: a) the union includes movable property gained before marriage and gains from personal property during marriage; b) to amend the rules regarding administration; c) have unequal parts; d) to have a universal union between them. The rules of the legal union remain applicable to all points that have not been the subject of a marriage contract between the parties.*[2]

When dividing assets, the Court always takes into consideration, the need of spouses for items belonging to the profession, the affectionate values, and also the existence of any agreement on the administration of the joint property, also taking into account existence of any debts of the spouses, the right of the pre-emption of the former spouse, as a right of purchase priority. (Gashi, Aliu & Vokshi, 2013, p. 230) During the asset allocation, the court, based on Article 89 and 90 of the FLK, determines the division of the hereditary assets: The division of the joint assets of spouses may be required during marriage and after its termination by divorce. Article 90: *In the case of the division of the common assets, the debt of the common asset shall be calculated on the part of each spouse.*[3]

The consequences of the divorce are also reflected in the right of residence, which as a claim was present at the time of social ownership, now with privatization, and with the awareness of the woman and the improvement of her economic situation. When the spouses purchase a place of residence jointly, it is considered a joint

[1] Article 45 of the FLK: On the basis of the legal institution of "Joint ownership of the subsequently acquired property" spousal property may be a separate property or joint property.

[2] Article 51 of the FLK: Contractual arrangement on possession and administration; Spouses may contract that the administration and disposition of the joint property, in a whole or in part, may be done by one of the spouses.

[3] Article 92 of the FLK: *Each of the spouses may request movable objects from the joint property to be divided to the other spouse on behalf of the share in the joint property of the spouse, who has kept those movable objects upon termination of their coexistence, and has silently possessed them for at least three years*.

asset, and when it comes to who will it belong to after the divorce, it is always decided in the favour of the spouse more in need, the one that will look after the children. The FCRA in Article 153 stipulates: *If the family dwelling is owned by one of the former spouses and the other spouse does not own another suitable accommodation, the court may allow the former spouse who is not an owner to use the dwelling when: a) the children are raised and educated by the latter until they reach adulthood; b) The marriage settlement is asked by the former spouse who owns the dwelling, by requesting termination of their joint livelihood. In this case, the right to use the dwelling is up to 7 years, but if the former spouse who is not an owner remarries, this right is lost; c) when the former non-owner spouse has installed in the dwelling a professional cabinet of great value, whose movement would require great expenses.* In this case the right to use is up to 3 years. In these cases the court determines the term of use and the amount of rent that the former non-owner spouse shall pay in accordance with his/her income.

The most sensitive consequences of divorce are the consequences on children. The children are sensitive creatures and are the ones most likely to suffer the consequences of their parents' separation. But in order to protect them, the court takes care ex-officio for assessing the parents' agreement on children, their maintenance, inheritance, etc. The court decides who the children will live with, how they will make contact with the parent they do not live with. The court may decide that the children are separated so that ensures genuine existence, but can also decide on the placement of children in another institution. But after the age of ten, the children have the right to decide who they want to live with. The FCRA strictly details the effect of the divorce decision on children, Article 154: *The termination of marriage does not affect the rights and obligations of parents towards their children, except in the cases provided for in this Code.*[1]

[1] Article 155 of the FCRA: Before the court issues a provisional or final decision on the manner of exercise of parental responsibility, the right of a child to visit or trust the child with one of the ex-spouses, should summon a psychologist or social worker who before giving the opinion, must obtain information on the material and moral condition of the family, the conditions in which they live and where the child is most appropriate.
If the court reaches the conclusion that the child should temporarily be entrusted to a third person or a foster family, he/she must take the opinion of the social and welfare sector in the municipality of the place where the trial takes place. Article 156: The court decides on the manner of exercising parental responsibility or to entrust the child to a third party, upon the request of one of the parties, family members or prosecutors, in case there are serious causes that are related to abusive exercise of parental responsibility.

5. Conclusions

Family issues represent a value of sublime importance to every society. For Albanians, marital affairs, unfortunately, has been characterized with the imposition of the rules of the invaders, especially with difficult rules. This has also led to the compilation of the Code of Lek Dukagjini, which is still applicable in certain areas of Kosovo. Fortunately, after the war, Kosovo started to enrich the positive law with new laws, compatible with the European law. Kosovo has issued the Family Law of Kosovo, which law complies with the continental system of family law. We say this because not by chance the subject is comparability between Albanian, German and French family law. This comparison results in almost the same way of regulating divorce in these four positive rights. A distinction that can be observed in German law is that they recognize only one cause for the marriage settlement, and it comes not as a result of one spouse but as a result of the dissolution of marriage. The applicable law is quite perfect for regulating the dissolution of marriage through divorce, and we say that it is a law that is of special lex character in procedural matters, since only in the absence of its provisions is complied with the Law on Contested Procedure. The divorce in Albanian reality has been reserved only for the men, but after 1999 it is a common practice of equality in marriage dissolution. What I consider useful is for citizens to become aware of the creation of contracts for the division of property, which serves the extension of the procedure and the stability, especially the economic stability of women in cases of divorce.

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