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Family Law. Country presentation: Ukraine

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Family Code of Ukraine of 2002. Changes following russia's full-scale invasion of Ukraine

Family Code of Ukraine, dated January 10, 2002	Civil Code of Ukraine, dated January 16, 2003	Law of Ukraine «On Private International Law», dated June 23, 2005
Changes after the full-scale invasion of Ukraine by the Russian Federation (February 24, 2022): - The Law of Ukraine from 20.11.2024 On Amendments to Certain Legislative Acts of Ukraine Regarding the Improvement of the Mechanism for Preventing and Combating Gender-Based Domestic Violence; - The Law of Ukraine from 14.05.2025 On amendments to Article 212 of the Family Code of Ukraine (Adoption of Ukrainian children by foreigners)	Legal provisions relating to Guardianship and Custody (Chapter 6 of Section II. «Persons»)	Conflict-of-law rules in family law (Articles 55-69)

CASES ON ESTABLISHING LEGAL FACTS

The Supreme Court annotated Review of court practice in civil cases concerning the establishment of facts of legal significance during the martial law (2025):

https://court.gov.ua/storage/portal/supreme/oglyady/Oglyad_KCS_fakt_voen_stan.pdf

Cases concerning the establishment of the following legal facts in the area of family law:

- the fact of birth or death of a person in an area where active hostilities are taking place or in a temporarily occupied territory;
- the fact of family relations with a deceased military serviceman;
- the fact of the paternity of a deceased military serviceman in relation to a child

CASES ON ESTABLISHING LEGAL FACTS

How does the court assess documents issued in the uncontrolled territories as evidence of the fact of birth of a child?

Resolution of the Supreme Court of Ukraine, dated November 23, 2022 in the case No. 759/7001/22:

- The Advisory Opinion of the ICJ of June 21, 1971 «Legal Consequences for States of the Continuing Presence of South Africa in Namibia»;
- ECtHR in *Loizidou v. Turkey*, judgment of December 18, 1996, *Cyprus v. Turkey*, judgment of May 10, 2001, *Mozer v. the Republic of Moldova and Russia*, judgment of February 23, 2016;
- «The obligation to ignore, not to take into account the actions of the existing de facto bodies and institutions (occupation authorities) is far from absolute, the recognition of acts of the occupation authorities in the limited context of protecting the rights of residents of the occupied territories does not legitimize such authorities in any way»;
- «...documents submitted by the applicant to confirm the fact of birth in the temporarily occupied territory of Ukraine, in particular, documents issued by the bodies and institutions of self-proclaimed entities located in the occupied territory of Ukraine, are evaluated by a court in conjunction with other evidence».

THE CHILD'S FATHER OR MOTHER IS SERVING IN THE ARMED FORCES OF UKRAINE OR IS ABROAD: NEW CHALLENGES AND CASES

Im(possibility) of deprivation of parental rights?

Resolution of the Supreme Court of Ukraine, dated June 5, 2024, in case No. 722/225/23;

Resolution of the Supreme Court of Ukraine, dated October 9, 2024, in case No. 755/17233/16

- ... the fact that one of the parents and the child reside in different countries cannot necessarily indicate evasion of one of the parents the duties on the child's upbringing and, therefore, cannot be the only (the sole) basis for termination of parental rights.

THE CHILD'S FATHER OR MORTHER IS SERVING IN THE ARMED FORCES OF UKRAINE OR IS ABROAD: NEW CHALLENGES AND CASES

Suspension of proceedings in family-law cases involving party who is serving in the Armed Forces of Ukraine transferred to the martial law status: is it the right or obligation of the court?

The Code of Civil Procedure of Ukraine (Art. 252, part 1, point 2): the court shall be obliged to suspend the proceedings in the case of the service of a party in the Armed Forces of Ukraine or other military formations formed under the law, transferred to martial law status. Resolution of the Supreme Court of Ukraine, dated March, 13, 2025, in the case 557/1226/23 (on the suit brought by the father to the mother of a minor son regarding a change in the amount of child support):

- It should be established: whether the military unit in which the defendant serves has actually been placed on a war footing; whether the defendant is performing combat tasks in a combat zone; whether the defendant has the technical and physical ability to participate in court hearings, including via videoconference; whether the defendant used legal assistance during the proceedings; whether he had the opportunity to express his legal position in person or through a representative;
- automatic suspension of proceedings in a case concerning the recovery of alimony without taking into account the circumstances mentioned above, may be in the interests of the defendant-a military serviceman, but it contradicts the principle of ensuring the best interests of the child, which is of paramount importance in such cases;
- regardless of the status of the parties, the interests of the child, who is not a party to the case but is the beneficiary of the disputed legal relationship, must prevail over the interests of each parent.

CASES ON DOMESTIC VIOLENCE. REPRESENTING OF A CHILD IN THE COURT

Does the minor (15 years old) have the right to apply to the court with a statement about issuing a restrictive order against his mother in the case of domestic violence against him?

Resolution of the Supreme Court, dated June 16, 2021, in case № 369/13467/20

- ... a minor who has reached the age of 14 may enter into an agreement with a lawyer only with the consent of the parents (adoptive parents) or guardians. However, the absence of such consent does not negate the legal consequences of concluding such a contract and granting the attorney with the authority of representation, except for cases where the contract is declared invalid in court;
- reference to the European Convention on the Exercise of the Children's Rights of 1996: ... to provide the child (a person under 18 years of age) to take direct part in cases of protection of their interests, especially in the presence of a conflict with the individuals holding parental responsibility, including the right to appoint/choose their own representative.

REACHING AN AMICABLE SETTLEMENT

“Even the highest quality of the Family Code cannot diminish the importance of another regulator of family relations – the heart and the associated sense of duty based on love”

Zoryslava Romovska, professor, author of the Family Code of Ukraine, 2002

Mediation (Law of Ukraine «On Mediation», 2021)	Settlement of a dispute with the participation of a judge (Code of Civil Procedure, 2017)
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The Potential of Mediation

Dispute	2022	2023	The potential of mediation
Family law	127 847	172 681	30 052 (10%)

Starting in 2025, court statistics will include the number of mediations and dispute settlements involving a judge (Order of the State Judicial Administration, dated November 29, 2024)

THE SUPREME COURT'S VIEW OF MEDIATION AND SPECIALIZATION OF JUDGES IN FAMILY-LAW CASES. INTERNATIONAL COOPERATION

Memorandum of understanding, signed between the Supreme Court of Ukraine and UNICEF Ukraine (2025): cooperation for the introduction and promotion of mediation

Memorandum, signed between the Supreme Court of Ukraine and European Group of Judges for Mediation (2025): support of European standards for the development of mediation in Ukrainian courts

The Civil Cassation Court co-organized a pilot project on introducing specialization for judges in family-law cases: 11 pilot courts (in Kyiv, Zhytomyr, Lviv, Chernivtsi, Odesa, Khmelnytskyi, Kharkiv, Volyn, Zakarpattia regions).



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Thank you for attention!