

# **FAMILY' CONCEPT, CHARACTERS AND FUNCTIONS**

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## *Abstract*

*Family is the most important core social and legal regulation shall be subject to the favorite research of family law doctrine.*

*In this paper we propose to analyze the family concept, characters and functions.*

*Keywords: family, functions, characters, concept, rights and obligations.*

The family can be defined as a group of people which have rights and obligations arising from marriage, civil or natural kinship and other similar rapports of family relationships.

## **Sociological and legal concept of the family**

The concept of family is defined mainly by sociologists, but it may also make a legal definition, given that, as we shall see below, the two-way, the sociological and legal, do not coincide.

The meaning of family sums up those relationships that arise between individuals as a result of marriage and kinship.

Universal Declaration of Human Rights in article 16 defines family as "the natural and fundamental group unit of society," while recognizing its right to protection by society and the state, and the right of every human marriage "of full age, without any limitation due to race, nationality or religion" based on free consent in compliance with the principle of equality between man and woman in marriage, and during its dissolution.

Viewed from a sociological point of view, the family was defined as widened different aspects of its structure or functions and features that a mark. Most sociologists regard the family as a social group made by marriage, consisting of people who live together, have common household are bound by certain relations biological, psychological, moral and legal responsibility to each other and to society.

Seen in legally, the family consists of the group of people among who were born and there are rights and obligations following the conclusion of a marriage, the existence of a family relationship (natural or civil) and even as a result of other legal or social relations law assimilated family relationships.

In an overview that can support both views are identical, but the scientific study observe obvious differences.

Exemplify the situation of two brothers who base their different families through marriage. If you remain legally bound by legal family relations from a sociological point of view they belong to completely different families considering the legal meaning. Examples may continue in divorce matters, in the patrimonial relations etc.

The existence of legal does not mean, therefore, that there always sociological relations.

Family legal relationships are governed by family law (the new Civil Code and other special laws), but these reports make specific legal family law and regulations belonging to the other branches of public or private law.

### **Trends of family in contemporary society**

There are many factors with negative influence on the family and family life, these trends of family phenomenon in Romania can be summarized as follows:

1. A general and significant decrease in marriage rates and birth rates, while increasing the number of single persons and persons living in free unions (cohabitation).

Rarely, quantitative methods research study of an object can be used in a social or legal science, which is one of the cases. Thus we speak of the birth rate, marriage, death, and how they influence the family in contemporary society. Cohabitation is seen by some as an indisputable right of the individual and by others as not assuming responsibilities of family life. In terms of religious men and women are living without religious ceremony, according to the canons, and the legally we can define it as a cohabitation of a man and a woman legally married. But the introduction of regulatory engagement in the new Civil Code does not solve the problems of the lack of legal protection are in a consensual relationship.

2. Increasing the number of couples without offspring or single downward. This issue is closely linked to that of the falling birth rate, a phenomenon evident in contemporary Romanian society.

3. Increasing the number of divorces and children born out of wedlock. In addition to the low marriage rate has increased and that of divorce. Every year, the number of divorces in Romania is a worrying growth rate. Thus, according to the National Institute of Statistics, in the first eight months of 2007 there were 22,500 divorces, which place Romania in mid-table European Union countries. In 2008 there were a record number of divorces, according to the National Statistics Institute in July 2008; final judgments were pronounced divorces 2594, with 186 cases less than in June. Phenomenon corresponding rate was reduced from 1.58 divorces per thousand in June to 1.42 divorces per thousand. The number of divorces in July 2008, however, was greater than 785 cases in July 2007, when a rate of 0.99 per thousand. In November 2008, there were 2,826 divorces pronounced, with 552 more than in October. The divorce was in October from 1.60 per thousand to 1.25% in the previous month. The same press release also states that the INS increasing divorce rate is not a local phenomenon. At European level, one in two marriages ends in court. Thus, according to Eurostat, almost half of marriages end in divorce in the European Union. Highest rate of divorces recorded in Belgium, where 71% of married couples break up, and Austria, with 66% of divorced couples. At the opposite end is Irish and Italians, where only 17 to 18 percent of marriages end in court. Due to the financial crisis, however, the number of divorces will fall, as announced sociologists. After the entry into force of the new Civil Code, the situation has not improved. About 4,000 Romanian divorced in the first six months of the year, mostly in urban areas. In the single register of certificates of divorce by mutual consent was obtained 3,987 Name Rank and divorce certificates, 3,433 in urban areas and 554 in rural areas. Most urban divorces were recorded in Bucharest, where they issued 1,039 certificates of divorce. Romanian 747 aged 20-30 years were divorced in the first half Monday, 1415 were aged 30-40 years, 853 were aged 40-50 years, 685 were aged 50-60 years and 286 were over 60 years. Applications for divorce were filed in both the primary storage is the act of marriage or county in which the

spouses' last common housing and notary offices also recorded: 2872 certificate issued by Municipality / registration offices, 1,115 certificates issued by the notary offices.

4. Pressure couples of persons of the same sex.

5. The implications of medically assisted procreation techniques.

Certainly, this list is just one illustrative; it remained open to some other factors omitted or may occur in current or future social context.

### **Family Characters**

Consultation and understanding texts in the Constitution of our country, the Constitution of 2003, with reference to family enables us to enumerate which characters individualizing family in our state, in the context of other state laws. We believe that these characters can be listed as follows:

- Marriage is an act of the spouses;
- Spouses have equal rights throughout the marriage;
- Both spouses have equal rights and duties as parents to ensure the upbringing, education and training of their children;
- Children, whether from the marriage or outside the marriage have an equal legal position to their parents;
- The State shall ensure special protection for the realization of children, young people and people with disabilities rights.

### **Family functions**

Family considered broadly, ensure development of society through three functions that characterize a particular function of perpetuating the human race, economic position and educational function. Family functions revealed by sociologists are more, but the legally stop the three. All these functions depend largely family how political forces leading company involved in the family strengthening economic and spiritual means.

Briefly, family functions are:

- population reproduction, the perpetuation of the human species;
- economic function;
- Educational function.

Population reproduction or perpetuation of the human species is an important function of the family, as it allows the society to ensure continuity. The decision to have a child or keep a pregnancy is more responsible and easy to take when the woman, expectant mother, is married. State intervention in strengthening this function in maintaining control in developing family and thus society is felt by the measures of material and moral encouragement of female (child allowances, holidays, etc.). We also consider that the state's role should be limited to such incentives, moral and democratic paths, this function, not by measure "dictatorial" prohibitive, brutal restriction of individual freedom on the personality and its own decision.

So far, the problem of this family function is not clarified in terms of the measures by which we can discuss if we face a force that requires individual state conduct which restricts the constitutional right to freedom of conscience (Article 29 of the Romania Constitution) and an intimate, family and private life (art. 26 Constitution) in relation to moral and religious norms are categorical limit the free will of the individual in this respect, ruling firmly against abortions and forced stimulation by these restrictions, the reproductive population.

It may raise issues regarding this function when it is reproduced in vitro or surrogate, as long as these rules are incomplete in (the new Civil Code provides several articles on medically assisted human reproduction with third donor).

Another important function of the family is to ensure the education of children. According to French author Claire Marchand, the family cell is a primary means of life and sustainable society, a means of transmitting social values and collective behavior, a point of connection between the individual and the community.

The third function of the family, in close correlation with the other two, is the economic function. The economic role of the family is accepted by all doctrines. Even in some definitions of the family is the idea of being an essential economic unit. In ancient times, the economic function of the family made to clog the social nucleus. Family was a group of people who lived under the same roof and using the same resources, which means that it was an economic unit. This reality exists today; there is community property of the spouses, if not chosen another than the matrimonial community of property, their obligation to cohabit, maintenance obligation between family members, etc.

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