

Family property rights are safeguarded for the wife, husband, and children in case of divorce

CIRCUMSTANCES AND CONDITIONS FOR THE DIVISION OF COMMON PROPERTY BETWEEN THE WIFE AND HUSBAND

Before or during the marriage



The marital agreement outlines the division of shared property at the mutual request of both spouses in the event of a divorce. It specifies the assets allocated to each spouse. Any portion of the common property not addressed in this agreement is considered joint property of the spouses, as per the regulations outlined in Articles 45 and 39 of the Family Code of the Kyrgyz Republic.

The marriage can be dissolved at the request of either spouse.



The voluntary division of common property can be initiated by either the wife or the husband through mutual agreement, provided there are no property disputes. Article 39 of the Family Code of the Kyrgyz Republic governs this process, allowing spouses to amicably arrange the division of their shared assets.

By the creditor's request



The division of matrimonial assets may occur at the request of a creditor seeking repayment of a debt, loan, or credit. This division involves utilizing the property share of one of the spouses who serves as a borrower or guarantor of the credit or debt. The relevant legal provision governing this scenario is outlined in Article 48 of the Family Code of the Kyrgyz Republic.

HOW THE WIFE AND HUSBAND'S COMMON ASSETS ARE DIVIDED

By the wish of spouses



The spouses have the option to divide their common property by mutual agreement, and if desired, such an agreement can be notarized. This provision is outlined in Article 39 of the Family Code of the Kyrgyz Republic.

According to pre-marital agreement



The common property of spouses may be divided in accordance with the terms specified in a contract. This contract outlines the respective shares or separate ownership of all the spouses' property, which will be allocated to each party in the event of marriage dissolution. Additionally, the contract may contain other provisions related to the property relations of the spouses. This legal framework is established in Article 45 of the Family Code of the Kyrgyz Republic.

By the court



In situations involving a property dispute and when there are common minor children, the courts will decide on the division of the spouses' common property and determine the respective shares of the wife and husband. This decision is made concurrently with the divorce proceedings or within a three-year period from the registration of the marriage dissolution, considering the statute of limitations. Article 48 of the Family Code of the Kyrgyz Republic governs this legal process.

HOW ARE THE SHARES OF THE COMMON PROPERTY OF A WIFE AND HUSBAND DETERMINED DURING DIVORCE?

What is the joint property of the spouses?



The property accumulated by spouses throughout their marriage is considered joint, encompassing:

- Income generated by the labour, business, and intellectual efforts of both the wife and husband.
- Pensions, benefits, and other financial gains without a specific purpose (such as material assistance or compensation for injuries or health-related damages).
- Both movable and immovable assets, securities, units, deposits, and shares in capital, acquired using the joint earnings of the spouses.
- Any other assets acquired during the marriage, irrespective of whether they are obtained in the name of one spouse or the other

The right to common property also belongs to the spouse(s) who, during the marriage, has carried out the household, cared for the children, or, for other valid reasons, did not have an independent income. (Family Code of the KR Article 35)

Spouses' shares in the division of common property



- In the division of the spouses' common property, the shares allocated to the wife and husband are presumed to be equal, unless otherwise specified in the pre-marital contract.
- However, the court has the authority to reassess the equal distribution of these shares based on the interests of minor children and/or the interests of one spouse. This reassessment may occur in situations where one spouse has unjustifiably not generated income, evaded child support responsibilities, and/or concealed, destroyed, or misused common property to the detriment of the family.
- Furthermore, when dividing the common property, any joint debts of the spouses will be apportioned between the wife and husband in proportion to the shares assigned to them.

(Family Code of the KR Article 39)

PERSONAL OWNERSHIP OF PROPERTY OF WIFE AND HUSBAND



According to Article 37 of the Family Code of the Kyrgyz Republic, the following types of property are recognized as the individual property of each spouse:

1. Property owned by either the wife or husband before entering the marriage.
2. Property gifted by one spouse to the other during the marriage.
3. Inherited property.
4. Assets acquired through other non-profit transactions, independently belonging to each spouse.
5. Personal items, such as clothing and footwear (excluding jewellery and luxury goods), even if acquired using the shared funds of the spouses during the marriage, are acknowledged as the property of the spouse who used them.

The personal property of the wife and the husband may be recognized as joint property if it is established that during the marriage investments were made from the common property of the spouses or from the property of each of the spouses, or from the labour of the spouse(s), significantly increasing the value of this property (major repairs, reconstruction, alterations, etc.).

(Family Code of the KR Article 38)

SHARE OF CHILDREN (DAUGHTER AND SON) IN FAMILY PROPERTY UPON DIVORCE



1. The court has the authority to reassess the equal distribution of the spouses' shares in their shared property in consideration of the well-being of minor children. This becomes particularly relevant when the other spouse has intentionally refrained from earning an income or contributing to the support of the child(ren).
2. Items acquired exclusively for the necessities of minor children, such as clothing, footwear, school and sports equipment, musical instruments, and children's library materials, are exempt from division. Instead, these items are to be transferred without compensation to the spouse with whom the children reside.
3. Deposits made by the wife and/or husband from the joint property of the spouses in the name of their common minor children are regarded as the children's own and are not factored into the division of the spouses' shared property.
4. During the privatization of family housing, daughters, sons, sisters, and other relatives, irrespective of age, have equal entitlement to all rights concerning this residence.
5. Children lacking parental care, including orphans, are protected from eviction from their dwelling without the provision of alternative accommodation, in accordance with Article 13 of the Family Code of the Kyrgyz Republic.

PROPERTY RIGHTS OF THE CHILD(REN)



1. Minor daughters and sons have a right to financial support from their parents and other family members.
2. The funds allocated to the child(ren) as alimony, pensions, and benefits are under the control of the parents (or individuals acting in loco parentis) and are expended by them for the well-being, upbringing, and education of the child. If requested by the obligated parent who is required to pay child support, the court has the authority to mandate that no more than 50% of the stipulated child support be transferred to accounts opened in the names of the minor children in banks.
3. Minor daughters and sons possess the entitlement to ownership of living spaces, income earned by them, property received as gifts or inheritance, and any other assets acquired using their own funds.
4. The child does not have a claim to the parents' property, and similarly, the father and mother do not have rights to the child's property. In cases where children and parents cohabit, they may mutually agree to own and use each other's property.

In the event that a daughter and/or son has a right to common family property (e.g., through gift or inheritance, etc.), their share, rights to own, use, and dispose of common property shall be determined by civil law. (Family Code of the KR Article 65).

PROTECTION OF PROPERTY RIGHTS

If, in alignment with national traditions, it is culturally acceptable to transfer land shares and other communal property to the husband in divorce proceedings, individuals may seek resolution through the Aksakal court or the district court in the locality where the property is situated. Aksakal courts are empowered to handle cases related to reclaiming property from unauthorized possession without charging any fees.

THE COST OF PUBLIC SERVICES AND THE STATE FEE FOR THE OFFICIAL REGISTRATION OF THE DIVORCE

Fees charged for the registration of a divorce



The Civil Registry Office charges the following fees for various divorce-related processes:

- Joint declaration of divorce, with the mutual consent of the spouses and no property disputes or minor children involved: **25 som.**
- Divorce initiated based on a court decision, either by one or both spouses: **15 som.**
- Application for divorce in cases involving persons recognized as missing or incapacitated due to mental illness or dementia, or individuals convicted of a crime leading to imprisonment for at least three years: **5 som.**
- Divorce certificate: **5 som.**
- Second divorce certificate: **12 som.**

Informational portal

<https://e.srs.kg/ru/service/page/5/price-list>

State fee when applying to court for divorce



Additional fees for specific divorce-related claims are as follows:

- From divorce claims: **1000 som.**
- From claims for the division of property upon dissolution of marriage: **1 percent of the price of the claim.**
- From actions for the dissolution of marriage with persons recognized as missing or incapacitated due to mental illness or dementia, or individuals sentenced to deprivation of liberty for a period of not less than three years: **700 som.**

Website of the Ministry of Justice of the KR Database of the legal and regulatory framework

<http://cbd.minjust.gov.kg/act/view/ru-ru/13491>

Resolution of the Government of the KR # 159 On the approval of rates of state duty from April 15, 2019

For the dissolution of marriage, the presence of either the persons themselves or an authorized representative acting on their behalf at the Civil Registry Office is mandatory. This presence must be accompanied by the presentation of a valid passport.

Payments related to these services are to be made at the location where the services are provided, and the accepted methods include transactions through a bank or via a terminal.

A marriage that is dissolved shall be terminated from the date of the state registration of the dissolution of the marriage in the civil registry office.

The contacts of the Population Service Centers (PSC) can be found through the website of the State Registration Services (SRS) under the Ministry of Justice of the Kyrgyz Republic at

<https://grs.gov.kg/ru/subord/drnags/462-tsientry-obluzhivaniia-nasielienniia/>
or by calling the telephone call centre number 119 (which is free of charge).

The contacts for all district and city courts in the Kyrgyz Republic can be accessed via the Supreme Court's website at <http://sot.kg/>

under the "Local Courts" section. Additionally, you can find this information through their email at vskr@sot.kg, their hotline at +996 (312) 62-19-25, or in the "Prosecutor's Offices and Courts" section of the online telephone directory "Yellow Pages" at <https://yellowpages.akipress.org/page:1/cats:180/>

How is the division of the common homestead and house of spouses carried out in the event of divorce?

PROCEDURE STEPS

▶ **Step 1.** Initiate a lawsuit with the Court for the division of marital property. This can be done concurrently with a divorce or within three years from the marriage termination registration date (within the statute of limitations).

▶ **Simultaneous Applications:**

Step 2. File an application with the Local Registration Authority to impose restrictions on or prohibit the sale of the disputed property, even if it is registered under the other spouse's name. The distribution of common property considers the shares allocated to each spouse, with consideration given to the welfare of minor children and/or to either of the spouses' noteworthy negative behaviour (e.g., failure to generate income for unjustifiable reasons; avoidance of child support; concealment, destruction, or misuse of common property detrimental to family interests).

▶ **Court Decision:**

Step 3. Obtain a court decision on the division of marital property. If dissatisfied with the court's decision, an appeal can be filed until it becomes final.

▶ **Application Submission:**

Step 4. Submit the application along with the court decision to the Local Registration Authority for state registration of ownership of the allocated real estate within 30 days after the court decision.

▶ **Document Reception:**

Step 5. Receive the registration documents, including the State Certificate of Title for the homestead plot and the technical passport for the house, confirming ownership of the allocated real estate.

RESOURCES

Attached resources and contacts (as of December 31, 2023):

Disputes over the division of the spouses' common property, payment of support for a needy incapacitated spouse, and disputes over children in a divorce are heard only through the courts. The able-bodied and capable spouses who do not have common minor children have the right, with mutual consent, to resolve disputes about the division of their common property through mediation. (Article 21 of the Family Code of the Kyrgyz Republic).

Contacts of the Population Service Centers (PSC) can be found through the website of the State Registration Services (SRS) under the Ministry of Justice of the Kyrgyz Republic <https://grs.gov.kg/ru/subord/drnags/462-tsientry-obslyzhivaniia-nasielieniia/> or by calling the telephone call centre number 119 (which is free of charge).

Contacts of local civil registries can be found by calling the telephone call centre number 119 (which is free of charge) and +996 (312) 66-36-05 or through the website of the State Registration Service under the Ministry of Justice of the Kyrgyz Republic <https://grs.gov.kg/ru/subord/drnags/address/>.

Contacts for all district and city courts in the Kyrgyz Republic can be accessed via the Supreme Court's website at <http://sot.kg/> under the 'Local Courts' section. Additionally, you can find this information through their email at vskr@sot.kg, their hotline at +996 (312) 62-19-25, or in the "Prosecutor's Offices and Courts" section of the online telephone directory "Yellow Pages" at <https://yellowpages.akipress.org/page:1/cats:180/>

Contacts of all district and city prosecutors can be found in the online telephone directory "Yellow Pages" under the "Prosecutor's Offices and Courts" section at <https://yellowpages.akipress.org/page:1/cats:180/>.

Contacts of local registration authorities for registration of rights to immovable property can be obtained by calling them at (0312)30-06-45 or through email at eicn01@cadastre.kg and eicn01@mail.ru. Additionally, this information is available on the website of the State Institution "Cadastre" at <https://cadastre.kg/svc-portal/about/aboutpayment.do>.