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# FEATURES OF THE DEVELOPMENT OF CIVIL LAW REGULATION OF FAMILY RELATIONS IN UKRAINE

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Civil Code of Ukraine, Family Code of Ukraine, Civil Law Regulation, Family Law, Family Relations.

## ABSTRACT

This article examines the peculiarities of the development of civil law regulation of family relations. The main sources of civil law regulation of family relations have been determined: the Civil Code of Ukraine and the Family Code of Ukraine. The definitions of the concepts of family relations and family legal relations are analyzed.

It is characterized that civil legislation is applied to family relations in a subsidiary manner, this statement also follows from the provisions of Art. 8 SC of Ukraine. The basic principles and principles on which the Family Law of Ukraine is based are determined.

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## Introduction.

After the adoption of the Civil Code of Ukraine in 2003 and the Family Code of Ukraine in 2002, the process of reforming the family legislation of Ukraine began, these codes entered into force on January 1, 2004. The study of the sources of family law is currently a topical issue and has an important theoretical and practical significance today.

## Research purpose.

The main purpose of the research is analysis of the main problems of sources of civil law regulation of family relations in Ukraine.

## Research materials and methods.

The article uses general scientific methods of research: analysis and synthesis, the method of abstraction and generalization, as well as the systematic method of research.

## **Results.**

The main sources of family law of Ukraine are the Constitution of Ukraine, which defines the basic principles of the entire legal system of the state, and the Family Code of Ukraine, adopted by the Verkhovna Rada of Ukraine in 2002. Before its adoption, the Marriage and Family Code (1970) was in force for 30 years.

Among the various social relations regulated by law, the sphere of rather complex human relations is distinguished, which are based on family ties or are aimed at their creation and at the same time may contain elements of an economic nature. This is a family legal relationship. They arise on the basis of an arranged marriage, birth of children or other kinship, adoption of children, acceptance of children for upbringing. This relationship is very close to civil in its content and is essentially such. However, they have features that give reasons to allocate them to a separate sphere, and the norms that regulate them to a separate branch of law — family law [1].

Thus, family law is a set of legal norms that regulate personal non-property and those based on them, property relations of people that arise on the basis of marriage, family, family ties, adoption, acceptance of children for upbringing [2].

Family legal relations are primarily personal non-property relations. Marital relations are marital relations of mutual respect and moral support, on the basis of which the property rights and obligations of spouses arise. Or, parenthood is primarily a blood and spiritual connection between a father and a child, his care for him, upbringing, etc., and on the basis of them, the obligation to support this child until reaching adulthood arises.

Family relations arise only between citizens on the basis of specific legal facts. Legal entities are not subjects of family law at all. These relations are regulated by special legal acts, the main of which is the Family Code of Ukraine. The norms of ethics, morality, customs and traditions have a significant influence on them.

Part 1 of Art. 2 of the Civil Code of Ukraine stipulates that the Family Code of Ukraine regulates family personal non-property and property relations between spouses, between parents and children, adoptive parents and adopted children, between the mother and father of a child regarding its upbringing, development and maintenance [4]. According to Part 1 of Art. 1 of the Civil Code of Ukraine dated January 16, 2003, civil law regulates personal non-property and property relations (civil relations), based on legal equality, free expression of will, property independence of their participants [3].

Family law regulates personal non-property and property relations between spouses, between parents and children, adoptive parents and adopted children, between the mother and father of a child regarding its upbringing, development and maintenance, between grandparents, great-grandmothers, great-grandfathers and grandchildren, great-grandchildren, siblings and sisters, stepmother, stepfather and stepdaughter, stepson, as well as some property relations between other family members. But family law does not regulate family relations between cousins, aunts, uncles and nieces, nephews and other relatives by descent.

Family and civil law have many common features, which is natural, since family law originated from civil law, as was the case with labor law at one time. Today, the toolkit of civil law as a private right is used even in public legal entities, but this does not make them sub-branches of civil law.

Family legal relations are primarily relations between family members. The concept of family is considered by many sciences: philosophy, sociology, psychology, etc. As for the law, there was no single definition of family for the entire legal system of Ukraine before, as it was not defined at the legislative level [5].

The Family Code of Ukraine states that a family consists of persons who live together, are connected by common life, have mutual rights and obligations [3].

A family is created on the basis of marriage, consanguinity, adoption, as well as on other grounds not prohibited by law and which do not contradict the moral principles of society. A single person also has the rights of a family member. A person who has reached marriageable age has the right to start a family. A person who gave birth to a child can create a family, regardless of age. Spouses are considered a family even when they do not live together due to education, work, treatment, the need to take care of parents, children, and other valid reasons. A child belongs to the family of his parents even when he does not live with them [9].

The family law of Ukraine is based on certain principles, according to which it affects social relations:

- the inadmissibility of arbitrary interference by anyone in family affairs and respect for family life: even by law, family relations are regulated only to the extent that this is permissible and possible from the point of view of the interests of their participants and the interests of society;
- monogamy (monogamy): any person can be in only one marriage at the same time;
- freedom of marriage and the voluntary conclusion of marriage: the conclusion of marriage and the choice of a wife or husband is carried out arbitrarily, at one's own will; the state protects the right to freely choose a wife or husband;
- freedom of divorce: no one has the right to force a person to be married against his will; if the continuation of married life has become impossible, the spouses have the right to dissolve the marriage in accordance with the established procedure;
- full equality of men and women in personal and property rights and obligations in marriage and family;
- taking into account the interests of children and disabled family members as much as possible;
- the priority of family upbringing of children: this principle is based on the provisions of the Law of Ukraine "On the Protection of Childhood" dated April 24, 2001 and international legal acts on the protection of children's rights, stating that the family is a natural environment for physical, spiritual, intellectual, cultural, social development of the child, its material support; therefore preference should always be given to family forms of raising children;
- financial support for family members who need financial assistance: the law establishes alimony obligations — parents are obliged to support children until they reach adulthood; adult children are obliged to take care of their disabled parents; spouses must financially support each other in case of need, and for refusal of such support, the spouse in need of financial assistance has the right to receive maintenance from the other spouse in a compulsory manner, if the latter is able to provide it, etc. [8].

The sources of family law of Ukraine include a number of laws and subordinate legal acts that fully or partially regulate family relations: Civil Code of Ukraine, Laws of Ukraine: "On bodies for registration of acts of civil status" dated December 24 1994, "On state assistance to families" pits with children" dated November 21, 1992, "On the protection of childhood" dated April 26, 2001, "On the prevention of violence in the family" dated November 15, 2001. The sources of family law are the following international legal acts: the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the UN Convention on the Rights of the Child, on the elimination of all forms of discrimination against women, the Convention of the CIS countries on legal assistance and legal relations in civil, family and criminal cases dated January 22, 1993, etc. [11].

The development of family legislation, its improvement, and family support are the subject of constant attention from the state. Thus, the Verkhovna Rada of Ukraine approved the Concept of State Family Policy (resolution dated September 17, 1999). This document emphasizes that throughout the world the family is an integral indicator of social development, which reflects the moral state of society and acts as a powerful factor in the formation of demographic potential [10].

According to the Constitution of Ukraine, family, childhood, motherhood and parenthood are protected by the state. Based on the need to create proper conditions for family life in Ukraine, the concept defines the general strategy and priority directions of state policy regarding the family, provides for the implementation of a comprehensive system of measures with maximum consideration of new realities: market economy, social partnership, political democracy, all that, which is designed to make the life of society, of each individual family, full-fledged and effective.

Currently, the doctrine of civil law expresses the position that civil law is applied to family relations in a subsidiary manner. This statement also follows from the provisions of Art. 8 of the Civil Code of Ukraine: if personal non-property and property relations between spouses, parents and children, other family members and relatives are not regulated by the Civil Code of Ukraine, they are regulated by the relevant norms of the Civil Code of Ukraine, if this does not contradict the essence of family relations. The subsidiary application of the Civil Code of Ukraine to the regulation of relations in family law is discussed, in particular, when clarifying the concept of statute of limitations, the specifics of the application of statute of limitations by the court, when defining the concept of "damages" and methods of compensation for property damage, etc. Recognition of such an approach that civil law is applied to the regulation of family relations in a subsidiary manner has important practical significance, since the

opposite position would lead to the recognition of family law as a sub-branch of civil law and, accordingly, direct regulation of family relations by civil law, which would contradict the legal nature of family legal relations [7].

The recognition of such an approach that civil law is applied to the regulation of family relations in a subsidiary manner has an important practical significance, since the opposite position would lead to the recognition of family law as a sub-branch of civil law and, accordingly, direct regulation of family relations by civil law, which would contradict the legal nature of family legal relations. For example, if it is recognized that the Central Committee of Ukraine directly regulates family relations, then also compensation for moral and property damage for violation of family rights and interests [7].

### **Conclusions.**

So, after the analysis of legislative acts and scientific sources, the following conclusions were made.

The above provides grounds for the conclusion that family law is an independent branch of law, and family and civil law, the development of which contributes to increasing the effective legal regulation of social relations, including in the family sphere.

Peculiarities of the development of civil law regulation of family relations in Ukraine were analyzed and it was determined that this is a special legal category, which denotes a set of state-legal, social-legal prescriptions and legal positions in the sphere of family and marriage, which regulate a special sphere of social relations with the help of special methods of legal regulation. It was determined that this is a set of state-legal, social-legal prescriptions and legal positions that contain the norms of family law and regulate family relations.

We can conclude that the main sources of civil law regulation of family relations are the Civil and Family Codes of Ukraine, but the primary source is, of course, the Constitution of Ukraine.

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