Annotations of the Materials under article 65 of the Rules on Development of the Academic Staff of the University of Plovdiv,

submitted by Chief Assistant Professor Dimitar Simeonov Topuzov, PhD, for participation in a competition for the academic position of "Associate Professor" at Paisii Hilendarski University of Plovdiv in: Field of Higher Education: 3. Social, Economic and Legal Sciences; Professional Line: 3.6 Law (Civil and Family Law), published in *State Gazette*, issue 98/ 19.11.24

1. Monograph "Принципите на европейското семейно право и възможностите за развитие на българското имуществено-брачно законодателство" [Principles of European Family Law and the Possibilities for Development of Bulgarian Marital Property Legislation]. Sofia: Ciela, 2024, ISBN 978-954-28-4845-5, scientific editors: Assoc. Prof. Dr.Sc. Krasen Stoychev and Assoc. Prof. Velina Todorova, PhD.

The subject matter of research in the monograph are the possibilities for improving and modernizing of Bulgarian marital property law via integration of the Principles of European Family Law (the Principles) into the national legislation. The analysis is focused on the so called common matrimonial rights and obligations which are part of the substance of the marital legal relation regardless of the property regime applicable to the marriage of the spouses. The rights and obligations drawn by the partners in marriage from the regime regulating their relations are out of the focus of author's scientific quests. Solely the common matrimonial rights and obligations are being studied since they are the core of the marital legal relation – they apply for every marriage and may not be excluded by way of negotiation.

In principle, the regulation of personal matrimonial rights and obligations is outside the subject matter of the research but their decisive significance for the substance of the property relations in marriage does not allow one to skip the matters related to them. In order not to divert from the stated subject the author has nevertheless paid attention only to those personal rights and obligations which are immediately related to the property ones: equality, personal autonomy, and some others.

The thesis being defended is that the Principles can be a basis for an overall reconsideration and modernization of the regulation of the property relations between the spouses.

The structure of the research comprises an introduction, three chapters, and a conclusion. ***Chapter One examines the Principles as an act***. The first section examines the matters related to the establishment, structure and operations of the organization that created them: the Commission on European Family Law. The second chapter focuses on the system, structure and substance of the Principles, their intended purpose, characteristics and legal

nature. An attempt has been made to distinguish the Principles from other similar categories in terms of formal legal features.

Chapter Two offers an assessment of the compliance of the Bulgarian regulation of marital property relations with the Principles. In particular, it examines the compliance of Bulgarian family legislation with the approach of the primary regulation of the matrimonial relations and with the common rights and obligations of the spouses established by the Principles. As far as appropriate where any non-compliance between a statutory solution adopted in Bulgaria and the Principles is identified the two approaches are also put to a qualitative assessment. Each of the sections ends by a structurally individualized paragraph where the main conclusions of the analysis made are presented emphasizing the shortcomings of the national regulation.

In Chapter Three the author seeks for and analyzes the possibilities of overcoming the identified shortcomings of Bulgarian legislation. The need of introducing a primary matrimonial regime is being justified and its structure and substance are being discussed. The author argues for the need of establishing some common matrimonial rights and obligations that are completely unknown to the Bulgarian family law, such as protection of rented family home, right to judicial empowerment, obligation to provide information, and clarifies the possibilities for regulating them. It is also proposed that the regulation of part of the existing matrimonial rights and obligations which are not reliably guaranteed or do not function efficiently for one reason or another be reconsidered. In addition to the solutions of the Principles the author looks for possibilities of overcoming the shortcomings of the Family Code in the sources of international law, family law regimes of the other European countries, and the legal doctrine. In the end of each section the author proposes a specific model of regulation by which the proposals made for the improvement and modernization of the legislation can be realized.

Based on the research the author arrives at a number of scientific and applied-scientific conclusions and outcomes. First, the thesis being defended that the Principles can be a basis for the overall general reconsideration and modernization of the regulation of property relations between the spouses under the Bulgarian law has been corroborated. This conclusion is necessitated on the basis of the thorough analysis of the genesis, system, substance and functions of the Principles which were defined as a private codification intended to promote the harmonization and improvement of the family law in Europe.

Second, after juxtaposing the national property-matrimonial legislation with the Principles a number of non-compliances between the two regulations have been deduced. In most of those cases the approach adopted by the Commission is assessed as better and more efficient. The following specific conclusions have been made: that in Bulgaria there is no full-fledged primary matrimonial regime; that under the national legal regulation no guarantees are envisaged for the actual participation of each of the spouses in satisfying the family needs; that the protection of the family home under the Family Code is quite limited in scope and does not reliably guarantee the accommodation needs of the family and the children; that the model of representation of the spouses adopted by the Bulgarian legislator cannot function in case that any of the spouses is incapable of expressing his/her intentions; that the lack of an obligation to provide information under Bulgarian family law questions the possibility of

determining the spouses' specific contribution and hinders the exercise of the right to support and some other property rights of the spouses.

Third, after an analysis of the possible approaches the author proposes a model of overcoming each of the identified shortcomings of the Bulgarian regulation. The proposals made are intended, first and foremost, to contribute to the better and efficient protection of family but they are also conductive for the attainment of other objectives: bringing Bulgarian family law in compliance with the law of the remaining European countries, the affirmation of the dominant values and ideas in Europe in the regulation of the family relations, etc. Here is what has been proposed in summary:

– introduction of a primary matrimonial regime which should also cover some matrimonial rights and obligations that are unknown to the Bulgarian family law;

– regulation of a claim for award of the monetary value of the spouse's contribution due;

– regulation of the protection of the family home among the common rights and obligations of the spouses and to do so in a manner enabling its functioning as a universal measure of protection of the accommodation needs of the family;

– introduction of protection of a rented family home by virtue of which the lessor's spouse should acquire *ex lege* the capacity of a party to the lease legal relation;

– establishing a possibility for judicial empowerment where any of the spouses is unable to express his/her intentions, and statutory regulation of the general rule regarding the representation of spouses, none of the spouses may represent his/her partner in marriage unless properly authorized to do so;

– establishing an obligation to provide information which should ensure the possibility for determining the spouse's contribution due and for exercising the right to support and some other subjective rights of the spouses.

2. Summary of the article: "Принципите на европейското семейно право – основни характеристики, правна природа и отграничения." [Principles of European Family Law - Main Characteristics, Legal Nature and Demarcations"] – In: Шопов, А. (съст.) Правото в XXI век – предизвикателства и перспективи. Том 1. Пловдив, УИ „Паисий Хилендарски", 2023 [Shopov, A. (ed.) Law in the 21st Century: Challenges and Perspectives. Volume 1. Plovdiv: Paisii Hilendarski University of Plovdiv Press, 2023], pp. 373-387, ISBN 978-619-202-903-6.

The article examines the main characteristics and legal nature of the Principles of European Family Law (Principles). The problem is topical due to the fact that the Principles are understudied in the Bulgarian doctrine and are generally poorly known even by those researchers and practicing jurists who work in the field of family law. This does not only lead to mixing the PEFL with other legal categories but also hampers the possibility for the significant functions carried out by the Principles from being realized. By the study the author sets the task to clarify the legal nature of the Principles as to that end he deducts and analyzes the characteristics that are defining for their legal essence. On the basis of the analysis made the Principles are related to the sources of *soft law* and, in particular, to the category of private codifications. The study also clarifies the manner in which the Principles are correlated to the

legal norms, principles of law, doctrine and other categories similar in terms of their formal juridical characteristics by outlining clear demarcating lines of among them.

3. Summary of the article: "Ще бъде ли суспендирано действието на избрания имущественобрачен режим при последващо поставяне на някого от съпрузите под запрещение? В подкрепа на утвърдителния отговор." [Will the effect of the chosen property-matrimonial regime be suspended in case that any of the spouses is subsequently placed under interdiction? In favor of the affirmative answer"] – In: Брак и отношения между съпрузите. Дискусионник по семейно право. Пловдив, УИ „Паисий Хилендарски", 2022 [Marriage and Relations between Spouses. Debates in Family Law. Plovdiv: Paisii Hilendarski University of Plovdiv Press, 2022], pp.76-93, ISBN 978-619-202-730-8.

The article examines the subject-matter scope and substance of article 18, paragraph 2 of the Family Code. It is maintained that the purpose of the rule envisaged by the provision is not only to limit the possibility of minors and interdicts choosing/agreeing upon a property-matrimonial regime but also to "suspend" the effect of the validly established regime in case of subsequent deprivation or restriction of the capacity to act of one or both of the spouses. This conclusion is substantiated by the analysis of article 18, paragraph 2 of the Family Code whereupon its protective function is emphasized. The article also discusses the problems that might result from the understanding that is being maintained and the possibilities for overcoming them under the statutory regulation in force and *de lege ferenda*.

4. Summary of the article: "Принципи на европейското семейно право относно имуществото, издръжката и наследствените права на двойките във фактически съюзи." [Principles of European family law, support and succession rights of couples in de facto unions] – Правна мисъл [Legal Thought], 2021, No. 3-4, pp. 62-77, ISSN 1310-7348 (co-author: Assoc. Prof. Velina Todorova).

The article presents the most recent group of principles developed by the Commission on European Family Law – the Principles regarding property, maintenance and succession rights of couples in de facto unions. These Principles are the result of a comparative law study in 29 European Union member states and Russia and give ideas about the development of the family law protection of partners. The text examines in brief the substantial characteristics of de facto unions as per their regulation in the Principles, analyzes the main approaches in the legislations studied by the Commission, and outlines an international legal framework in which the regulation of cohabitation without marriage should be incorporated and understood. In the end of the text there is a Bulgarian translation of the Principles for the attention of the readers.

5. Summary of the article: "Преглед на подбрани решения от практиката на Върховния касационен съд за 2019-2020 г. по въпросите на родителското отчуждение и личните отношения на детето с баби и дядовци." – Електронно издание „Предизвикай правото!", 21.02.2021, достъпна на [Overview of selected judgments of the Supreme Court of Cassation for 2019-2020 on matters of parental

alienation and child's personal relations with grandparents – Challenging the Law electronic edition, 21 February 2021, available online at:] https://www.challengingthelaw.com/semeino-i-nasledstveno-pravo/pregled-vks-2018-semeino-pravo/. ISSN: 1314-7854

The two questions examined in the article, i.e. of parental alienation, and of grandparents' personal relations with their grandchildren, have not been given the necessary attention in the legal doctrine. This makes the need of an overview of the court practice in which these questions are discussed quite sensitive. On the basis of the accumulated practice one can draw solutions of a lot of the problems created by the frugal legal regulation of parental alienation and child's personal relations with the relatives. For this reason the author analyzes a selection of court judgments from the most recent practice of the Supreme Court of Cassation regarding the significance of parental alienation in disputes over parental rights and the required premises for exercising the grandparents' right to personal relations with the child. The question of parental alienation and the one of personal relations between grandparents and grandchildren are examined in a single material since both questions concern the child's right to know and communicate with the members of his/her family.

6. Summary of the article: "Принципи на европейското семейно право относно имуществените отношения между съпрузите." [Principles of European Family Law regarding the property relations between the spouses] – Правна мисъл [Legal Thought], 2020, No. 4, pp. 3-22, ISSN 1310-7348 (co-author: Assoc. Prof. Velina Todorova)

The article briefly presents the process of harmonization of family law in Europe which naturally follows the development of the international and European law and the rights related to European citizenship. It also examines the academic activity in this field concentrated in the work of the Commission on European Family Law. A Bulgarian translation of the Principles of European Family Law regarding the property relations between the spouses developed by the Commission is provided.

7. Summary of the article: "Проблеми на завещателната дееспособност." [Problems of testamentary capacity] – Ius Romanum, бр. I/2020: Hereditas, pp. 335-358, ISSN: 2367-7007, available online at: https://iusromanum.eu/periodicum/numeri.

This research attempts to clarify the scope of the statutory requirements for acquiring testamentary capacity under Bulgarian law. Each of these requirements stipulated in article 13 of the Succession Act is put to independent analysis in the context of the new statutory framework outlined by the obligations assumed by Bulgaria by ratifying the Convention on the Rights of Persons with Disabilities. The analysis proceeds from the understanding that testamentary capacity is special which does not allow the mechanical transfer of the solutions affirmed for the general civil capacity to act. The conclusions in the research have been made after a thorough comparative law overview of other European legislations which makes it

possible for the author to discuss some different possible approaches to the problems being examined.

8. Summary of the article: "Is post-divorce spousal maintenance in Bulgarian law obsolete?" – In: Rogerson, C., J. Miles, P. Parkinson, M. Antoskolskaia (eds.) Family Law and Family Realities. Conference book – 16th World Conference of the International Society of Family Law. Eleven International Publishing, 2019; ISBN 978-94-6236-927-6.

The New Bulgarian Family Code (entered into force on 1st October 2009) essentially adopt applying to this moment restrictive regulation of maintenance between former spouses. The historical review of this regulation shows that as a conception it was elaborated in the Period of Socialism in the Bulgarian Persons and Family Act of 1949 and it had satisfied different social relations. This study seeks an answer of the question whether the Bulgarian regulation of post-divorce maintenance matches the new social and economic realities and family models. Starting point of the study is the understanding that the legislative decisions above firs of all must be function of the existing family model. The latter does not questions the need of an immediate expunge of the consequences of the dissolved marriage.

Initially, the interest of the author is focused on social relations in the time of Socialism. This approach is necessary because the environment in which the legislative decisions concerning the maintenance between former spouses (now transferred in the New Family Code) were established and been observed more than four decades is important for their understanding. The article analyzes the family model (considering distribution of duties between spouses – financial support of the family, keeping the household and childcare), which was imposed by the living conditions in the period of Socialism.

Further, the study discusses the way in which the socio-political changes after 1990 affected Bulgarian family and the model for reconciliation of work and family life. A variety of models, unknown under the Socialism, is found out. Regarding some of the „new" models the regulation of post-divorce spousal maintenance is totally inappropriate. It is especially unacceptable in the cases where until the termination of the marriage spouses are kept up a traditional family model in which the husband is burdened with the financial support of the family, and the wife takes household and child cares. The prevailing egalitarian models, which the legislator probably took into account in the regulation of maintenance between former spouses, are not found in a pure form. Although both spouses work full-time jobs, full equality between them is not found. Traditionally the wife takes the bigger share of the work at home and childcare. The sociological researches shows that even in the case of returning to work after maternity leave the time spent „at home" negatively affects the wife's opportunities to find realization in the labour market.

The study compares the Bulgarian regulation of post-divorce spousal maintenance with that in the other European countries seeking to give an account of differences in the socio-economic conditions and established family models. The reason for adopting legislative decisions in Bulgarian law is sought in the context of The Principles of European family law

regarding divorce and maintenance between former spouses. The comparative legal analysis confirms the need of a full revision of post-divorce maintenance regulation.

In conclusion, the author considers some possible alternatives in regulation of maintenance between former spouses. The purpose is some more suitable for socio-economic realities and family models in Bulgaria approach to be found. The requirement for disability to be abolished as a prerequisite for maintenance between former spouses *de lege ferenda* is discussed. In practice this condition is the greatest obstacle post-divorce maintenance to be granted despite the inability of former spouse to meet the requirements of the labour market after the termination of the marriage and the need of time to reorganize his or her way of living.

9. Summary of the article: "Преглед на подбрани решения от най-новата практика на ВКС по въпроси на семейното право." – Електронно издание „Предизвикай правото!", 14.07.2019, достъпна на [Overview of Selected Judgments from the most recent practice of the Supreme Court of Cassation on matters of family law – Challenging the Law electronic edition, available online at:] https://www.challengingthelaw.com/semeino-i-nasledstveno-pravo/pregled-vks-2018-semeino-pravo/. ISSN: 1314-7854.

The article offers a critical overview of the major judgments of the Supreme Court of Cassation on matters of family law delivered in 2018. The author's purpose is to direct the attention of the courts to the weaknesses of the assertions maintained in the examined acts of the court and to support the justified solutions which are making their way but are yet to be univocally adopted. The focus in the analyzed practice is on the property relations between the spouses in a community regime and, in particular, on the rights with respect to the property acquired during marriage. The last of the selected judgments deals with the matters of paternity in the context of the practice of the European Court of Human Rights.

10. Summary of the article: "*De lege ferenda* за защитата на наето семейно жилище." [*De lege ferenda* on the protection of a rented family home] – Правна мисъл [Legal Thought], 2018, No. 4, pp. 48-60, ISSN 1310-7348.

Due to the tendency of increase in the number of Bulgarian families living in rented properties the question of introducing protection of a rented family home is a topical one also in Bulgaria. The article aims to start the discussion on this problem. The subject mater of the analysis is the model of protection of the rented family home according to the Principles of European Family Law regarding the property relations between the spouses. The prospects of adopting this model and the manner in which it would function within the framework of Bulgarian legal context are examined.

11. Summary of the article: "Представителството между съпрузи в светлината на Принципите на Европейското семейно право." [Representation between spouses in

the light of the Principles of European Family Law] – Studia Iuris, No. 1/2017, available online at http://studiaiuris.com/, ISSN 2367-5314;

This article examines the question of the representation between spouses under the Bulgarian legal system in the context of the Principles of European Family Law. The national regulation and the regime of representation of spouses under PEFL will be juxtaposed both in their subject-matter scope and in view of the social justificiability of the adopted solutions.

The first part of the research deals with the hypotheses of the representation between spouses in transactions with common property as resulting from the law. The research will analyze the theses covered by the law literature and court practice regarding the presence of such representation as depending on the necessitated conclusions the notions examined will be either confirmed or rejected. The voluntary representation between the persons bound by marriage is also an object of analysis. In this direction, the aim is to establish the extent to which the Bulgarian law is in compliance with the freedom of representation between spouses based on the will of the represented spouse as guaranteed by PEFL. An answer will also be sought to the question of whether it is justified to adopt the possibility, which is known to PEFL and to some foreign legislations, of judicial empowerment of a spouse to represent his/her partner in marriage in case of spouses' inability to authorize him/her. Finally, a summary will be made of the conclusions and the proposals made throughout of the text.

12. Summary of the article: "Значението на Принципите на европейското семейно право за усъвършенстване на защитата на семейното жилище." [The significance of the Principles of European Family Law for the improvement of the protection of the family home] – In: Шопов, А. (съст.) Soft law и развитието на съвременното право. С.: Сиби, [Shopov, A. (ed.) Soft law and Development of Contemporary Law. Sofia: Sibi], 2017, pp. 169-187, ISBN 978-619-226-005-7.

The article examines the role and significance of the Principles of European Family Law regarding the property relations between the spouses for the improvement of the protection of family home under the Bulgarian legislation. The juxtaposition of the two regulations (PEFL and national regulation) shows that the subject-matter scope of the protection of the family home under the Bulgarian law is unduly narrow. This often makes it impossible for the accommodation needs of the family and the children to get real protection and therefore some proposals are made *de lege ferenda*.

The study also discusses the main theses covered by the Bulgarian doctrine and practice on the legal consequences of violating the requirements on disposal of family home established by the Family Code. It is accepted that none of the leading theses in Bulgaria is in full compliance with the approach adopted in the PEFL whose advantages are made clear.

The study examines the problem of the applicability of the protection of the family home under a contractual regime of property relations. Here, the solution of the Bulgarian legislator (i.e. to allow the protection to be excluded by the marriage contract) is also assessed as unjustified. The study recommends, similarly to PEFL, that the protection of the family home should apply regardless of the applicable property-matrimonial regime.

The study also poses the question on introducing protection of the family household furniture in Bulgarian legislation. It discusses the problems resulting from the adoption of such rule as well as the need of establishing special protection of third parties acting in good faith.

13. Summary of the article: "Относно формата за действителност на брачния договор." [On the form of validity of the marriage contract] – Собственост и право [Property and Law], 2018, No. 2, pp. 43-51, ISSN 1312-9473.

The article examines the statutory requirements for the manner of conclusion of the marriage contract. It pays attention both to each of the elements of the form of validity of marriage contract and to the persons competent to carry out the necessary attestations. The article does not skip the specific questions of the form of marriage contract which might give rise (and probably are already giving rise) to disputes and difficulties in practice: regarding the sequence in which the required attestations must be made; regarding the form of contract by which rights to immovable property are transferred; regarding the consequences in case that the contract is concluded in a form more onerous than the required one; regarding the possibility for the parties to agree upon a form of validity, etc.

14. Summary of the article: "Може ли да се претендира частична трансформация при одобрено от бракоразводния съд споразумение за съсобственост? Практически въпроси при липса на уговорка за съотношението на дяловете." [May one claim partial transformation in case of c-ownership agreement approved by the divorce court? Practical questions if there is no agreement on the proportion of shares] – Собственост и право [Property and Law], 2016, No. 6, pp. 41-47, ISSN 1312-9473

The article seeks an answer to the question posed by Interpretative Judgment No. 3/2015 on the docket of the Supreme Court of Cassation, the Civil College, and namely: Is it admissible, as soon as the spouses have agreed in the agreement approved by the divorce court that the property acquired during their marriage would remain co-owned by them, that in subsequent adversary proceedings a greater share of one of the spouses be established on the grounds of a partial transformation of such spouse's personal property within the meaning of article 21, paragraph 2 of the Family Code (1985, repealed), or article 23, paragraph 2 of the Family Code, respectively? The author seeks for a solution of the posed problem in light of the theoretical treatments affirmed in the doctrine of civil law and civil procedure. The same are interpreted in the context of the leading court practice regarding the agreement approved by the divorce court and the requirements on the contents thereof.

Summary of the Stated Chapters of the Collective Monograph "Republic of Bulgaria." – In International Encyclopedia of Laws: Family and Succession Law, edited by Walter Pintens. Alphen aan den Rijn, NL: Kluwer Law International, 2019, ISBN 978-90-654-4888-0, 324 p., https://kluwerlawonline.com/EncyclopediaChapter/IEL+Family+and+Succession+Law/FAMI20190033 .

Chapter 1 Marriage (Part 2 Family Law), pp. 77-97

Part One of Chapter 1 examines the marriage as regulated under the Bulgarian law. The questions of the legal nature of marriage (Section 1), capacity to marry (Section 2), the elements of the complex set of facts giving rise to the marital legal relation (Section 3), and the personal and property consequences for the spouses (Section 4), are examined one after another. The question of the invalidity of marriage in its two known forms, i.e. nullity and voidability, is also examined (Section 5).

Chapter 3 Cohabitation without marriage (Part 2 Family Law), p. 123

Chapter Two examines the sporadic regulation of de facto cohabitation in separate public-law acts by making it clear that it is not regulated as a source of family relations under the Bulgarian law.

Chapter 1 Intestate Succession (Part 4 Succession Law), Section 3 System of Succession and Section 4 Rights to vacant estate, pp. 239-257.

Section 3 examines the orders of priority and the requirements on determining the shares of individual heirs. The succession law status of the surviving spouse and the facts and circumstances relevant for the amount of his/her share in the estate are made clear. The section also presents the institution of succession by right of substitution as well as some specific matters related to the additional rights provided to the heirs who had lived with the deceased and had taken care of him/her. The significance of adoption in its two forms has been specifically examined in case of succession. Section 4 discusses the question regarding the fate of vacant estate and the capacity in which the state and the municipality acquire hereditary property.

Chapter 2 Succession by Will (Part 4 Succession Law), pp. 259-289.

The chapter deals with succession by will under the Bulgarian succession law. The text starts by an analysis of the premises for acquiring testamentary capacity. Part of the theses included in this text can be defined as a contribution to science. According to the author such contributions are the classification of the criteria for acquiring testamentary capacity, the analysis supporting the understanding that persons placed under full interdiction because of mental illness may bequeath in principle, etc. Then follows an analysis of the main types of wills known to the national system of law, including the joint wills prohibited by the Succession Act. Here, the criterion deduced to distinguish the direct legacy from the indirect one may be defined as a contribution. The questions related to the contents of the testamentary act, to the statutory restrictions on the freedom to bequeath and to the possibility for the testator to freely revoke, explicitly or tacitly, his/her preceding testamentary disposition, are also examined in detail. Finally, attention is also paid to the problem of interpreting the will expressed in the testament.