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CURRENT ISSUES OF LEGAL REGULATION FOR SEPARATION OF SPOUSES IN FAMILY LAW OF UKRAINE

The article examines the legal nature of legal separation regime, since, according to Art. 119 of the Family Code of Ukraine, at the request of the spouses or the claim of one of them, the court may decide to establish legal separation regime in case of failure or unwillingness of wife and (or) husband to live together. Separation regime is terminated in case of renewal of family relationships or by court upon application of a spouse.

The author analyzed the historical aspect of its origin and found that the separation originated in 1914, when the Code of Laws of the Russian Empire was supplemented by the law, providing the opportunity to set the separation of the spouses. However, during the Soviet period, this institution was not enshrined in legislation because it contradicted ideological views. Only with the adoption of FC of Ukraine in 2002 this institute of separation received legislative confirmation in this codified act to preserve family relationships.

It was determined that, depending on the level of development of society, separation is considered in the following ways: separation as legal consolidation of separate living of spouses, as there used to be an established duty of wife to accompany her husband everywhere; as a denial of divorce, that is the

actual termination of marriage, because of the prohibition of divorce, and therefore impossibility of a new marriage and the emergence of other inconveniences generated by such prohibition; as an alternative to divorce, i.e. their parallel existence. The article shows distinction between institutions of divorce and separation, namely, the use of the same grounds and legal implications.

It is found that the grounds for establishing separation in family law, domestic and foreign jurisprudence is the inability or unwillingness to live together. At the same time “inability” and “unwillingness” of spouses to live together, despite their different semantic nature, legally have one essence – temporary living apart and not maintaining marriage without divorce.

It is established that the legal consequences of establishing separation are: freezing of presumption of paternity if the child is born ten months after the court decision on establishment of such regime and freezing of presumption of joint ownership of property. The author determines directions to improve family law, namely, referring to the need for civil status of facts of establishment and termination of separation and setting a deadline for separation of the spouses.