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<b>Title:</b>	<i>THE FAMILY – AS A LEGAL PHENOMENON. HISTORICAL EVOLUTION. LEGAL SOCIOLOGICAL DEFINITION</i>
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## THE FAMILY – AS A LEGAL PHENOMENON. HISTORICAL EVOLUTION. LEGAL SOCIOLOGICAL DEFINITION

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### ABSTRACT:

*FAMILY IS THE MOST IMPORTANT FACTOR IN THE CONFIGURATION OF LAW. FAMILY WAS AND IS ONE OF THE SOCIAL INSTITUTIONS OF GREAT INTEREST TO THE LEGISLATOR, IN ALL HISTORICAL PERIODS, REGARDLESS OF THE CULTURE OF THE PEOPLE. THAT IS WHY THE FAMILY STRUCTURE HAS BEEN SHAPED BY LEGISLATION, AS IN SOME COUNTRIES THE FAMILY IS COMPOSED OF A MAN AND SEVERAL WIVES, CHILDREN AND THEIR RELATIVES, WHILE IN OTHER COUNTRIES THE FAMILY IS MONOGAMOUS, BEING COMPOSED OF ONLY ONE MAN AND WOMAN, CHILDREN AND OTHER RELATIVES.*

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**KEY WORDS:** FAMILY, RELATIVES, KINSHIP, HOUSEHOLD, LEGISLATION

### 1. HISTORICAL EVOLUTION OF THE FAMILY

J.J. Rousseau claims that the family is “the oldest of all societies and the only natural one”<sup>2</sup>.

The institution of the family has always been in the sphere of scientific concerns because it is closely related to other social institutions from other branches of science such as: psychology, sociology, theology, philosophy, history, medicine, economics, education, morals, etc.

Also, the family is the most important factor in the configuration of law, so that in some countries, the legislator stimulates the birth rate through normative acts that grant facilities and subsidies to parents, while in other countries, the number of children is limited by law, parents being subjected to constraints and sanctions in case of exceeding the number of children. The increase or decrease in the birth rate is of particular interest to the legislator depending on the degree of development of the economy, as today the small number of births is directly related to the right of women to be able to engage in a job and their possibility to have a professional career<sup>3</sup>.

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<sup>2</sup> A. Pricopi, *Dreptul familiei*, Lumina Lex Publ.-house, Bucharest, 1997, 7

<sup>3</sup> A. Mihăilă, *Sociologia dreptului*, (Bucharest: Hamangiu Publ.-house, 2010), 204

The etymology of the word “family” comes from the Latin *famulus* which meant *servant, subject*<sup>4</sup>.

In the book *An Etymological Dictionary of the Latin Language*, D.F.J.E. Valpy<sup>5</sup> defines the Latin term *familia (famulia)* as “*the slaves belonging to a master, the servants of a household; the whole household, parents, children and servants*”.

In another opinion, the term “family” comes from the Latin “*familia(ae)*”, which means “*the totality of the members of a tribe*”<sup>6</sup>.

Within the primitive tribe, the notion of family did not exist, as sexual relations were not fixed and regulated within the community.

Within the “group family” (after the “group marriage”), which appeared in the Middle Paleolithic period, it is specific that “all the women of a clan were, virtually, the wives of all the men in the clan”<sup>7</sup>.

Over time, the family evolved in the sense of restricting the group of people participating in married life, thus prohibiting marriages between parents and children, brothers and sisters on the maternal line, etc.

Thus, the “paired marriage” and the “paired family” emerged, in which parentage was determined by the mother.

Following the development of the productive forces, the economic role of the man is accentuated generating the emergence of the “patriarchal family” and consequently of the monogamous family.

Following the breakup of the primitive commune, as an effect of the affirmation of private property, the patriarchal family leads to the emergence of the small family, the man, as a private owner, having power over his wife and children. The latter had certain paternity (patrilineal filiation) and became the heirs of his fortune.

In *ancient Rome*, betrothal (*sponsalia*) was known, children could be betrothed from the age of 7<sup>8</sup>.

The Roman family was led by a *pater familias*, who “had full power over all family members, as well as over family assets”<sup>9</sup>. This force/power of the head of the family was called *manus*, and it was useful to be able to oblige all those he led to make products, obtained through the labor process, necessary for existence.

Over time, the notion of *manus* underwent transformations depending on the people on whom it was exercised. Thus, it bore the name of:

- *Pater potestas* – the power of *pater familias* over children;
- *Dominium* – the power of *pater familias* over the slaves;
- *Manus* – the power of *pater familias* over the wife. In the view of the ancient

Romans, marriage could not be without *manus*, because its purpose was for the husband to be entrusted with the fidelity of his wife, through the power he had over her, which constituted a guarantee that the children belonged to him, who inherited his assets<sup>10</sup>.

<sup>4</sup> <https://www.limbalatina.ro/dictionar.php?cuvant=famulus&limba=lat> accessed on March 24, 2022

<sup>5</sup> [https://books.google.ro/books?hl=ro&lr=&id=JbFWAAAcAAJ&oi=fnd&pg=PA1&dq=Etymological+Dictionary+of+the+Latin+Language&ots=0WZFzNC8vf&sig=xlu6DLFFWyD0dLag91C4BvZ-wLQ&redir\\_esc=y#v=onepage&q=Etymological%20Dictionary%20of%20the%20Latin%20Language&f=false](https://books.google.ro/books?hl=ro&lr=&id=JbFWAAAcAAJ&oi=fnd&pg=PA1&dq=Etymological+Dictionary+of+the+Latin+Language&ots=0WZFzNC8vf&sig=xlu6DLFFWyD0dLag91C4BvZ-wLQ&redir_esc=y#v=onepage&q=Etymological%20Dictionary%20of%20the%20Latin%20Language&f=false), p.147, accessed on March 24, 2022

<sup>6</sup> D. Lupașcu and C. M. Crăciunescu, *Dreptul familiei*, 5<sup>th</sup> Edition..., 29

<sup>7</sup> D. Lupașcu and C. M. Crăciunescu, *Dreptul familiei*, 5<sup>th</sup> Edition..., 29

<sup>8</sup> C. St. Tomulescu, *Drept privat roman*, (Bucharest: University Press, 1973), 143

<sup>9</sup> V. Hanga, *Istoria generală a statului și dreptului. De la origini la revoluțiile franceze*, Bucharest: Litografia și Tipografia Învățământului, 1958), 105

<sup>10</sup> C. St. Tomulescu, *Drept privat roman...*, 143

Persons under the power of the *pater familias* could be claimed in the same way as goods, having a right of life and death over their wives, children and slaves (*ius vitae necisque*). They have no right over the family patrimony, having the obligation to increase it, not being allowed to decrease it or having the power to dispose of it<sup>11</sup>.

Towards the end of the 2<sup>nd</sup> century BC, as a result of the wars, the trend of women's independence appeared, giving rise to a new form of marriage *without manus* that prevented illegitimate unions (which threatened to lead to the extinction of families from the upper strata of the class dominant due to the decrease in the birth rate), with the interest of the woman (so that she no longer falls into the *manu mariti*).

The validity of the marriage *without manus* was not conditioned on the conclusion of a solemn act (civil or religious), but only by the woman's obligation to live in the man's house; spouses had to have minimum age 12 for women and 14 for men.

In ancient Greece, Solon (7<sup>th</sup>-5<sup>th</sup> century BC), "one of the greatest legislators of all time", "liberator and pacifist", his legislative policy being made with "balance and measure", also intervened in the sphere of family legislation to create the stability of this legal institution, adopting the law on adultery and transforming it from the "big family" to the "small family", through successive legal provisions<sup>12</sup>, ending the "era of family solidarities", as said by a French author<sup>13</sup>.

In **Byzantine Law**, the family has similar features to that of Roman Law.

In order to conclude the marriage, the consent of the spouses was required and it had to be preceded by an engagement and the spouses had to meet the age requirements (12 years for women, 14 years for men).

The man had the right to repudiate his wife without a valid reason (the woman not being able to break the marriage unilaterally), there being no full equality between them, characteristic of both the slave and feudal law systems. In fact, the husband could break the marriage if the wife participated "in the circus games or spent in the presence of other men or if she was absent from home for a whole night"<sup>14</sup>.

## 2. FAMILY – AS LEGAL PHENOMENON<sup>15</sup> – SOCIOLOGICAL, LEGAL AND MORAL-CHRISTIAN DEFINITION

The family, understood as a social phenomenon, represents "a form of social relations", being the foundation of society<sup>16</sup>.

The family can be born through:

- Marriage
- Filiation (natural kinship)
- Adoption (civil kinship)

Over time, the definition of family has undergone changes because society is in a continuous transformation and development, in time and space<sup>17</sup>.

<sup>11</sup> V. Hanga, *Istoria generală a statului și dreptului...*, 105-106

<sup>12</sup> Ph. Malaurie, *Antologia gândirii juridice*, (Bucharest: Humanitas), 18- 22

<sup>13</sup> M. Humbert, *Institutions politique et sociales de l'Antiquité*, Dalloz Publ.-house, Paris, 1994, no. 93 quoted by Ph. Malaurie, *Antologia gândirii juridice...*, 20

<sup>14</sup> V. Hanga, *Istoria generală a statului și dreptului...* 127-128

<sup>15</sup> D. Lupașcu. C.M. Crăciunescu, *Dreptul familiei*, 5<sup>th</sup> Edition, (Bucharest: Universul Juridic, 2021), 29

<sup>16</sup> D. Lupașcu. C.M. Crăciunescu, *Dreptul familiei*, 5<sup>th</sup> Edition..., 30

<sup>17</sup> M. Fodor and Irina Rădulescu, "Comentariu asupra modificărilor și completărilor aduse Legii nr. 4/1953 – Codul familiei prin Legea nr. 288/2007", in *Curierul Judiciar* no. 3/2008, 67-81

In contemporary society, the notion of family is treated from a moral-Christian, sociological and legal perspective<sup>18</sup>.

In the sociological sense, Anthony Giddens defines the family as “*a group of people directly related by kinship, whose adults take responsibility for raising their children*”<sup>19</sup>.

Also in this sense, according to A. Stănoiu and M. Voinea the family “*denotes the group of people united by marriage, filiation or kinship, which is characterized by a community of life, interests and help*”<sup>20</sup>.

In the legal sense, G. Cornu, in “*Vocabulaire juridique*” defines the family (fr. *famille*) as “*the ensemble of people who are united by bloodline, who descend from a common author or the restricted group consisting of mother, father and the children who live with them*”<sup>21</sup>.

The family, according to the Dictionary of Family Law<sup>22</sup>, is “*the historical form of organizing life together, which is based on the union between a man and a woman and their relatives. The family can also be constituted only between a man and a woman, united by marriage; also, there may be between them or only one of them and their relatives. Relatives include their ascendants, descendants and collaterals*”.

According to art. 16 para. 3 of the Universal Declaration of Human Rights, the family is “*the natural and fundamental element of society*”.

According to the World Health Organization “*the family is a person or a group of people who live together and are related by blood, through marriage or adoption*”.

In the UNESCO Dictionary, the family is defined as “*the form of human community based on marriage, which unites spouses and their descendants through close biological, economic, psychological, spiritual relationships*”.

Art. 12 entitled “*The right to marriage*”, from the European Convention of Human Rights and Fundamental Freedoms, provides that “*starting with the age established by law, men and women have the right to marry and found a family according to the national legislation that regulates the exercise of this right*”<sup>23</sup>.

As far as the jurisprudence of the European Court of Human Rights is concerned, by “*family relations*” we mean, first of all, the relations resulting from marriage between persons of different sexes and the relations between parents and children.

In the case of *Kroon v The Netherlands*, the concept of “*family life*” has expanded its content to include family relationships that actually exist between concubines<sup>24</sup>.

Also, the European Court of Human Rights, in its jurisprudence, ruled that a child born in a marital relationship is ipso jure part of that “*family*” cell from the moment of his birth and by his very birth<sup>25</sup>.

<sup>18</sup> L. Chirleşan, *Concilierea vieții de familie cu viața profesională în societatea contemporană*, (University of Pitesti Press, 2019), 11

<sup>19</sup> Anthony Giddens, *Sociologie*, (Bucharest: Bic All, 2001), 154

<sup>20</sup> A. Stănoiu, M. Voinea, *Sociologia familiei*, (Bucharest: Bucharest University Press, 1983), 5 quoted by D. Lupașcu. C.M. Crăciunescu, *Dreptul familiei*, 5<sup>th</sup> Edition..., 31

<sup>21</sup> G. Cornu, *Vocabulaire juridique*, 10<sup>th</sup> Edition, (Paris: PUF Paris), 448

<sup>22</sup> Gh. Tomșa (coord.), Ghe. Grigore, C. Pîrlea, D. Șerban, Gh. Tomșa, *Dicționar de Dreptul familiei*, (Bucharest: Scientific and Encyclopedic Publ.-house, 1984), 86

<sup>23</sup> The title of art. 12 was inserted according to the annex to Protocol no. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, ratified by Law no. 79/ 6 July 1995, published in the Official Gazette no. 147/13 July 1995

<sup>24</sup> ECHR Decision, *Kroon v The Netherlands*, October 27, 1994

<sup>25</sup> ECHR case file *Berrehab v The Netherlands*, pct.21;

[https://www.echr.coe.int/Documents/Guide\\_Art\\_8\\_ROM.pdf](https://www.echr.coe.int/Documents/Guide_Art_8_ROM.pdf) accessed on 25 January 2022

The term “family” is not defined in European Union law<sup>26</sup>. However, in the spirit of art. 2 para. 2 of Directive 2004/38/EC<sup>27</sup> by “family member” is understood:

(a) the spouse - including the same sex spouses, as clarified by the Court of Justice of the European Union in its judgment in the Coman case C-673/16);

(b) the partner with whom the Union citizen has contracted a registered partnership, on the basis of the legislation of a Member State, if the legislation of the host Member State treats registered partnerships as equivalent to marriage and in accordance with the conditions laid down in the relevant legislation of the host Member State;

(c) the direct descendants who are under the age of 21 or are dependents and those of the spouse or partner as defined in point (b);

(d) the dependent direct relatives in the ascending line and those of the spouse or partner as defined in point (b);

In O. Marzocchi’s opinion, Directive 2004/38/CE “is designed to encourage EU citizens to exercise their right to free movement and residence on the territory of the member states, to reduce administrative formalities to the bare minimum, to provide a definition better status of family members and to limit the scope of the refusal of entry or the termination of the right of residence”<sup>28</sup>. The author points out that most “member states also apply the directive to guarantee free movement rights to same-sex spouses, registered partners and partners in a long-term relationship”.

In our country, the revised and republished Constitution<sup>29</sup>, in art. 48 para. 1, states, as a fundamental principle, that “The family is based on the freely-consented marriage between the spouses, on their equality and on the right and duty of the parents to ensure the growth, education and training of the children”.

In Family Law, the legislator provides the notion of family which is less comprehensive than other family members. Also, art. 258 of the Civil Code<sup>30</sup> provides in art. 258 that “The family is based on the freely-consented marriage between spouses, on their equality, as well as on the right and duty of parents to ensure the growth and education of their children” (para.

<sup>26</sup> E.N. Vălcu, *Introducere în dreptul material al Uniunii Europene*, (Bucharest: Hamangiu Publ.-house, 2012), 117 and next; I.N. Militaru, *Dreptul Uniunii Europene. Cronologie. Izvoare. Principii. Institutii. Piața internă a Uniunii Europene. Libertățile fundamentale*, 3<sup>rd</sup> Edition, revised and amended, (Universul Juridic Publ.-house, 2017), 383; E.N. Valcu and L. Olah “General considerations on the creation of an appropriate european legislative framework in matrimonial matters”, International Conference “Society based on knowledge. Norms, Values and Contemporary Landmarks”, 10<sup>th</sup> Edition, Faculty of Law and Administrative Sciences, Valahia University of Targoviste, Romania, June 6-7, 2014, Supplement of Valahia University - Law Study, 168-172, [www.analefsj.ro](http://www.analefsj.ro)

<sup>27</sup> Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States published in the OJ L 158/30 April 2004

<sup>28</sup> O. Marzocchi, *Libera circulație a persoanelor*, 05-2022, <https://www.europarl.europa.eu/factsheets/ro/sheet/147/libera-circulatie-a-persoanelor>, accessed in October 2022

<sup>29</sup> The Romanian Constitution has been modified and amended by the on the revision of the Constitution of Romania, republished by the Legislative Council updating the titles and renumbering the texts, has been adopted by the national referendum of October 18-19, 2003 and entered into force on October 29, 2003, the date of publication in the Official Gazette of Romania of the Constitutional Court Decision no. 3 of October 22, 2003 for the confirmation of the result of the national referendum of October 18-19, 2003 regarding the Law on the revision of the Romanian Constitution

<sup>30</sup> Law no. 287/2009 on the Civil Code, published in the Official Gazette of Romania, no. 505/2011 republished, with subsequent modifications and amendments

1), in the sense of the Civil Code, “by spouses are understood man and woman, united by marriage” (para. 2).

Art. 309 of the Romanian Civil Code provides by binding norm that “*spouses owe each other respect, fidelity and moral support*”.

Law no. 272/2014 on child protection<sup>31</sup> defines in art. 4 the term “family” and the expressions “extended family” and “substitute family”, which have the following legal meanings:

- “family” – parents and their children (art. 4 para. 1 let. b);
- “extended family” – the child’s relatives, up to the third degree inclusive, with whom the child or his family has maintained personal relationships and direct contacts (art. 4 para. 1 let. c);
- “substitute family” – persons, other than those who belong to the extended family, including relatives up to the third degree, with whom the child or his family has maintained personal relationships and direct contacts, as well as the person, family or maternal assistant who ensures the child’s upbringing and care, under the law (art. 4 para. 1 let. d).

The Romanian Criminal Code provides, in art. 177 para. 1 and para. 2, that “family member means: a) ascendants and descendants, brothers and sisters, their children, as well as persons who have become such relatives through adoption, according to the law. These provisions also apply in case of adoption, and to the adopted person or his descendants in relation to natural relatives; b) the husband; c) people who have established relationships similar to those between spouses or between parents and children, in case they live together”.

Law no. 114/1996 on housing, republished, provides in art. 17 “*Family, in the sense of this law, means the husband, the wife, the children and the parents of the spouses, who live and manage together*”.

Art. 2 para. 1 of Law no. 277/2010 regarding the family support allowance<sup>32</sup>, provides that it is “made up of the husband, wife and their dependent children, who live together” and in art. 2 para. 3 provides that the legislator includes in the notion of “family” “the unmarried man and woman, with their children and of each of them, who live and manage together, if this is recorded in the social survey”.

In Commercial Law, the notion of family is extended to include, according to art. 2 let. d) of G.E.O no. 44/2008 regarding the carrying out of economic activities by authorized natural persons, individual businesses and family businesses<sup>33</sup>, their husbands, wives, their children who have reached the age of 16 on the date of authorization of the family business, relatives and relatives up to the fourth degree inclusive. In order for family members to become merchants-natural persons, within the family business, it must be registered at the Trade Register, not being able to hire third parties with an employment contract<sup>34</sup>.

The Romanian Criminal Code provides, in art. 177 para. 1 and para. 2, that “family member” means: a) ascendants and descendants, brothers and sisters, their children, as well as persons who have become such relatives through adoption, according to the law. These provisions also apply in case of adoption, and to the adopted person or his descendants in

<sup>31</sup> Law no. 272/2014 on child protection, republished based on art. V of the Law no. 257/2013 for the modification and amendment of the Law no. 272/2004 on the protection and promotion of child’s rights, published in the Official Gazette of Romania, Part I, no. 607/30 September 2013, renumbering the texts, with subsequent modifications and amendments

<sup>32</sup> Law no. 277/2010 on the allowance for family support, republished in the Official Gazette of Romania, no. 785/22 November 2012

<sup>33</sup> Published in the Official Gazette of Romania, no. 328/25 April 2008

<sup>34</sup> I-N. Militaru, *Dreptul afacerilor*, (Bucharest: Universul Juridic Publ.-house, 2013), 50-55

relation to natural relatives; b) the spouse; c) people who have established relationships similar to those between spouses or between parents and children, in case they live together”.

The family is protected by the criminal law, in which sense we refer to the Criminal Code<sup>35</sup>, in which the legislator placed the crime of “Family Violence” in art. 199, in Title I “Crimes against the person”, Chapter III with the marginal “Crimes committed against a family member”. Thus, certain acts are legally classified as domestic violence in the event that the subjects are circumstantial (reciprocal) through family membership, within the meaning of art. 177 of the Criminal Code. We also refer to Law no. 217/2002 on the prevention and combating of domestic violence, republished, which includes crimes, but it is important to delimit on the one hand the two concepts, family violence – domestic violence and on the other hand to observe that in the special law with criminal provisions, the notion of “family member” has a broader meaning<sup>36</sup> than in art. 177 of the Criminal Code<sup>37</sup>. In the same sense, we refer to crimes against the family, included in the Criminal Code in art. 376-380<sup>38</sup>.

Law no. 114/1996 on housing, republished, provides in art. 17 “*Family, in the sense of this law, means the husband, the wife, the children and the parents of the spouses, who live and manage together*”.

In legal doctrine<sup>39</sup>, the family represents “*the group of persons between whom there are rights and obligations, arising from marriage, kinship and adoption, as well as other relationships assimilated to family relationships*”.

Other authors<sup>40</sup> highlight that “*the doctrine defined the family as a social communion, through which the community of life is achieved between spouses, between parents and children, as well as, sometimes, between other relatives, either as a biological reality, in the sense that within its procreation is achieved through the biological union between a man and a woman, whether, finally, as a legal reality, because the most important family and kinship relationships are regulated by legal norms*”.

Next, the same authors<sup>41</sup> argue that in order to be able to define the notion of family, in a legal sense, legislation must be taken into account that points out certain essential aspects: the free consent of the act of marriage, the legal equality of spouses, the obligation of the parents to protect their minors, the right and duty of parents to ensure the growth and education of their children, the need to provide mutual moral and material support to each

<sup>35</sup> Law no. 286/2009 on the Criminal Code, published in the Official Gazette of Romania, no. 510/24 July 2009, entered into force on February 1, 2004

<sup>36</sup> Art. 5 para. 1, let. a)-e) of the Law no. 217/2003 on preventing and combating domestic violence, republished in the Official Gazette of Romania, no. 948/15 October 2020

<sup>37</sup> E.A. Iancu, *Drept penal. Partea specială I. Partea specială II*, (Bucharest: PRO Universitaria Publ.-house, 2022), 31

<sup>38</sup> E.A. Iancu, *op.cit.*, p.212-215. See also N.-E. Buzatu, *Measures that can be taken against the minor who is criminally liable under the concept of the New Romanian Penal Code*, in the New criminal legislation - a new stage in the consolidation of the Romanian rule of law, (Bucharest: Universul Juridic Publishing House, 2012), 88-93 and N.-E. Buzatu, *The Minor – The Active Subject of a Crime*, SPECTO, 2012, (Bologna: Editografica Publishing House, Italy, 2012), 226-230.

<sup>39</sup> I. Albu, *Dreptul familiei*, (Bucharest: Didactic and Pedagogical Publ.-house, 1975), 7; I.P. Filipescu and A.I. Filipescu, *Tratat de dreptul familiei*, 8<sup>th</sup> Edition revised and amended, (Bucharest: Universul Juridic Publ.-house, 2006), 12; A. Ionașcu, M. Mureșan, M. Costin, V. Ursa, *Familia și rolul ei în societatea...*, (Cluj-Napoca: Dacia Publ.-house, 1975), 5 quoted by D. Lupașcu and C.M. Crăciunescu, *Dreptul familiei*, 5<sup>th</sup> Edition..., 37

<sup>40</sup> T. Bodoașcă, T. Draghici, *Dreptul familiei, partea I, Căsătoria*, (Târgu Mureș: Dimitrie Cantemir Publ.-house, 2004), 14

<sup>41</sup> T. Bodoașcă and T. Draghici, *Dreptul familiei, partea I...*, 15



other. We add to these normative provisions that prohibit incest and sexual relations between close relatives, up to the fourth degree inclusive.

In the specialized literature<sup>42</sup> it is shown that spouses who do not have children also represent family; the unmarried parent who has a natural or adopted child/children; those who live together and have a child/children.

In the moral-Christian sense, family and marriage [*gamos*; Lat. *matrimonium*] are “two of the essential laws of human nature, established by God from the beginning of man’s existence”, which emerged since the creation of the first humans, Adam and Eve, and exist until today<sup>43</sup>: “And the Lord said: “No it is good for man to be alone; let us make a suitable helper for him” ... “and from the rib taken from Adam the Lord made a woman and brought her to Adam”... “From now on, man will leave his father and mother and he shall cleave to his wife, and the two shall be one flesh” (Genesis 2, 18-24; Matthew 19, 5-6). God put in the nature of man and woman all the feelings of love necessary to unite them to fulfill the mission for which they were created: that of giving birth to children<sup>44</sup>.

## CONCLUSION

In contemporary society the notion of “family” is more extended by the decisions of the ECHR, which states that a child born in a conjugal relationship is *ipso jure* part of that “family” cell from the moment of his birth and by his very birth or family relations, which actually exist, between concubines but also other situations established by its decisions.

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<sup>42</sup> D. Lupașcu and C. M. Crăciunescu, *Dreptul familiei*, 5<sup>th</sup> Edition..., 30

<sup>43</sup> L. Popescu, “Familia creștină între tradiție și modernitate”, in *Teologie și Educație la Dunărea De Jos* no. 10/2011, p.204, <https://gup.ugal.ro/ugaljournals/index.php/teologie/article/view/4542/4028>, accessed on October 10, 2021

<sup>44</sup> I. Iorgu, “Taina Căsătoriei”, in D. Radu, *Îndrumări misionare*, (Bucharest: I.M.B.M.B.O.R. Publ.-house, 1986), 586-599, here p.583, quoted by L. Popescu, *Familia creștină între tradiție și modernitate...*, 205

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