BG Pulse Journal USA
ISSN:1947-2536 http://www.bgpulseusa.com/index.php/bg

THE LEGAL NATURE, PURPOSE AND BASIS FOR THE EMERGENCE OF FAMILY LEGAL REPRESENTATION

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doi.org/10.5281/zenodo.21785490

Abstract. This article provides a comprehensive analysis of the legal nature, purpose and foundations of the emergence of family legal representation within the framework of the private law system. The purpose of the study is to determine the specificity of the institution of representation in family relations through criteria that distinguish it from civil legal representation, to substantiate the sources and limits of authority from a normative and doctrinal perspective. As a methodology, normative and legal analysis, a systematic approach, a comparative legal method, teleological interpretation and modeling of practical cases were used . The scientific novelty is to conceptualize the family legal model of representation with the criteria of “priority of the protection and welfare function”, “mixed sources of authority” and “limited dispositivity” and to propose a chain of emergence of the foundations of representation as a system of legal facts. The practical significance is justified by recommendations for formalizing powers, preventing conflicts and ensuring the interests of minors .
Keywords: family-legal representation; authority; legal fact; interests of minors ; parental rights; guardianship and trusteeship; protective function

Login Introduction

Family - legal representation The concept is , first of all , family. from the members one of right and interests other person by legal basically expression and done increase relations as is defined . Its mechanism representative authority circle determinant sources , representation to the goal directionality and interests collision prevent recipient restrictions through works because family in relationships personal non-proprietary interests proprietary from interests often column It costs . example as a rule adult insufficient child on behalf of education institution with contract composition , medical to intervene consent to give or alimony to collect according to procedural actions show it is possible , this of actions " the child " in all the most good " interests " criterion central place occupies . Statistical indicator as , in practice family of conflicts noticeable part authority wrong formalize or representation borders misunderstanding as a result complication observed ; for example , in courts visible family affairs in the composition adult immature in the interest of involved issues share often half it is approaching , this and representation institutional importance increases . Scientific comment as , private right in theory representation usually transactions and legal individuals activity with connected although the family in the right “ protection ” and “ care ” components of representation strong be , he classic agency from the model teleological in terms of [1] . This because of representation legal nature , purpose and to the body arrival the basics clarification family of the right modern concepts enriches and practical conflicts prevent to take service does .

Family - legal representation relevance , one from the side , family members weak subjects , especially adults immature and treatment qualification limited individuals interests to provide necessity with , second from the side and family of relationships proprietary segment expanding

going with is determined . Mechanism from that consists of marriage , kinship , guardianship or sponsorship such as legal situations authority automatic or half automatic in a way to the surface brings , but their realization often civil - legal instruments , such as power of attorney , notarial confirmation or court decision with is connected . Example as a parent child on behalf of bank account to manage or inheritance right according to application to submit in cases one of time in the family right and citizenship right norms intersects , this and the right in use collision approach demand does . Number / statistics as , bank and notary in practice adult immature with the participation of transactions according to inspections size year gradually increase , especially in immovable property with related in transactions guardianship organ consent demand attainable situations share high that is record is done ; this numeric dynamics representation mechanisms clear to be requirement Scientific comment point in terms of , in doctrine family representation " to status " based as " authority " illuminated , then parties equality and dispositive limitation , as well as public benefit elements existence [2] is emphasized . Therefore , the relevance not only theoretical classification , maybe legal security and protection standards reinforcement with also explained .

There is scientific approaches usually family representation three in the direction interpretation does : civil - legal representation special appearance ; family of the right independent institute ; and mixed , interdisciplinary construction . Mechanism in terms of first approach representation transactions and authority to give act with the garden , the second and of authority main source as family - legal status shows , third approach and their each other connection and double order to put to the center Example as a rule , parents child interest in court protection to do more to status relies on , but child on behalf of property for rent to give or sell in the matter of notarial form , guardianship organ consent such as civil - legal requirements dominates . Number / statistics as , in practice exactly proprietary transactions in the segment conflicts more meeting is observed because valuable assets with related in transactions interests collision probability high it will be ; this conflicts share family affairs inside noticeable to be , to represent circle clear designation demand strengthens . Scientific comment as , some authors family " trust " " similar " attitude that describing the representative fiduciary duties reinforcement the necessity loves , other authors and family in the right personal non-proprietary rights representation through complete that it is not transmitted , that because representation subject restriction necessary [3] emphasizes this . article this controversial on the field integrative concept offer to grow through scientific the space to shorten looks .

The research purpose family - legal representation legal nature and purpose determination , authority to the body arrival the basics legal facts system as analysis to do and civil - legal representation with borderline in matters clarifying criteria working from the exit consists of . Mechanism as article normative sources systematizes , "status- based " representation " pass on " authority chain shows and interests collision eliminate provider procedural and material restrictions separates . Example as a parent , guardian , sponsor , as well as alimony recipient side interest representative of individuals powers various in the basics to the surface arrival and various end Modeling . Numbers / statistics in appearance , research conceptual table through representation the basics shares and risk coefficients with describes , this and in practice which basics more to the dispute reason to be shows . Scientific comment as , article novelty representation only " legal" not "instrument " , but " protection " to the function service doer as " institute " seeing it , purpose personal non-proprietary interests priority with garden and this basically authority borders [4]. As a result, a consistent interpretation is proposed for family law enforcement agencies and notarial practice.

Materials and Methods

Materials and Methods The system of normative legal acts on family law and civil law, a model of typical cases encountered in judicial practice, permission procedures involving notary and guardianship authorities, and a set of scientific doctrinal views were selected as the research material. The mechanism is that the normative layer provides formal sources of authority, practical cases indicate " gaps " and "conflicts" in their operation, and the doctrine provides a conceptual explanation and generalization. As an example, the case of requiring the consent of the guardianship authority to conclude a real estate transaction on behalf of a minor, but in some transactions the form and content of the consent are interpreted differently in practice, was taken and compared with the normative interpretation. As a number/statistic, the methodological model divided the bases of representation into three groups, and the probability of conflict for each group was assessed in a conditional indicator in the range from 0 to 1, with the "property disposal" segment usually being designated as high-risk. From the point of view of scientific interpretation, such a selection of materials serves to identify the intersection points of the social function of family law and private legal mechanisms, since it is at this intersection that representation creates the most interpretative problems [5]. Thus, the material base was adapted to simultaneously illuminate the triad of the institution "norm, procedure and purpose" .

Methods

As part of the methods, normative-legal analysis was used to reveal the rules determining representation in terms of their internal logic and hierarchy , and a systematic approach was used to link representation with other institutions of family law, such as parental rights, guardianship and trusteeship, and alimony obligations. As a mechanism, the comparative legal method compared the agency and power of attorney constructions of civil legal representation with the status-based powers of family representation, and through teleological interpretation, the goals of "protection and welfare" were shown as a factor determining the content of the norm . As an example, the mechanism of removal of a representative or appointment of a special representative in the event of a conflict of interest was modeled and compared with the prohibition of "dealing with oneself" in civil law. As a figure/statistic, the analytical table expressed the "freedom of authority" by the subjects of representation (property, personal non-property, procedural) in conditional percentages, for example, it was shown that freedom is lower in the personal non-property segment, and in the property segment there are more mechanisms of permission and control. As a scientific explanation, the combination of methods allows us to clarify the debate on the separation of family representation as a separate institution or its interpretation as a special form of civil representation through a non-empirical, but strictly logically based analysis [2]. As a result, the research methodology was aimed at ensuring the consistency of legal interpretation and predictability in application .

Results.Results

The legal nature of family legal representation is defined as "a relationship of authority that is status-based, protective, and has limited dispositive power." The core of the mechanism of authority usually stems from marital or kinship or guardianship status, but its implementation is complemented by civil law forms, permissions, and control mechanisms, making representation a mixed institution. For example, while parents often conclude everyday household transactions on behalf of their children without additional authorization, transactions such as the disposal of real estate require separate consent and review. In numerical/statistical terms , the following table presents a conditional assessment of the sources of representation and their conflict risk, with 1.00 representing the highest risk and highlighting situations that are more likely to be controversial in

practice. As a scientific explanation, such risk allocation suggests that as the “protective” purpose of representation increases, so do the means of control , that is, the teleology of the institution determines the procedure.

The purpose of family legal representation is defined as, by definition, primarily to ensure the personal non-property and social welfare interests of the represented person, and secondarily to safely manage property interests. As a mechanism, the purpose determines the boundaries of authority: actions contrary to interest are prohibited, in the event of a conflict of interest, representation is limited or a special representative is involved, and in important transactions, external control (notary, guardianship authority, court) is strengthened. For example, if there is a risk that the parent will direct the child's property to their own needs, the authorization mechanism is used to minimize this risk, since authority is measured by the “duty of protection”, not “trust”. As a figure/statistic, the share of documents rejected or sent for processing in the segment of transactions where control is required may be high , which is associated with the standards of prudence of the practice, and the purpose of protection becomes a real procedural filter. As a scientific explanation, this priority of purpose distinguishes family representation from civil representation, because while in civil representation the main criterion is the will of the person granting the power of attorney , in family representation the criterion of "best interests" prevails and can also limit the will.

The basis for the emergence of representation is by definition a system of legal facts that create, change or terminate authority. According to the mechanism , this system operates in three layers: the first layer contains status facts (birth, marriage, appointment of guardianship), the second layer contains facts of permission and restriction (authority consent, notarial certification), and the third layer contains facts of conflict situations (court decision, exclusion, appointment of a special representative). For example, the birth of a child gives parents the basis for general authority, but for such a significant transaction as the sale of real estate, the consent of the guardianship authority is required as an additional fact, and if a conflict of interest is identified, the court may appoint a special representative. As a figure/statistic, status facts occupy the largest share in the model, but facts of conflict situations, although less common, form the “hard core” of the institution due to the sharp legal consequences. As a scientific explanation, the concept of a chain of legal facts shows representation as a dynamic process rather than a one-time act , thereby allowing the emergence and operation of authority to be explained with legal certainty.

The subject area of family legal representation is by definition a collection of property, personal non-property and procedural actions , but their possibility of being implemented through representation is not the same. The mechanism is that personal non-property rights, such as personal choices and decisions related to intimate areas, are implemented through representation only in cases prescribed by law or limited by necessity, while property rights are balanced by permission and control. For example, the issue of consent to medical treatment is closer to the personal non-property sphere , and the representative's decision is limited by the criteria of not harming the child and medical necessity, while renting or managing an account is more in the property sphere and is justified by economic interest. In numerical/statistical terms , the “full replacement” of representation in the personal non-property segment in conditional assessment is lower, and in the procedural segment it is higher, since the defense in court is of a professional and formal nature. As a scientific explanation, such a differential approach to the subject reflects the anthropocentric nature of family law, that is, rights close to personal integrity and identity are exercised with maximum care by representation.

Discussion.

Discussion The results show that it is not enough to consider family legal representation as a simple variant of civil legal representation, since it is qualitatively different from it in terms of status-based and protective teleology. In terms of mechanism , in civil representation, authority is usually granted by agreement or power of attorney and facilitates economic turnover, while in family representation, authority is often derived from law and is aimed at protecting the interests of the weaker subject, thus limiting the freedom of authority and increasing control. For example, while the agent may seek to maximize the commercial interest of his principal, the parent or guardian is obliged to choose a decision that does not contradict the criterion of the child's well-being, which sometimes also limits economic benefits. As a figure/statistic, as shown in the table above , although the share of powers dependent on administrative authorization is relatively small, the conflict rate is high, which means that the likelihood of collision increases precisely where control is required. As a scholarly commentary, this case supports the “fiduciary duty” approach in the doctrine and highlights the need to raise standards of representative responsibility and clarify conflict of interest tests. [3] The results also confirm that recognizing the mixed legal nature of family representation enhances consistency in the application of the law .

A comparison of the results with the existing literature shows that some approaches almost completely deny dispositiveness, describing family representation as an institution under full “public-legal” control, while other approaches tend to fully liberalize it with civil instruments. The proposed integrative model of the mechanism balances these two extremes: status provides the basis for authority, but in important property actions, permits and checks act as a protective filter, while in the personal non-property segment, the subject of representation itself narrows. For example, if decisions such as choosing a child’s educational path are understood as “ensuring the interests and creating conditions” rather than “making a decision” through representation, legal disputes are reduced, since the factor of personal desire and ability is strong here. Although , in practice, the number of cases where the mechanism of appointing a special representative or refusing permission is applied in cases where a conflict of interest is identified is small compared to the general trend, it is precisely these cases that give a direction close to the significance of precedent and form the standards of interpretation. As a scientific explanation, the proposed “chain of legal facts” approach calls for a dynamic view of authority and is justified by the fact that this approach is effective in interpreting the gradual guarantees of the implementation of subjective rights in family law [1; 6]. Thus, a balanced approach allows the transformation of theoretical disputes into practical rules of interpretation.

is reflected in the development of a system of recommendations on the formalization of authority, identification of conflicts of interest and guaranteeing the rights of vulnerable subjects. As a mechanism, firstly, instruments such as clearly indicating the subject of authority in documents confirming the representation , secondly, standardizing the content of the consent of the guardianship authority in valuable property transactions, and thirdly, requiring a “declaration” of the representative on the conflict of interest in court proceedings reduce disputes. For example, pre-setting conditions such as “alternative living conditions” or “keeping funds on deposit” when selling real estate in which a child has a share turns the protective purpose of representation into a real guarantee. In terms of numbers/statistics, such standardization can reduce cases of return and re-execution of documents, reduce procedural delays and reduce the risk of cancellation of transactions, since the risk of uncertainty itself is often a significant factor in disputes. As a scientific explanation, practical recommendations are consistent with the teleology of the institution , serving to make representation a mechanism that is conducive to economic turnover but

safe for children and vulnerable members [4]. At the same time, the recommendations maintain a balance between the social function of family law and the formal precision of private law.

The limitations of the study are related to the predominance of a theoretical-model approach, which is not fully supported by empirical court statistics and extensive interview data. This limitation of the mechanism requires caution in generalizing the results, since notarial practice and interpretations of guardianship authorities may differ across regions, which will change the parameters of the model. For example, while in one region the content of the guardianship authority's consent is substantiated in detail, in another it may be given in a formal form, which will make the "quality of control" different. As a numerical/statistical, the proposal to conduct a content analysis on a sample of more than 200 practical cases and assess the relationship between the grounds of representation and the type of dispute using correlation indicators in the future could strengthen the model, since such a quantitative approach will more clearly show trends. As a scholarly commentary, pointing out the limitations is an acknowledgement of the complexity of the institution and the way in which the chain of legal facts operates differently in different social contexts, which provides a clear direction for future research [5]. Thus, it is appropriate for future work to combine normative analysis with an empirical approach to further clarify the standards of representation .

Conclusion

Family legal representation was conceptually substantiated as a status-based legal institution aimed at ensuring the rights and interests of family members, especially minors and vulnerable subjects, with a primary goal of protection . The legal nature of representation was synthesized, which differs from civil legal representation in the mix of sources of authority, limited dispositive power, and the strength of control mechanisms. The purpose of representation was clarified by defining personal non-property well-being as primary, and property interest as secondary, subject to safe management, based on the criterion of “best interest”. The emergence of authority was explained as a chain of legal facts consisting of status facts, facts of permission and restriction, and facts of a conflict situation, and this dynamic approach allowed for a consistent interpretation of the emergence , change, and termination of authority. As a result, it was summarized that the segment of property transactions where control is required has the highest risk of conflict, and therefore it is necessary to strengthen the standards for formalization and determination of conflicts of interest . These conclusions serve to strengthen the institution of representation as a predictable and secure mechanism for the application of law.

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