vided by Soviet law. This is supported by a U.S.S.R. Supreme Court statement according to which the general legal capacity of such foreigners is determined by the laws of their states and not by the law of the U.S.S.R.[62] However, I did not find instances either proving or disproving this assumption in family law cases. Marriages entered into in the territory of the Soviet Union, contrary to the Soviet law, do not need the formal annulment. They are simply *void ab initio.* Marriage entered into in a ZAGS office, in violation of conditions prohibiting entrance into marriage, must be declared null and void by the court. This does not apply, however, to the cases where a spouse did not use his own internal passport for registration. The Family Codes give an exhaustive list of causes for declaring a marriage null and void. These causes will be examined in the next section.

III. ANNULMENT

All grounds for declaring a marriage null and void are enumerated in the family legislation. They can be divided into three groups: (1) the lack of required conditions for entering into marriage as stipulated in Article 15 of the Family Code; (2) conclusion of the marriage while the prohibitions provided for in Article 16 of The Family Code were present; (3) fictitious marriage, *i.e.,* registration of marriage without intention to establish a family.

A. Lack of Prerequisites

1. Lack of Mutual Consent.

Cases of annulment on this basis are found mainly in Central Asia and the Caucasian Republics where specific ancient national traditions are still preserved. Abduction *(umykanie)* of the bride is the tradition of some nations. This sometimes occurs against the will of the abducted bride, and sometimes against the will of her parents. A sum paid to the bride's parents by the groom *(Kalym)* is the tradition of others. Some parents, succumbing to the temptation of a "fat" *Kalym,* force their daughter to marry someone wealthy against her own will. Such marriages can be subject to annulment. In one case of this kind, the U.S.S.R. Supreme Court stated:

> Mutual consent is one of the conditions for registration of marriage. In the case in question this requirement of law was violated. As follows from the materials of this case, plaintiff and respondent agreed to give Faizulaeva in marriage against her will, having stipulated that certain property would be alienated to the bride's parents. This was in fact the ransom for the bride. Such a transaction is a harmful survival from the past which contradicts the law and socialist morality.

This marriage was declared null and void.[63]

It is worth noting that the statutes and court interpretation give the opportunity for a flexible approach to the problem of annulment of marriages. The Family Codes do not bind the court to declare marriages null and void in all cases where grounds for annulment are formally present. The law states: "The marriage *may be* declared null and void" (emphasis added). For example, the U.S.S.R. Supreme Court ruled that there was no

62. *See* Family Code (1975) 151.

63. 1 *Biulleten' Verkhovnogo Suda S.S.S.R.* (Bulletin of the U.S.S.R. Supreme Court) (1961) 10. *See also* in *Izvestia,* March 14, 1964, the article of E. Parkhomovskii, "Wedding with Participation of the Procurator", and the same newspaper of Nov. 20, 1964, "After a Wedding with the Participation of Procurator."

reason to declare the marriage null and void in a case where the plaintiff submitted a petition, stating that she was forced by her relatives to enter into marriage 17 years ago. The Supreme Court pointed out that divorce, not annulment, was appropriate in that case.[64] However, fiscal considerations may have influenced the decision of the Supreme Court. Court fees in cases of petitions for annulment of marriages are far less than in cases of divorce.[65] The Court may have thought the petitioner was trying to avoid fees by petitioning for an annulment. In its decision, the Court referred to the fact that 17 years had gone by since the conclusion of the marriage; however, according to Article 9 of the Family Code, in such cases the Statute of Limitations does not apply.

Between the spouses, the right of action in this sort of case belongs only to the spouse who was subjected to compulsion. The Procurator is also empowered to take such an action, because forced marriages affect both personal and public interests.[66]

Lack of mutual consent may also be observed in instances when a person who agreed to enter into marriage was unable to guide his or her actions or to understand their significance due to temporary mental derangement, even though this person was not declared mentally incapable by a court within the time of registration of marriage. These are cases of so-called "defects of will," when free and conscious choice is impossible. This occurs not only in instances of temporary mental disease, but also when one party was in a state of alcohol or drug intoxication, thus being temporarily in a "morbid state." This happens from time to time in Russia, where alcoholism presents real problems, and where the staff of ZAGS offices are sometimes too indulgent or indifferent to the state of those who come to register marriages.[67]

The solution to this problem when it emerges depends in part on the actions of the disabled person following registration. The Supreme Court of R.S.F.S.R. issued a mandatory instruction to the effect that a marriage registered in the abovementioned circumstances can be annulled only where the person who entered into marriage while being in a morbid state did not continue marital relations after his or her recovery.[68] This statement of the R.S.F.S.R. Supreme Court is based on the principle laid down in Article 43 of the Family Code that "if at the moment of considering the case [by the court] the circumstances which impeded conclusion of the marriage are no longer present, such marriage may be recognized as valid from the moment when such circumstances disappeared."

64. 5 *Biulleten' Verkhovnogo Suda S.S.S.R.* (Bulletin of the U.S.S.R. Supreme Court) (1963) 20.

65. Costs for an annulment are 30 kopecks; while for divorce, they run from 60 to 210 rubles, 10 rubles upon submission of the petition and from 50 to 200 rubles upon receipt of the divorce certificate.

66. A.I. Pergament, *"Priznanie Braka Nedeistvitel'nym"* (Recognition of the Void Marriage); 25 *Uchenye Zapiski Vsesoiuznogo Nauchnogo Issledovitel' skogo Instituta Sovetskogo Zakonodatel'stva* (Scholarly Journal of the All-Union Research Institute of Soviet Legislation) (Moscow, 1971) 100.

67. Within the recent personal experience of the author.

68. Statute of the Plenary Session of the Supreme Court of the R.S.F.S.R. of Feb. 23, 1973, "Re: Certain Problems Appearing in a Judicial Application of the Family Code," Art. 10, 9 *Biulleten' Verkhovnogo Suda R.S.F.S.R.* (Bulletin of the R.S.F.S.R. Supreme Court) (1973) 6.

Cases dealing with mental incompetence are quite common. Principally, there are two types: (1) marriages between people who are mentally ill but who have not been legally declared mentally incompetent, (2) marriages between mentally competent persons and mentally ill persons. Marriages of the latter type are usually entered into not for the benefit of the mentally ill person, but the benefit of the other spouse, *e.g.*, as a means of obtaining a permit to live in a large city, obtaining larger living quarters, etc. Such marriages have much in common with another category of fictitious marriages which will be discussed later.

One case heard by the Leningrad Court in 1976 is typical of the problem. Mrs. S. married Mr. K. soon after he was released from a mental institution. Mr. K. had been in mental institutions on two previous occasions for schizophrenia, a fact known to Mrs. S. After a short period, Mrs. S. applied to the Court to have her husband recognized as being mentally incapable. She also made application to obtain a divorce. As will be shown later, divorce from a mentally incompetent person is subject to a different procedure which is much quicker, less complicated, and also less expensive than the procedure used in other circumstances. The District Peoples' Court in Leningrad recognized Mr. K. as mentally incapable *(nedeesposobnyi)*, and later a guardian was appointed for him. When Mrs. S. applied to the ZAGS office for a divorce, the guardian of Mr. K. applied to the Court for annulment of the marriage. The Court declared the marriage null and void. The Court of Appeal affirmed the decision of the Court of first instance.[69]

There is a certain discrepancy among the provisions of civil law, criminal law, and family law dealing with mental incapacity. Article 15 of the Civil Code defines mental incapacity as the inability to understand the meaning of one's own actions or to control them due to mental illness or feeblemindedness. One might presume that this same definition would be used in family law to establish the condition for annulment of marriage. However, this is not the case. The most recent text of the Decree (Mandatory Instruction) of the R.S.F.S.R. Supreme Court issued on February 21, 1973 and amended September 27, 1977,[70] dealing with the conditions for annulment of marriages can be usefully compared with the pertinent provisions in civil and criminal law:

(1) Condition for voiding a civil transaction — Article 56 of R.S.F.S.R. Civil Code.	Inability to *understand* the meaning of one's actions OR to control them.
(2) Condition for establishing one's non-imputability — Article 11 of R.S.F.S.R. Criminal Code.	Inability to *account* for one's actions OR to control them.
(3) Condition for annulment of marriage — Section 10 of R.S.F.S.R. Supreme Court Statute.	Inability to *account* for one's actions AND to control them.

69. 11 *Biulleten' Verkhovnogo Suda R.S.F.S.R.* (Bulletin of the R.S.F.S.R. Supreme Court) (1976) 2.

70. *Sbornik Postanovlenii Plenuma Verkhovnogo Suda R.S.F.S.R.* (Collection of Statutes of R.S.F.S.R. Supreme Court Plenary Sessions) (Moscow, 1978) pp. 101-102.

First, one must point out that there is a difference between not being able to account for one's actions and not being able to understand the meaning of one's actions. Ordinarily, inability to account for one's actions is the standard used in criminal law, while lack of understanding is the civil standard. Here, the Supreme Court of the R.S.F.S.R. has opted for use of the criminal standard in establishing the condition for annulment of a marriage. Second, the Supreme Court requires even a higher standard — replacing "or" by "and", thus requiring the two conditions to be met at the same time. It is quite possible, however, that a mentally ill person could at the same time be unable to understand the significance of his actions, but be able to control them in accordance with his defective will. This occurs often enough when mentally ill persons enter into marriage; despite their lack of understanding of the significance of their actions, they function adequately in the situation, answering questions, signing documents and replying to congratulations.

2. Violation of Age Requirements.

Cases of marriages involving persons under marital age are seldom found. In 25 years of professional practice, I did not deal with a single case of this kind, nor did I find any referred to in the legal literature. This is not surprising. The age of applicants can be easily established by the ZAGS office by reference either to the internal passports which all city residents are required to produce, or otherwise. This serves as a sufficiently reliable barrier. Nevertheless, Special Article 45 of the Family Code is devoted to such instances. It must be pointed out first that, by exception to the general rule, a marriage with a minor may be annulled only where the interests of the minor require it. The right to demand annulment belongs in these instances to the minor, his or her parents (guardian or curator), the Child Welfare Agency, or the Procurator. Where the minor has become an adult, the right belongs only to him or her, or to the omnipresent Procurator. Thus the adult spouse who married a minor does not have a right to this kind of action. Instances where the annulment of the marriage would not be in the interest of the underage spouse include pregnancy, birth of a child, illness, or a working disability caused by marriage. Regardless of who is the plaintiff in a case of annulment of the marriage of an underage person, the Child Welfare Agency has to be involved. A question remains whether the Executive Committee of the Soviet (local authority) is obliged to lower the marital age for the minor if the Court denies a suit of annulment of the marriage. Also unanswered is the question of whether, if the marital age were not lowered in such a case, the underage spouse would have legal capacity for all purposes due to the fact of Court's refusal to annul his or her marriage. Article 11 of the R.S.F.S.R. Civil Code dealing with legal capacity touches only upon cases where the marital age was lowered.

B. Prohibitions against Marriage

1. Prior Existing Marriage

This category for declaring marriages null and void is found most frequently, constituting 98% of all the cases dealing with marriage

annulment.[71] Because Soviet legislation dealing with marriage has gone through frequent changes, and because at one point marriage and divorce did not require registration, the courts use the legislation in effect at the wedding date in deciding these cases. A marriage entered into before a previous marriage has been legally dissolved would be considered null and void in any situation whether during the lifetime of the spouses, after a spouse has died, or even after divorce.[72] This is explained by the fact that annulment of marriage and divorce create different legal consequences, both for the spouses and for other persons. The legal consequences of annulment of a marriage will be considered later.

The following persons have a right to petition for the annulment of a marriage which was entered into in violation of the principle of monogamy: spouses, persons whose rights are violated by a bigamous marriage, the government agencies in charge of custody and guardianship, and the Procurator. The literature raises the point that under some conditions only one spouse has the right to petition for the annulment of the marriage. In the first years after World War II, there were many instances where persons considered to be dead returned home after some period of time. Their wives found themselves in another marriage, entered into in good faith, in the belief that they were widows. Naturally, the right to ask for an annulment of the marriage under such conditions should have been the right of all three parties to this dramatic triangle. In other cases, the opposite conclusion should be reached. Suppose, for example, one party to a bigamous marriage concealed the fact of a previous marriage and then later, rather than seeking a divorce, attempted to have the second marriage annulled, using his own fraud as grounds. Giving such a person the right to petition the court for an annulment of a marriage would be unjust. Even prior to the establishment of the new Family Code, the Supreme Court of the U.S.S.R. came to the conclusion that in such a situation freeing oneself from marital obligations would be contrary to the principles of socialist morality, as well as contrary to the law, in particular to Article 6 of the former Family Code of the R.S.F.S.R. concerning prohibitions of marriage.[73] This point of view, expressed in a judgment rendered in 1967, is in total agreement with the present legislation.

In the development of Article 15 of the Fundamentals, the new Family Code in Article 46 established that "a marriage declared null and void, cancelled out that marriage retroactively to the date the 'marriage' was entered into." Previously, this principle was only found in the Family Codes of Ukraine and Belorussia. The new Family Code, at Article 46, paragraph 3, however, requires further conditions to be present which were previously unknown in Soviet family law: "If at the time of the consideration of the case by the court, a condition which would have made that marriage null and void no longer exists, such a marriage could be considered by the courts as being valid as of the time when the said condition

71. N.G. Iurkevich, *Brak I Ego Pravovoe Regulirovanie V S.S.S.R.* (Marriage and its Legal Regulation in the U.S.S.R.) (Moscow, 1967) 24.

72. S.N. Abramov, *"Dopustim Li Isk O Priznanii Braka Nedeistvitel'nym Posle Ego Rastorzhenia?"* (Is a Petition for Recognizing a null and void Marriage allowed after dissolution?) 16 *Sovetskaia Iustitsia* (Soviet Justice) (1961) 28.

73. 8 *Biulleten' Verkhovnogo Suda S.S.S.R.* (Bulletin of the U.S.S.R. Supreme Court) (1967) 5.

disappeared." These legislative changes help courts to avoid mistakes which earlier were likely to occur. For instance, the Supreme Court of Belorussia considered a case in which Mr. Frolov entered into a marriage without divorcing his first wife. After a few years, Mr. Frolov divorced his first wife, and continued in the second marriage. The Supreme Court of Belorussia considered the second marriage to be valid from the time of the divorce from the first wife. Having reached a correct solution, the Supreme Court of Belorussia unfortunately based it on an improper ground, referring to provisions of the Civil Code regulating annulment of civil transactions. The Plenary Session of the U.S.S.R. Supreme Court rectified this error, but made another mistake. First the Court correctly stated that: "entrance into a marriage is not a legal transaction within the meaning of the Civil Code. Thus in determination of the annulment of the marriage, it is improper to use a provision of the Civil Code on legality of a transaction."[74] After this generally correct statement, the Supreme Court declared the marriage under question to be valid from the moment of its registration. Thus the Supreme Court allowed Mr. Frolov to be for a few years legally in two marriages: from the registration of the second marriage to the dissolution of the first marriage through divorce. The new provision of Article 46, paragraph 3 of the Family Code assists in arriving at a correct decision in such situations.

2. Close Blood Relationships or Adoption.

While the prohibition of marriage between those in close blood relationships is explained by the Soviet jurists as resting on biological considerations, the prohibition against marriage between adoptive parents and adopted children is explained by ethical considerations. The latter prohibition also applies to some extent to the marriage of persons formerly in an adoptive relationship.[75] Annulment or change of adoption, according to many Soviet jurists, changes the conditions prohibiting entrance into a marriage. In other words, if the adoption were annulled at the time of the case, or prior to the case being considered by the court, the court would consider the marriage valid from the date of the annulment of the adoption.[76] To what degree such a conclusion conforms with the above-mentioned ethical considerations Soviet jurists leave unexplained. Such cases are obviously rather scarce.

3. Legal Incapacity (nedeesposobnost')

Cases of this kind include those where one spouse marries after having been declared by the Court to be legally incapable or legally disabled due to mental illness. These cases are to be distinguished from those described above, where one spouse is mentally ill but has not been declared by the courts to be legally incapable prior to marriage. Evidence of the court order declaring the person mentally incapable is sufficient for annulment; evidence of a psychiatric assessment is not required. In cases where the mentally incompetent person later recovers, the prohibition against entering in-

74. 2 *Biulleten' Verkhovnogo Suda S.S.S.R.* (Bulletin of the U.S.S.R. Supreme Court) (1967) 36-37.

75. V. Shakhmatov and B. Haskel'berg, *Novyi Kodeks O Brake I Sem'e R.S.F.S.R.* (New Code of Marriage and Family of the R.S.F.S.R.) (Tomsk, 1970) 118.

to a marriage may be lifted. In such instances the court suspends the case, and starts another proceeding in order to decide whether the mentally incapacitated person should have his or her legal capacity restored. In this proceeding a forensic psychiatry examination is obligatory. The number of annulments on this ground is rather limited, because declaration of mental incapacity and subsequent establishment of the guardianship over incompetent persons, is combined with the revocation of the person's internal passport. Therefore, the prospective spouse would be unable to produce his internal passport on the two required occasions: when the application of entering into a marriage is brought and at the time of registration of the marriage.

C. Fictitious marriage

Annulment of marriages entered into "without the intention of establishing a family" occur quite frequently. The popularity of the fictitious marriage in the U.S.S.R. is due primarily to difficult living conditions. In most instances, people do not enter into fictitious marriages for monetary gain. They do so in order to overcome many difficulties and obstacles created by the government and aimed at stifling civil rights.

One of the most popular causes for entering into a fictitious marriage is to obtain a living permit in a large city. Living conditions in large industrial centers are far superior to those in smaller cities or rural communities. Under the existing internal passport system, a person must obtain permmission to change his domicile, and can live in any given city only after obtaining a permit from the police. Living in a city without the police-permit carries criminal or administrative penalties.[77] Entering into a marriage with a person having a permit to live in a large city provides the spouse with good grounds to apply for a permit. In this way people can circumvent the administrative prohibitions regarding the establishment of domicile in large cities.

Secondly, fictitious marriages provide a means to secure better housing. Consider a single person who lives in a communal apartment in a state-owned building, occupying one room of, say, ten square meters. (A "communal" apartment is one where several families, occupying separate rooms, share the kitchen, bathroom, hallways and vestibule). This single person is not entitled to move to either a larger room or to purchase an apartment in a co-op. In Leningrad in 1974, improvement in living conditions was only possible in situations where the living space for one person was less than seven square meters. The general space requirement established by the Civil Code of the R.S.F.S.R., is nine square meters per person. This means, for example that if a married couple live in a two-room apartment, with each room comprising ten square meters, and one of the spouses dies, then the remaining spouse is entitled to only one room, and the second room can be given to somebody else.[78] Thus, entering into a fictitious marriage can help

76. *Supra* n.43, at 19.

77. Statute on the Passport System of the U.S.S.R. and Rules of Registration of Domicile adopted by the Council of Ministry of the U.S.S.R., *Supra* n.55. *See also Papers on Soviet Law*, (L. Lipson and V. Chalidze, eds., New York, 1977) 173-85.

78. Civil Code of the R.S.F.S.R., Art. 316.

people to maintain larger quarters, or to obtain an apartment in a co-operative, or to improve their living conditions in various other ways.

The instances of fictitious marriage in the U.S.S.R. are many, but the judicial decisions annulling such marriages are somewhat less frequent. This, of course, is due to the fact that people keep quiet about the fictitious character of their marriages. It is a common way for friends and relatives to help one another to move to large cities or to obtain larger apartments. It can even progress to a *double* fictitious marriage and divorce. The system works in the following manner: A young couple living in a large city go through a fictitious divorce. The same is done by friends or relatives who want to live in the large city. After the two divorces are granted, the two couples then intermarry so as to obtain permits to live in the large city. After all these legal actions are completed, they all obtain permits to live in the city, to obtain larger apartments, or to buy an apartment in a co-op. Then they separate. After some time they divorce again, and then re-marry according to their original situation. The circle is then completed.[79] Similarly, a fictitious divorce is a common method used to circumvent Soviet emigration policies. In such cases, a couple will divorce so that one spouse can leave the Soviet Union. Later the other spouse will attempt to emigrate and remarry.[80]

A fictitious marriage is also useful in obtaining specialized work in a large city. This work is only available in those cities which have the kind of industry and the cultural institutions peculiar to large centers. The first step in obtaining such work is the establishment of domicile in a large city. Personnel departments in all enterprises and other places of work in the Soviet Union are prohibited from employing people who do not have a permit to live in a given place. At this point, fictitious marriage becomes the answer.

Another use of fictitious marriages is to avoid obligatory work in a remote place after completion of higher or secondary special education. All those graduating from Universities, Teaching Institutes or Colleges are obliged to work for the first three years in places to which they are sent by special governmental distributing commissions.[81] Differences in the standard of life, and lack of security about returning to one's home town, cause some young people finishing University to enter into fictitious marriages, in order to live where they want to rather than where the government wants them to live.

Other conditions leading to fictitious marriage include attempts to obtain bank loans, which are available only to persons in certain categories, and attempts to obtain pensions. A full retirement pension is available only to those who have worked for a certain period of time prescribed by the statute: Males, 25 years; females, 20 years. A somewhat similar situation applies to pensions for invalids. Entrance into a fictitious marriage allows people to share in the pension of the other party, and to continue to collect after their death.

79. For a discussion of fictitious divorce, *see* P. Juviler, *Supra* n.48, at 134.

80. See a recent example in the Toronto Sun, Feb. 6, 1979, at 18, c.1.

Official statistics in the U.S.S.R. are secret. The above analysis of fictitious marriages, and the attempt to estimate their frequency, is based on the experience of the author. Prior to the entrance into a fictitious marriage, those concerned usually try to establish all the pros and cons. They seek legal counsel. They usually disguise their identity and place of residence, and state the case as being that "of one of my friends." I provided at least 100 such consultations during my 25 years of legal practice in the U.S.S.R. It is difficult to forget the case of engineer "X". X was a childless widower who found that he had cancer and had only two months to live. He spent the remaining two months of his life looking for a woman whom he could help. Through a fictitious marriage came the possibility of pension and improvement of housing conditions for his "widow." He said to me: "that is the last good deed which I can do in my lifetime." These words were said only a week before he died.

Some Soviet jurists specializing in family law hold the opinion that the article of the Family Code dealing with fictitious marriage is applicable only in cases where *both* spouses entered into marriage without the intention of establishing a family. If only one of the spouses had no intention of establishing a family, such a marriage can be annulled, they say, as a marriage without actual mutual agreement. One has to note that the practitioners of law do not participate in this debate. Under conditions where one of the parties entered into a fictitious marriage without the intention of establishing a family, the court declares such a marriage null and void with no hesitation. As a rule, the other spouse is the plaintiff. As an example I can give the case of Mrs. Syrkina against Mr. Karevich for the annulment of a fictitious marriage. Mr. Karevich followed with an action for divorce instead of annulment. The People's Court declared that Mr. Karevich entered into the marriage without the intention of establishing a family, and in order to obtain a permit to reside in Moscow. The Court then declared the marriage annulled as a fictitious one.[82] In the majority of cases the declaration of a fictitious marriage occurs where one party acted in bad faith, or concealed his actual intention from the other, or where as a result of death of one fictitiously married person, there is an action as to the inheritance.[83]

There is a clause in the Family Code which can change the status of fictitious marriage. "The marriage cannot be declared fictitious if the spouses, prior to the court action, actually established a family." This rule is furthermore reinforced by a provision stating that "if at the moment of judicial decision of hearing of the case, the conditions which made the marriage null and void no longer exist, the marriage can be declared valid from the moment when these conditions ceased to exist."[84]

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81. Statute on mandatory appointments for "junior specialists" graduated university and colleges issued by the U.S.S.R. Minister of Higher Education on March 18, 1968 was published in the 6 *Biulleten' Ministerstva Vyjsshego i sregnego spetsial'nogo obrazovania S.S.S.R.* (The Bulletin of the U.S.S.R. Ministry of Higher and Secondary Special Education) (1968).

82. *See* Collection of Soviet Defence Council, *"Rechi Sovetskikh Advokatov Po Grazhganskim Delam"* (Speeches in Civil Trials) (Moscow, 1976) 60-70.

83. *See e.g., Procurator of the City of Leningrad* v. *Kirillova*, 8 *Biulleten' Verkhovnogo Suda R.S.F.S.R.* (Bulletin of the R.S.F.S.R. Supreme Court) (1975) 3-4.

84. Art. 43, para. 2 and para. 3 fc.

D. Legal Consequences of Annulment

The declaration of a marriage as being "annulled" does not change the rights of children of such a marriage, according to Article 46, Section VI of the Family Code.

The other legal consequences of the annulment of a marriage vary, depending on the guilt of the parties. The marriage is annulled from the date of entry into the marriage. Persons who remain in a legally non-existent marriage have no rights from such a relationship, nor do they have legal obligations. Division of property acquired during such a relationship is governed by civil rather than family law: those provisions dealing with common property. Nevertheless, if one party hid the fact of a prior marriage from the other, he or she can be obligated by the court to pay the alimony to the other party in cases of need in accordance of family law, even though the marriage was annulled. Courts can also use the norms of the family law, under such conditions, for division of property acquired prior to the annulment of the marriage. The person who was in good faith may also be permitted to retain the family name. These legal norms are utilized as sanctions against the party who acted in bad faith *vis a vis* the other. This in particular applies to the division of property which has been registered in the name of only one of the spouses — house, car, saving accounts, etc. Thus, if the savings accounts is in the name of the spouse who acted in good faith, the party who was in bad faith will be denied his or her share of the money. According to Section 395 of the Civil Code of the R.S.F.S.R., a savings account cannot be part of the common shareable property of a citizen. Only the spouse at the time of division of the property or award of alimony can have a share in such an account. In the case of a dispute over a house, the party who acted in bad faith carries the burden of proof as to his or her share in the amount of work and contribution to the building or buying of that house. If the house and savings account are in the name of the party who acted in bad faith, then the share of the innocent party can be determined according to the family law rather than Civil Law. In this way, the innocent party benefits from the presumption of an equal share in the property.[85]

In all cases of annulment of a marriage, the court sends a copy of its decision to the ZAGS office in which the marriage took place.

IV. RIGHTS AND OBLIGATIONS OF SPOUSES

A. Equality of Personal Rights

A distinction is made in Article 3 of the Fundamentals between the personal and property rights and obligations of the spouses.

> In their family relations, men and women enjoy equal personal and property rights. The equality of rights in Family Law is based on equal rights of man and woman, as laid down in the Constitution of the U.S.S.R. in all spheres of government, socio-political, economic and cultural life of the country.

It must be said that there is a noticeable difference between the legal pronouncement and real life.

85. V. Danilin, *"Otlichitel'nye Cherty Obshchei Sobstvennosti Suprugov"* (On Distinctive Features of Common Property of Spouses), 23 *Sovetskaia Iustitsia* (Soviet Justice) (1969) 20.