

UDC 347.919.7+347.61

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Kashperska, Tamara (2022). Facts established by court for the purpose of protecting family rights and interests: concept and classification. *Entrepreneurship, Economy and Law*, 6, 12–19, doi : <https://doi.org/10.32849/2663-5313/2022.6.02>

FACTS ESTABLISHED BY COURT FOR THE PURPOSE OF PROTECTING FAMILY RIGHTS AND INTERESTS: CONCEPT AND CLASSIFICATION

Abstract. The *purpose of the article* is to establish the essence of and to classify facts established by the court with the purpose of protecting family rights and interests.

Results. It is revealed that along with subjective family rights, the family interest, protected by law, as striving for the use of a specific tangible and/or intangible benefit, which is an independent object of judicial protection, is also subject to legal protection. Subjective family law and the interest protected by law is one of the elements of family legal relations, in so far as the content of family legal relations. Therefore, the legal facts that entail the advent, change or termination of family legal relations are grounds for the advent, change or termination of corresponding family rights and interests as one of the elements of legal relations. With regard to codifying a single household of a man and a woman without marriage in the provisions of civil procedure and family legislation of Ukraine, inaccuracy by the lawmaker should be emphasised. We argue that the court should establish not the fact of a single household of a man and a woman without marriage, but the fact of a single household of a man and a woman without registration of marriage.

Conclusions. The concept of “legally relevant facts” and “legal facts” are the identical legal categories, since legal facts always entail the advent, change or termination of family legal relations (rights, interests and duties), i. e., they are legally relevant facts. The facts that are relevant to the protection of family rights and interests should be considered concrete living situations, regulated by the guidelines of family law and entail the advent, change or termination of family legal relations (including family rights, interests and duties). According to the parties to family legal relations, the facts legally relevant for the protection of family rights and interests should be classified in: a) facts relevant for the protection of family rights and interests of spouses (facts of registration and divorce of marriage); b) facts relevant for the protection of family rights and interests of parents and offspring (the fact of fatherhood (motherhood), the fact of birth of a person at a certain time); c) facts relevant for the protection of the rights and interests of other parties to family legal relations (the fact of family relations between natural persons, the fact of adoption, the fact of a single household of a man and a woman without marriage).

Key words: subjective family law, family rights and interests.

1. Introduction

Legal facts as legal phenomena have always aroused the interest of scientists in all spheres of legal study. Their presence relates to the process of the advent, change or termination of rights, separate powers, duties or whole legal relations. In fact, they are the engines of social relations and the determining factor of their dynamics (Kostruba, 2014).

Procedural specificities of a proceeding in cases concerning the establishment of facts, significant for protection of family rights and interests, cannot be identified without determining

the essence, as well as classifying relevant facts.

According to S.Ya. Fursa, the establishment of legal facts in civil proceedings is important, because it contributes to realisation of constitutional rights of citizens, such as: the right to social protection in case of disability, the breadwinner, in old age, protection of property, interests, legal status of civil, family, labour and other legal relations. Mostly persons concerned apply to court for establishing legal facts, when required entitlement documents are absent and court decision is the only way to protect their interests for further enjoyment of subjective rights. The presence or

absence of legal facts affect the advent, change or termination of personal or property rights of citizens (Fursa, 1997).

2. Theoretical approaches to establishing legally relevant facts

Usually, the legal literature considers legally relevant facts as the actions and events that, according to law, entail certain legal effects (Bychkova, 2009).

For example, M.M. Yasynok argues that legally relevant facts are the key legal facts which the person associates with the advent, change or termination of his or her future subjective rights (Yasynok, 2014).

V.V. Komarov and H.O. Svitlychna identify legally relevant facts and legal facts and consider the latter as specific circumstances that directly or indirectly affect the rights and interests of society, state, natural persons and legal entities (Komarov, 2011).

A representative of modern civilisation school A.V. Kostruba defines one of the types of legal facts – the terminating fact – as a specific situation contained in the hypothesis of a legal provision, and which is connected to the effect of termination of rights or legal relations, according to this provision (Kostruba, 2014).

Some scientists suggest that legal facts be defined based on their sectoral affiliation. For example, V.S. Kovalska states that a legal fact in the family law is a specific living situation, the legal construction of which is envisaged or allowed by the family law provision, which entails legal effects on family legal relations (the advent, change, termination, suspension, obstruction or renewal) and/or on the family legal entity (the advent, change or termination, suspension, impediment or renewal) and/or regarding family legal personality (the advent, expansion, termination or limitation) (Kovalska, 2014).

Furthermore, the scientists identify main features of legal facts as follows: a) legal facts are situations (not opinions) that have found their external expression; b) they show the existence or absence of certain phenomena of the material world; c) they are provided for by law; d) they are documented in the manner established by law; e) they entail legal effects provided by law (Isakov, 1984); f) they are informational (Kostruba, 2014).

The analysis of the scientific doctrine gives grounds for the conclusion that most scientists refer to the concept of legally relevant facts and legal facts as identical, considering them as the specific circumstances of life with which the provisions of law relate to the advent, change or termination of family legal relations (rights and duties).

Obviously, this approach is justified, because the above definition covers all essential features

of legal facts developed by the theory of law. Moreover, in our opinion, the concept of “legally relevant facts” and “legal facts” are the identical legal categories, since legal facts always entail the advent, change or termination of family legal relations (rights, interests and duties), i. e., they are legally relevant facts.

I.V. Venediktova's thorough study of the category of private interest, regulated by the state, enabled her to define it as a need, realised by the party to legal relations, to receive a certain tangible (intangible) benefit or a change of legal status, which encourages the parties to legal relations to take concrete actions or, conversely, to refrain from them, is in the legal field, is allowed by the state, is carried out in the form of a permit and is realised in a specific legal relationship (Venediktova, 2011).

In addition, the Constitutional Court of Ukraine expressed its perspective on interpretation of the category of interest in the case of the constitutional submission of 50 People's Deputies of Ukraine regarding the official interpretation of certain provisions of the first part of Article 4 of the Civil Procedure Code of Ukraine (the case on the interest protected by law) № 18-пн/2004 of December 1, 2004. The Constitutional Court of Ukraine explained that the notion of “interest protected by law”, which is used in the laws of Ukraine in logical and mental connection with the notion of “right”, should be understood as an aspiration to use specific tangible and/or intangible good, as a simple legitimate permission, stipulated by the general content of objective right, and directly not mediated in subjective right, that is an independent object of judicial protection and other legal remedies in order to meet individual and collective needs, which do not contradict the Constitution and laws of Ukraine, public interests, justice, good-faith, reasonableness and other general legal principles (Constitutional Court of Ukraine, 2004).

In addition, in clause 3.6 of the motivational part of Decision № 18-пн/2004 of December 1, 2004, the Constitutional Court of Ukraine stressed that the interest, even being protected by law, unlike subjective right, has no legal capacity as the latter, since it is not provided by the legal obligation of the other party.

In the Family Code of Ukraine, the law-maker quite often uses the wording “in the interests of the family” (part 1 of art. 54, art. 65), “in the interests of the state” (art. 27), “in the interests of society” (part 3 of art. 7), “in the interests of spouses” (part 1 of art. 27), “in the interests of the child” (part 1 of art. 42, part 6 of art. 19, art. 207), thus guaranteeing the realisation of interests which are not mediated by subjective family rights (Churpita, 2015).

Therefore, along with subjective family rights, the family interest protected by law as striving for the use of a specific tangible and/or intangible benefit, which is an independent object of judicial protection, is also subject to legal protection. Subjective family law and the interest protected by law is one of the elements of family legal relations, in so far as the content of family legal relations. Therefore, the legal facts that entail the advent, change or termination of family legal relations are grounds for the advent, change or termination of corresponding family rights and interests as one of the elements of legal relations.

Moreover, the characterisation of the facts relevant to the protection of family rights and interests requires to focus on the relation between the notions of “protection” and “defence”.

In the context of the correlation between the legal categories of protection and defence, we advocate the perspective of I.V. Spasybo-Fatieieva that protection is “guarding” from violation of a certain good (right or interest protected by law), and defence is the opportunity to defend from encroaching, to prevent violation or to restore violated right. Thus, legal protection suggests preventive means against encroaching on subjective rights. However, the defence is legal response to an offense that has already occurred, provides for legal liability and other remedies of a compensatory and restorative nature (Spasybo-Fatieieva, 2009). Therefore, legal protection includes both legal regulatory mechanism for social relations with the purpose of establishing subjective rights and duties of participants in legal relations, and legal defence of subjective rights (Krasnytska, 2014).

Therefore, we advocate the perspective that, during a separate proceeding of cases concerning the establishment of legally relevant facts in the field of family relations, there is a legal protection of family rights and interests, which includes, among other things, their defence.

Therefore, the facts that are relevant to the protection of family rights and interests should be considered concrete living situations, regulated by the guidelines of family law and entail the advent, change or termination of family legal relations (including family rights, interests and duties).

Features of the facts significant for the protection of family rights and interests are:

1. These are specific living situations. The specificity of the legal fact is due to the family legal relationship, which arises, changes or terminates as a result of the legal fact, concerns specific actors, a specific object, with respect to which actors are given specific family rights and duties (Kovalska, 2014). For example, as a result of a legal fact such as marriage, mutual

rights and duties of spouses arise for the respective actors.

2. These are living situations, regulated by the provisions of family law. It should be noted that codification of legal constructions of legal facts can be carried out in different ways: direct or indirect (collateral) (Isakov, 1984).

In case of a direct way, legal facts are directly indicated in the legal provision as the basis for the advent, change or termination of legal relations (Kovalska, 2014). An example of a direct way of stating legal facts in the family law may be the construction of a legal provision in part 1 of the art. 36 of the Family Code of Ukraine, according to which marriage is the ground for the advent of rights and duties of spouses.

In case of an indirect way, legal facts are not explicitly stated in the provision as the ground for the advent, change or termination of legal relations, but may entail legal effects of a family legal nature on the analogy with right or law.

Z.V. Romovska describes legal facts. For example, art. 84 of the Family Code of Ukraine provides for that the right to maintenance in connection with pregnancy is given to the wife, i. e., the woman in marriage. In case of voluntary recognition of fatherhood by a person with whom a pregnant woman is not married, on the analogy with right, the right to aliments for the time of pregnancy may be recognised for her (Romovska, 2003).

3. These are living situations that entails the advent, change or termination of family legal relations (including family rights, interests and duties).

According to P.F. Yeliseikin, one or the other situation should be regarded as legally relevant only in terms of the legal effects it may cause under law, and on the contrary, the very situation may legally indifferent if it is considered in connection with the legal effects for which it does not have legal significance. Therefore, the legal significance or legal indifference of the fact should be determined specifically in each case (Eliseykin, 1972).

Therefore, the essence of this feature of legal facts, which are relevant for protection of family rights and interests, is that such facts have in each case to create “expected” legal effects in the form of the advent, change or termination of family legal relations, that is, to be law-making. For example, adoption results in parental legal relationship with all mutual personal, non-personal and property rights and duties of parents and offspring (art. 232 of the Family Code of Ukraine); the divorce entails termination of personal non-property, as well as property rights and duties of spouses (art. 105 of the Family Code of Ukraine); the change of the conditions of the marriage agreement is

the ground for the change of the legal relations regulated by it (art. 100 of the Family Code of Ukraine), etc.

3. Legal regulatory mechanism for the establishment of legally relevant facts

According to explanations of the Plenum of the Supreme Court of Ukraine in part 1 of its Resolution № 5 “On judicial practice in cases of establishing legally relevant facts” of March 31, 1995, cases of establishing facts are considered in individual proceedings if:

1. Under law, such facts produce legal effects, that is, affect the advent, change or termination of personal or property rights of citizens.

The legal significance of the facts established in a separate proceeding is determined by the provisions of substantial law (in this case family law), which should be applied by the court in considering the case (Komarov, 2011).

In addition, it is possible to determine whether the legal effects are caused in connection with the purpose for which the applicant appealed to the court. The purpose of establishing the fact can be both realisation of a specific subjective right and determination of the legal status of a person: it is important only that between the fact established, on the one hand, and the subjective right and the interest protected by the law, on the other hand, there is a connection making the fact legally relevant.

For example, in case of appeal to the court with the application on establishing the fact of fatherhood (motherhood) (art. 135 of the Family Code of Ukraine) the applicant's purpose is the advent of parental legal relationship between him or her and the child, which will be a legal effect of the “positive” consideration of the case.

2. The current legislation does not provide for another procedure of their establishment.

When deciding on the establishment of legally relevant facts, the individual proceeding should consider the provisions of legal regulations, which provide for a non-judicial procedure for establishing certain facts. In particular:

a) according to the Law of Ukraine “On rehabilitation of victims of political repression in Ukraine”, facts of dispossession and administrative eviction of citizens are established by the committees of the Council of People's Deputies on the issues of renewal of the rights of the rehabilitated;

b) according to the Procedure for confirmation of the available length of service for the appointment of pensions in the absence of the employment record or corresponding records in it, approved by Resolution № 637 of the Cabinet of Ministers of Ukraine of August 12, 1993, if the documents have not been pre-

served, the length of service is confirmed out by district (city) departments of social security of the population on the basis of testimony; in other cases, the length of service is determined in the procedure provided by the legislation regulating the legal relations associated with the need to establish this length of service;

c) according to the Law “On Labour Protection” and the Procedure for investigation and record of accidents, occupational diseases and accidents at work, approved by Resolution № 1232 of the Cabinet of Ministers of Ukraine of November 30, 2011, the fact of injury and other health damage at work is indicated by the act on accident, and in case of refusal of the owner of the enterprise, institution, organisation or authorised body to make such act or refusal of the victim or other interested person to consent with the content of the act, the issue is considered in the manner provided by the legislation on labour disputes consideration.

In addition, the courts may not consider applications on establishing the fact of belonging of persons affected by the Chernobyl disaster to war veterans or war invalids, military service, stay on the front, in partisan groups, injuries and shell shocks during the performance of military service duties, causes and degree of disability, group of disability and time of its occurrence, graduation of educational institution and reception of corresponding education, reception of government awards.

3. The applicant has no other opportunity to obtain or restore a lost or destroyed document, which proves the legally relevant fact.

In most cases, legal facts are confirmed by records of civil status acts, various certificates and other documents (e. g. marriage certificate, birth certificate, etc.). Nevertheless, not always a legal fact can be certified by the relevant document (Kivalov, 2010).

The inability of the applicant to obtain in another manner the relevant documents, which prove the legal fact, is caused by several reasons. One of the reasons is that the fact legally relevant for the applicant is not subject to state registration. Such facts include, for example, the fact of a person being dependant, the recognition of fatherhood. The inability of the applicant to obtain the necessary documents may also be due to unduly, for any reason, registration of the legal fact, which is subject to state registration. Such facts include, for example, the death of a person at a certain time or under certain circumstances. The inability to restore lost documents can also be caused by the fact that, despite the timely registration of the relevant legal fact, documents confirming it have not been retained and cannot be restored

for objective reasons. For example, the fact of registration of marriage can be established in a separate proceeding in connection with the fact that the archives of the State Civil Registry Office were destroyed during the fire and therefore the applicant cannot receive a duplicate of the lost marriage certificate (Osokina, 2010).

4. The establishment of the fact is not connected with the following decision of the dispute over the right.

In legal literature, the presence of dispute over the right is usually defined as a feature of the case of a suit proceeding. Moreover, the presence of dispute over the right, under the general rule, excludes the possibility of considering the case in a separate proceeding (Osokina, 2010).

This perspective is reflected in the legal provision of part 6 of art. 235 of the Civil Procedure Code of Ukraine, according to which, if during the consideration of the case in a separate proceeding a dispute on the right arises, that is solved in the accordance with the claim proceeding, the court shall leave the statement without consideration and explain persons concerned that they have a right to claim on the general grounds.

The civil procedure legislation of Ukraine provides the approximate list of facts which can be established by the court in a separate proceeding. For example, according to part 1 of art. 256 of the Civil Procedure Code of Ukraine, the court considers cases on establishment of the fact of: 1) family relations between natural persons; 2) dependence of a natural person; 3) injury, if necessary, for the purpose of pension or assistance on obligatory state social insurance; 4) registration of marriage, divorce, adoption; 5) a single household of a man and a woman without marriage; 6) the belonging of entitlement documents to the person, whose surname, name, father's name, place and time of birth do not coincide with the name, father's name, surname, place and time of birth, specified in the birth certificate or in the passport; 7) the birth of a person at a certain time in case of impossibility of registration of birth by the State Civil Registry Office; 8) the death of a person at a certain time in case of impossibility of registration of death by the State Civil Registry Office; 9) the death of a missing person in circumstances threatening him or her with death or giving reasons to consider him or her dead in a certain accident as a result of man-made and natural emergency situations.

The list of facts that may be established by the court in a separate proceeding is not exhaustive. The court may establish other facts, affecting the advent, change or termination of personal non-property or property rights of natural persons, unless the law provides for another

procedure of their establishment. For example, a separate proceeding may establish: the fact of recognition of fatherhood or motherhood in the event of death of a person who considered him-/herself a father or mother of a child, provided that the recording is made according to the rules established by law (articles 130, 132, 135 of the Family Code of Ukraine); the fact of adoption of the inheritance, the place of opening of the inheritance (articles 1221, 1268 of the Civil Code of Ukraine) etc.

In addition, according to paragraph 1 of the Supreme Court of Ukraine Resolution № 5 "On judicial practice in cases of establishing legally relevant facts" of 31 March 1995, the court may establish facts which, under foreign law, entail legal effects for the applicant, if the court's decision is necessary for applicant in relations with citizens of other states (for example, for the resolution of the issue of the right to inheritance of a person who is not recognised by the legislation of Ukraine to the circle of heirs under the law).

The legal nature of family legal relations, their content and parties, as well as provisions of parts 2, 3 of art. 234, parts 1, 2 of art. 256 of the Civil Procedure Code of Ukraine, articles 130–132 of the Family Code of Ukraine, enable to conclude that a separate proceeding considers cases of establishing facts relevant for protection of family rights and interests, such as:

1) family relations between natural persons (para. 1 of part 1 of art. 256 of the Civil Procedure Code of Ukraine), if, for certain reasons, the fact was not registered by the bodies of State Civil Registry Office (hereinafter – the SCRO);

2) registration of marriage, divorce, adoption (para. 4 of part 1 of art. 256 of the Civil Procedure Code of Ukraine), if the corresponding record has not been kept in the SCRO, its restoration has been refused or the record can be restored only on the ground of the court's decision to establish the fact of registration of the civil status act;

3) fatherhood (motherhood) – in the case of the death of a man who was not married to a child's mother (the death of a woman who considered herself a child's mother), if the record of the child's father in the Birth Registration Book is made with the mother's surname and the child's patronymic is recorded by at the behest of the mother (part 1 of art. 135 of the Family Code of Ukraine) or the mother of a child whose parents are unknown, is recorded by the decision of the body of guardianship and care (part 2 of art. 135 of the Family Code of Ukraine);

4) a single household of a man and a woman without marriage (para. 5 of part 1 of art. 256 of the Civil Procedure Code of Ukraine), if this fact causes the advent, change or termination of legal relations, for example, the advent of the right to

joint ownership of property, acquired by a man and a woman during the time of a single household, the right to be dependant in accordance with the provisions of art. 76 of the Civil Procedure Code of Ukraine, etc. With regard to codifying a single household of a man and a woman without marriage in the provisions of civil procedural and family legislation of Ukraine should be emphasised on such inaccuracy, as allowed by the law-maker. It is seen that the court should establish not the fact of a single household of a man and a woman without marriage, but the fact of a single household of a man and a woman without registration of marriage. Therefore, we propose to make appropriate changes to: a) the legal provision in para. 5 of part 1 of art. 256 of the Civil Procedure Code of Ukraine, shall be worded as follows: "a single household of a man and a woman without registration of marriage"; b) the legal provision in part 2 of art. 21 of the Family Code of Ukraine, shall be worded as follows: "a single household of woman and man without registration of marriage is not a ground for rights and duties of spouses";

5) the birth of a person at a certain time in case of impossibility of registration by the SCRO of the birth (para. 7 of part 1 of article 256 of the Civil Procedure Code of Ukraine).

The list is not exhaustive. According to the para 2 of art. 256 the Civil Procedure Code of Ukraine may also establish other facts affecting the advent, change or termination of personal or property rights of natural persons depends, unless otherwise specified by law.

According to V.V. Yarkov, the significance of any classification is that it allows to study object more deeply, to identify specificities, interrelation of general and special. The general classification of legal facts has been developed in jurisprudence a long time ago and quite thoroughly. It is carried out according to a volitional feature into actions and events. The place of legal facts in this classification is determined by the nature of the relation between the legal fact and the will of the person. The significance of grouping legal facts on the basis of their correlation with individual will is due to the effectiveness, which expressed is in the influence on the will of the person (Yarkov, 2012).

According to M.M. Yasynok, legal relevant facts can be divided into three groups. The first group covers registration legal facts, which are registered by the state only in written form (registration of marriage, divorce, adoption, birth, death). The second group is unobvious legal facts, which do not have their written form of recording, and therefore can be established both on the basis of testimony and other written or verbal evidence (fact of family relations, fact of the person's dependence). The third group of legally relevant facts are

obvious facts, such as events, for example, injury. For this fact, it is important to establish the place and circumstances of receiving such injury, because the fact of injury without place and circumstances of the event is not complete, and these circumstances are inseparable and constitute the only content of this legal fact (Yasynok, 2014).

V.V. Komarov and H.O. Svitlychna propose to classify legally relevant facts by sectoral orientation into: a) legally relevant facts for the realisation of rights and interests arising from civil, family and other legal relations; b) legally relevant facts for the realisation of social rights and interests of natural persons; c) the facts which are acts of civil status, as well as the fact of the validity of entitlement document (Komarov, 2011).

V.I. Prokopenko proposes to classify the legally relevant facts on a procedural basis, such as the unity of the grounds and conditions for the proceeding of such cases. According to this feature, the author identifies the following types of legally relevant facts: facts that are subject to mandatory state registration and which were previously registered; facts that were previously documented but with errors; facts that are subject to mandatory state registration but were not previously registered; facts that are not subject to mandatory state registration; facts that are not subject to mandatory state registration; facts that terminate citizens' ability to act (Prokopenko, 1963).

4. Conclusions

The concept of "legally relevant facts" and "legal facts" are the identical legal categories, since legal facts always entail the advent, change or termination of family legal relations (rights, interests and duties), i.e., they are legally relevant facts.

The facts that are relevant to the protection of family rights and interests should be considered concrete living situations, regulated by the guidelines of family law and entail the advent, change or termination of family legal relations (including family rights, interests and duties).

According to the parties to family legal relations, the facts legally relevant for the protection of family rights and interests should be classified in:

a) facts relevant for the protection of family rights and interests of spouses (facts of registration and divorce of marriage);

b) facts relevant for the protection of family rights and interests of parents and offspring (the fact of fatherhood (motherhood), the fact of birth of a person at a certain time);

c) facts relevant for the protection of the rights and interests of other parties to family legal relations (the fact of family relations between natural persons, the fact of adoption, the fact of a single household of a man and a woman without marriage).

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ФАКТИ, ЩО ВСТАНОВЛЮЮТЬСЯ СУДОМ ІЗ МЕТОЮ ОХОРОНИ СІМЕЙНИХ ПРАВ ТА ІНТЕРЕСІВ: ПОНЯТТЯ І КЛАСИФІКАЦІЯ

Анотація. *Метою статті* є визначення сутності фактів, що встановлюються судом із метою охорони сімейних прав та інтересів, і здійснення їх класифікації.

Результати. З'ясовано, що поряд із суб'єктивними сімейними правами правовій охороні підлягає також охоронюваний законом сімейний інтерес як прагнення до користування конкретним матеріальним та/або нематеріальним благом, що є самостійним об'єктом судового захисту. Суб'єктивне сімейне право та охоронюваний законом інтерес є одним з елементів сімейних правовідносин, а саме частиною змісту сімейних правовідносин. Таким чином, юридичні факти, що тягнуть виникнення, зміну чи припинення сімейних правовідносин, є підставою також для виникнення, зміни або припинення відповідних сімейних прав та інтересів як одного з елементів правовідносин. З приводу законодавчої регламентації проживання однією сім'єю чоловіка та жінки без шлюбу в нормах цивільного процесуального та сімейного законодавства України варто наголосити на такій неточності, яку допустив законодавець. Вбачається, що суд має встановлювати не факт проживання однією сім'єю чоловіка та жінки без шлюбу, а факт проживання однією сім'єю чоловіка та жінки без реєстрації шлюбу.

Висновки. Поняття «факти, що мають юридичне значення» та «юридичні факти» є тотожними правовими категоріями, адже юридичні факти завжди зумовлюють виникнення, зміну чи припинення правовідносин (прав, інтересів та обов'язків), тобто є фактами, що мають юридичне значення. Фактами, які мають значення для охорони сімейних прав та інтересів, необхідно вважати конкретні життєві обставини, що регламентовані нормами сімейного права та тягнуть за собою виникнення, зміну чи припинення сімейних правовідносин (зокрема, сімейних прав, інтересів та обов'язків). Вважаємо за доцільне класифікувати факти, що мають юридичне значення для охорони сімейних прав та інтересів, за суб'єктивним складом учасників сімейних правовідносин на такі види: а) факти, що мають значення для охорони сімейних прав та інтересів подружжя (факти реєстрації та розірвання шлюбу); б) факти, що мають значення для охорони сімейних прав та інтересів батьків і дітей (факт батьківства (материнства), факт народження особи в певний час); в) факти, що мають значення для охорони прав та інтересів інших суб'єктів сімейних правовідносин (факт родинних відносин між фізичними особами, факт усиновлення, факт проживання однією сім'єю чоловіка та жінки без шлюбу).

Ключові слова: суб'єктивне сімейне право, сімейні права та інтереси.

The article was submitted 20.07.2022

The article was revised 10.08.2022

The article was accepted 30.08.2022