

ARTICLES

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THE TRADITIONAL VALUES IN JUDICIAL PRACTICE

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Abstract. *The article analyzes court rulings, which refer to traditional values or to phenomena, which are essentially traditional values but are not named as such directly in the judicial acts. It is substantiated that despite the inclusion of traditional family values at the constitutional level in the sphere of legal regulation, as well as the statement of the task to protect traditional values in a number of strategic legal acts, the regulatory potential of traditional values is not used by the courts enough. The expansion of the application of traditional values by the courts to justify the judicial acts will be facilitated by the normative consolidation of the definition of traditional family values, their list, the criteria for attributing phenomena and moral guidelines to such, as well as the inclusion of references to traditional values in the normative legal acts.*

Keywords: *traditional values, family relations, limitation of parental rights, deprivation of parental rights, disputes about children.*

In the political and legal agenda of the last decade, traditional values are mentioned quite often.

The Dispatch of the President of the Russian Federation to the Federal Assembly on December 12, 2012, draws attention to the need to preserve traditional values: "...at the beginning of the 21st century we are faced with a real demographic and

values disaster, with a real demographic and values crisis. And if the nation is not able to save and reproduce itself, if it loses its reference points and ideals, it does not need an external enemy, everything will collapse by itself ... To make Russia sovereign and strong, we must be more, and we must be better in morality ... We must fully support the institutions that are carriers of traditional values, historically proved their ability to pass them from generation to generation”¹.

Problems related to the need to support and protect traditional values have been touched upon in each subsequent annual Dispatch of the President of the Russian Federation to the Federal Assembly².

Under the Russian Federation Constitutional Amendment Act of 14 March 2020, No. 1-FKZ “On Improving the Regulation of Individual Issues of the Organization and Functioning of Public Power”³, *traditional family values* were included in the constitutional scope of legal regulation: Article 114, Part 1, Paragraph “c”, of the Russian Federation Constitution mandated the Russian Government to “ensure a unified state policy to support, strengthen and protect families and preserve traditional values”.

The National Security Strategy of the Russian Federation, approved by Presidential Decree No. 400 of 2 July 2021⁴, regards traditional values as the foundation of Russian society, making it possible to preserve and strengthen state sovereignty and develop society and the individual (paragraph 90); the task of protecting traditional values, including by strengthening the institution of the family and preserving traditional family values (Paragraph 93).

The Strategy does not contain the concept of traditional values, but in paragraph 91 there is an open list of traditional Russian spiritual and moral values, including: “life, dignity, human rights and freedoms, patriotism, citizenship, service to the Fatherland and responsibility for its fate, high moral ideals, strong family, creative labor, priority of the spiritual over the material, humanism,

¹ Poslanie Prezidenta Rossiyskoy Federatsii Federalnomu Sobraniyu ot 12 dekabrya 2012 goda [Dispatch of the President of the Russian Federation to the Federal Assembly of December 12, 2012] // Rossiyskaya gazeta [Russian Newspaper]. 2012. 13 dekabrya. No. 287.

² Traditsionnye tsennosti v Poslaniyakh Prezidenta RF Federalnomu Sobraniyu RF i v normativnykh pravovykh aktakh: sbornik [The traditional values in the Addresses of the President of the Russian Federation to the Federal Assembly of the Russian Federation and in normative legal acts: a collection] / sostavitel P.A. Yakushev. Vladimir: Atlas, 2021.

³ Sobranie zakonodatelstva Rossiyskoy Federatsii [Code of Legislation of the Russian Federation]. 2020. No.11. Art. 1416.

⁴ Ukaz Prezidenta Rossiyskoy Federatsii ot 2 iyulya 2021 goda No. 400 “O strategii natsionalnoy bezopasnosti Rossiyskoy Federatsii” [Presidential Decree No. 400 of July 2, 2021 “On the National Security Strategy of the Russian Federation”] // Sobranie zakonodatelstva Rossiyskoy Federatsii [Code of Legislation of the Russian Federation]. 2021. No. 27 (Part II). Art. 5351.

mercy, justice, collectivism, mutual aid and mutual respect, historical memory and continuity of generations, unity of the peoples of Russia”.

Decree of the President of the Russian Federation of November 9, 2022, No. 809 approved the Basic State Policy for the Preservation and Strengthening of Traditional Russian Spiritual and Moral Values¹.

Paragraph 4 of the Basic provides a definition of traditional values, which are “moral guidelines that form the worldview of Russian citizens, are transmitted from generation to generation, are the basis of all-Russian civil identity and the common cultural space of the country, strengthen civil unity, which found their unique, original manifestation in the spiritual, historical and cultural development of the multinational people of Russia”.

Paragraph 5 of the Basic State Policy for the Preservation and Strengthening of Traditional Russian Spiritual and Moral Values specifies that traditional values include life, dignity, human rights and freedoms, patriotism, citizenship, service to the Fatherland and responsibility for its fate, high moral ideals, strong family, creative labor, priority of spiritual over material, humanism, mercy, justice, collectivism, mutual assistance and mutual respect, historical memory and continuity of generations, unity of the people of Russia and the Russian Federation.

Inclusion of traditional family values at the constitutional level in the sphere of legal regulation, as well as setting the task to protect traditional values in the Basic State Policy to preserve and strengthen² traditional Russian spiritual and moral values, in the National Security Strategy of the Russian Federation and other documents suggest the possibility (and sometimes the need) to apply traditional values in judicial practice as regulators that guide the court in taking judicial acts.

However, the author's analysis of the database “Court practice” in the legal system “Consultant Plus” showed that as of January 23, 2023, the database contains 4095 056 judicial acts of courts of law, and the words “traditional values” are

¹ Ukaz Prezidenta Rossiyskoy Federatsii ot 9 noyabrya 2022 goda No. 809 “Ob utverzhdenii Osnov gosudarstvennoy politiki po sokhraneniyu i ukrepleniyu traditsionnykh rossiyskikh dukhovno-nravstvennykh tsennostey” [Decree of the President of the Russian Federation of November 9, 2022, No. 809 “On Approval of the Basic State Policy for the Preservation and Strengthening of Traditional Russian Spiritual and Moral Values”] // Sobranie zakonodatelstva Rossiyskoy Federatsii [Code of Legislation of the Russian Federation]. 2022. No. 46. Art. 7977.

² Strategiya razvitiya vospitaniya v Rossiyskoy Federatsii do 2025 goda, utverzhdannaya rasporyazheniem Pravitelstva Rossiyskoy Federatsii ot 29 maya 2015 goda No. 996-r [Strategy for the Development of Education in the Russian Federation until 2025, approved by Order of the Government of the Russian Federation of May 29, 2015 No. 996-r] // Sobranie zakonodatelstva Rossiyskoy Federatsii [Code of Legislation of the Russian Federation]. 2015. No. 23. Art. 3357; Kontseptsiya gosudarstvennoy semeynoy politiki v Rossiyskoy Federatsii na period do 2025 goda, utverzhdannaya rasporyazheniem Pravitelstva Rossiyskoy Federatsii ot 25 avgusta 2014 goda No. 1618-r // Sobranie zakonodatelstva Rossiyskoy Federatsii. 2014. No. 35. Art. 4811.

contained only in 5 of them, and only in the descriptive parts when describing the positions of participants of legal proceedings, which indicates insufficient use of traditional values by courts when describing the motives of the judicial acts.

It can be assumed that taking into account the provisions of Paragraph 2 Part 5 Article 15 of the Federal Law No. 262-FZ of December 22, 2008 “On providing access to information on court activity in the Russian Federation” not all court decisions on family cases, in which it seems possible to apply and analyze traditional values (traditional family values), are posted in the Reference Legal System “Consultant Plus”, but the given figures cannot be explained by this alone.

The author's analysis of court rulings on family disputes considered in the Vladimir region in 2021–2022 allowed to identify some court rulings, the reasoning parts of which contain references to traditional values, or to phenomena that are essentially traditional values, but are not directly referred to as such in court acts.

For example, the father, acting in the interests of his six-year-old daughter, filed a lawsuit against the child's mother to determine the child's place of residence at her place of residence, to restrict the mother's parental rights with regard to her daughter, to collect alimony, and to exempt her from paying alimony.

The argumentation states that the defendant leads an immoral life, abuses alcohol, was brought to administrative responsibility for an offense under Part 1 of Article 5.35 of the Code of Administrative Offenses of the Russian Federation (non-performance by parents or other legal representatives of minors of duties of maintenance and education of minors), has avoided the implementation of their parental responsibilities for the daughter, her behavior is not in the interests of the child and may be in the interests of the child. It is also stated that for four months before the plaintiff went to court, her daughter lived with her father.

The representatives of the guardianship and custody authorities gave an opinion on the advisability of satisfying the claim, the prosecutor also believed that the claim should be satisfied in full.

By decision of the Vladimir Region Murom City Court on June 28, 2022¹, the claims were satisfied. The child was left in the upbringing of the father, the place of residence of the daughter was determined with the father, the mother was limited in parental rights, the father was released from paying alimony collected by the decision of the Selivanovsky district court of Vladimir region

¹ Reshenie Muromskogo gorodskogo suda Vladimirskoy oblasti ot 28 iyunya 2022 goda po delu No. 2–837/2022 [Decision of the Murom City Court of Vladimir region from June 28, 2022 in case No. 2–837/2022] // Arkhiv Muromskogo gorodskogo suda Vladimirskoy oblasti [Archive of the Murom City Court of the Vladimir Region].

from September 29, 2019, alimony was recovered from the mother for the maintenance of the daughter.

At the same time, the court of first instance proceeded from the fact that previously the decision of the Selivanovsky District Court of Vladimir region on September 26, 2019, denied the child's father's claim to restrict the mother in parental rights in respect of the minor, the place of residence was determined with the mother, the father was charged alimony for the maintenance of his daughter; since February 23, 2022, the daughter lives with her father; mother was repeatedly brought to administrative responsibility for committing offenses under Part 1 of Article 5.35 of the Administrative Offenses Code of the Russian Federation (eight resolutions on cases of administrative offenses and three protocols on administrative offenses were presented in the case materials); on February 23, 2022, the mother was detained by police in a state of intoxication on the train tracks at the station in Murom City, where she was with her daughter; the defendant is registered with the Department for Juvenile Affairs due to improper performance of duties to bring up her daughter, abuses alcoholic beverages.

By appeal ruling of the judicial board for civil cases of the Vladimir regional court of 14 December 2022¹ the decision of the district court was cancelled in part to satisfy the plaintiff's claims to restrict the mother's parental rights. A new decision was adopted in this part, which denied the claims to restrict the mother's parental rights and warned her of the need to change her attitude to her daughter's upbringing. The rest of the decision of the district court remains unchanged.

The Judicial Board overturned the court's decision to satisfy the requirements of the restriction of parental rights on the basis that the materials of the case do not confirm the existence of legal grounds for the restriction of the parental rights of the defendant.

Since the child's place of residence was determined with the father and, given that the child had been living with the father for four months prior to the court's request, there were no grounds for concluding that meetings between the child and the mother posed a threat to the child's life or health, taking into account that the frequency, frequency, and conditions of meetings could be established by agreement of the parents or by the court.

Restriction of parental rights boils down to taking the child away from the parents without deprivation of parental rights, loss of the parents' right to personal upbringing of the child, with preservation of the parents' ability to communicate

¹ Apellyatsionnoe opredelenie sudebnoy kollegii po grazhdanskim delam Vladimirskogo oblastnogo suda ot 14 dekabrya 2022 goda po delu No. 33-4441/2022 [Appeal ruling of the Judicial Board for Civil Cases of the Vladimir Regional Court on December 14, 2022 in case No. 33-4441/2022] // Arkhiv Vladimirskogo oblastnogo suda [Archive of the Vladimir Regional Court].

with the child under certain conditions (Paragraph 1 Article 73, Article 75 of the Family Code of the Russian Federation). Given that the place of residence of the child is defined by the father, it is not clear how the rights of the child will be additionally protected by the restriction of the mother's parental rights.

The defendant is not registered in the narcological and psychoneurological dispensaries, is engaged in trade in building materials and has a stable income each month, has a free schedule of work, which indicates the presence of communication with his daughter. According to the Court of Appeal, the reference of the district court to the fact that the defendant has been brought to administrative responsibility for an offense under Paragraph 1 of Article 5.35 of the Code of Administrative Offences of the Russian Federation is not a sufficient reason to enable the restriction of the parental rights of the defendant in respect of their daughter. In this case, the conflictual relationship that has developed between the parents cannot serve as the basis for restricting one of them in their right to communicate with the child. As the representative of the defendant explained, the reason for going to court was the conflictual relationship between the defendant and the plaintiff and his own sister. The agencies of guardianship and custody did not apply for restriction of parental rights.

In addition, the defendant has not withdrawn from her duties to the extent that it can be regarded as sufficient grounds for restricting her parental rights, is interested in the fate of her daughter, has a monthly income.

The appellate court also applied the category “traditional family values”, stating that under the established circumstances, the restriction of the defendant's parental rights with respect to his minor daughter is premature and contradicts the principles of the priority of family upbringing of children (Article 1, paragraph 3 of the Family Code of the Russian Federation), humanity, rationality, and justice (Article 5 of the Family Code of the Russian Federation) and *traditional family values* (Paragraph “c” Part 1 of Article 114 of the Russian Constitution), therefore, the decision of the court of first instance in this part must be reversed, with a new decision to deny the claims to restrict the defendant's parental rights with respect to her minor daughter, since no sufficient grounds to apply the measure of liability provided for in Article 73 of the Family Code of the Russian Federation were established in the course of the proceedings.

Moreover, the court of appeal referred to paragraph 5 of Decree No. 809 of the President of the Russian Federation dated 9 November 2022 “On Approval of the Basic State Policy for the Preservation and Strengthening of Traditional Russian Spiritual and Moral Values”, according to which the traditional values include the family, and Part 4 of Article 67.1 of the Constitution of the Russian Federation, according to which the state ensures the priority of family upbringing,

creates conditions conducive to the comprehensive spiritual, moral, intellectual and physical development of children, fostering patriotism, citizenship, and respect for elders.

The appeal decision of the judicial board of judges for civil cases of the Vladimir Regional Court of 1 March 2022 also contradicted the restriction of the mother's parental rights with respect to her fourteen-year-old son *by traditional family values* (Article 114 Part 1 Paragraph “c” of the Russian Federation Constitution) as well as by the principles of the priority of raising children within the family (Article 1, Paragraph 3 of the Russian Federation Family Code)¹.

The Court of First Instance limited the parental rights of the mother with respect to her fourteen-year-old son due to the fact that the mother left for work in Moscow during the work week and returned only at weekends, and the child stayed home with his grandmother during the week, which, according to the court, affected his academic performance; noise periodically came from the apartment, neighbors called the police and the juvenile was registered with the Unified Database on Children at Risk and their Families; the child missed medical screenings at school².

In reversing the district court's decision and denying the suit to restrict parental rights, the appellate court pointed out that the Constitution of the Russian Federation establishes the priority of family upbringing of children, since family upbringing is the best form of upbringing mankind has ever known.

The Russian Constitution establishes the priority of family upbringing of children, since family upbringing is the best form of child-rearing that mankind knows, because one of the main purposes of a family is to create conditions for the normal development and proper upbringing of children. And this task is performed primarily by the parents. According to Article 54 of the Family Code of the Russian Federation, every child has the right to live and be brought up in a family as much as possible, has the right to know his parents, the right to their care, the right to live together with them, except when it is against children's interests. The child has the right to be brought up by the parents, to have interests protected, to be fully developed, and to have dignity respected.

¹ Apellyatsionnoe opredelenie sudebnoy kollegii po grazhdanskim delam Vladimirskogo oblastnogo suda ot 1 marta 2022 goda po delu No. 33-4648/2021 [Appeal ruling of the Judicial Board for Civil Cases of the Vladimir Regional Court on March 1, 2022 in case No. 33-4648/2021] // Arkhiv Vladimirskogo oblastnogo suda [Archive of the Vladimir Regional Court].

² Reshenie Kolchuginskogo gorodskogo suda Vladimirskoy oblasti ot 10 avgusta 2021 goda po delu No. 33-4648/2021 [Decision of the Kolchuginsky City Court of the Vladimir region on August 10, 2021 in case No. 33-4648/2021] // Arkhiv Kolchuginskogo gorodskogo suda Vladimirskoy oblasti [Archive of the Kolchuginsky City Court of the Vladimir Region].

In restricting the child's mother's parental rights, the Court of First Instance did not establish the circumstances of the parent's conduct dangerous to the child, did not indicate what exactly it consists in or may consist in, did not clarify other circumstances demonstrating the need to protect the child's interests in the form of restricting the child's mother's parental rights. Neither did the guardianship agency's opinion specify such grounds. The reference of the court to the fact that the resolution brought the mother to administrative responsibility for an offense under paragraph 1 of Article 5.35 of the Code of Administrative Offenses of the Russian Federation is not a sufficient criterion for limiting the defendant in parental rights with respect to her son. At the hearing of the court of appellate instance, the minor consistently asserted his desire to live with his grandmother and mother, who comes from Moscow for several days every week and also referred to an improvement in his school performance. The judicial board found that the mother had not withdrawn from her responsibilities, was interested in her son's fate, was employed, was involved in raising the child, provided material support for his upbringing, and the minor had spoken in favor of staying with his birth family, so the restriction of parental rights of the mother as a measure of responsibility would not meet the interests of the minor, who had the right to be raised by his parents and (or) maintain legal ties with them. At the same time, there is no information about the criminal record, as well as about the fact of criminal prosecution against the mother, and the defendant does not suffer from mental disorders.

Therefore, it has been established that the defendant did not culpably evade her parental responsibilities to raise and support her juvenile son. In such circumstances, the separation of the mother and son and their separation are inadmissible, and the restriction of the defendant's parental rights is contrary to the principles of the priority of family upbringing of children, humanity, reasonableness and fairness, and *traditional family values*.

In another case, the guardianship and custody agency, acting in the interests of two brothers, ten and six years old, filed a lawsuit to deprive their parents of their parental rights and recover alimony.

The decision of the District Court satisfied the lawsuit¹. The court proceeded from the fact that the father and mother suffer from alcoholism and abuse their parental rights, evade proper upbringing and education of their children, arrange quarrels while intoxicated at night, depriving children of sleep, leave children in

¹ Reshenie Sudogodskogo rayonnogo suda Vladimirskoy oblasti ot 6 oktyabrya 2021 goda po delu No. 2-523/2021 [Decision of the Sudogodsky District Court of the Vladimir Region on 6 October 2021 in case No. 2-523/2021] // Arkhiv Sudogodskogo rayonnogo suda Vladimirskoy oblasti [Archive of the Sudogodsky District Court of the Vladimir Region].

life- and health-threatening situations, were prosecuted for committing an offense under Part 1 of Article 5.35 of the Code of Administrative Offences of the Russian Federation. In addition, earlier by the decision of the Sudogodsky District Court of Vladimir region dated March 4, 2020, the defendants were restricted in their parental rights, and by the decision of the same court dated September 21, 2020, they were restored in their parental rights, but they failed to come to relevant conclusion.

In reversing the decision of the Court of First Instance, the Court of Appeal pointed out¹ that the deprivation of parental rights is an exceptional measure, which entails serious legal consequences both for the parent and for the child. This deprivation of parental rights is allowed only if the parent is guilty of unlawful behavior, and is applied in the situation when it is impossible to protect the rights and interests of the child in any other way. On the contrary, from the evidence in the case file, it follows that the defendants are not registered with a narcologist. The mere fact that the defendants drank alcohol cannot be the basis for such a drastic and exceptional measure as termination of their parental rights, considering also that on September 21, 2021, they underwent antialcoholic treatment and the supporting documents were submitted to the court of the first instance. During the time the children lived in the social and rehabilitation center for minors, the mother visited the children 16 times and the father eight times. The defendants bought the children medications prescribed by the doctor, including expensive medications, as needed. The defendants are employed and have positive characteristics from their places of work.

During the trial of the Appeal Court, in the presence of a teacher and in the absence of parents, the ten-year-old son of the defendants was interviewed, who explained that he wanted to return home and dreamed of celebrating the New Year with parents and brother. At the same time, the child's opinion was stated independently, consistently, consciously, without any external influence, the Judicial Collegium did not see signs of influence on the formation of the child's opinion by his parents or employees of the social-rehabilitation center during the interview, the child expressed his opinion on the basis of his own understanding of his interests and needs.

The Judicial Collegium concluded that since the measures taken in the form of establishing temporary guardianship over the minors, removing them from the family and placing them in the social and rehabilitation center for minors, preventive

¹ Apellyatsionnoe opredelenie sudebnoy kollegii po grazhdanskim delam Vladimirskogo oblastnogo suda ot 30 noyabrya 2021 goda po delu No. 33-4375/2021 [Appellate ruling of the Judicial Collegium for Civil Cases of the Vladimir Regional Court on November 30, 2021 in case No. 33-4375/2021] // Arkhiv Vladimirskogo oblastnogo suda [Archive of the Vladimir Regional Court].

work with the parents yielded positive results, the defendants revised their attitude toward raising the children, in particular they became employed, received alcohol-relief treatment, maintained contact with the children while they were in the social and rehabilitation center, wish to raise the children, have for this purpose the necessary. Deprivation of parental rights as an exceptional measure applied when all other measures have failed would not be in the interests of minors who have the right to be raised by their parents and (or) maintain legal ties with them.

Therefore, in circumstances, a complete and final severance of the parent-child relationship is unacceptable and contrary to the children's interests and *traditional family values*.

The Judicial Collegium also took into account that there was no evidence of cruel, abusive or degrading treatment of the defendants with the children, no cases of leaving the children in circumstances which threatened their lives or health.

As the Judicial Collegium stated in its decision on appeal, the deprivation of parental rights contradicts the principles of the priority of family upbringing of children (Article 1, Paragraph 3 of the Family Code of the Russian Federation) and *traditional family values* (Article 114, Part 1, Paragraph "c" of the Constitution of the Russian Federation). In this connection, the first instance court decision should be set aside, and a new decision should be made to dismiss the claims to deprive the defendants of parental rights.

However, taking into account that the fact of inadequate performance by the defendants of their parental duties due to alcohol abuse was confirmed during the trial, the judicial panel warned the defendants of the need to change their attitude to the upbringing of children (Paragraph 18 of the Resolution of the Plenum of the Supreme Court of the Russian Federation of November 14, 2017, No. 44 "On the Practice of Application by the Courts of Law in Resolving Disputes Related to the Protection of Rights and Legitimate Interests of a Child in Immediate Threat to His Life or Health, as well as in Restriction or Deprivation of Parental Rights")¹.

However, as noted earlier, in the reasoning parts of some judicial acts there are references to phenomena that essentially refer to traditional values, but are not directly referred to as such in the judicial acts.

¹ Postanovlenie Plenuma Verkhovnogo Suda Rossiyskoy Federatsii ot 14 noyabrya 2017 goda No. 44 "O praktike primeneniya sudami zakonodatelstva pri razreshenii sporov, svyazannykh s zashchitoy prav i zakonnykh interesov rebenka pri neposredstvennoy ugroze ego zhizni ili zdorov'yu, a takzhe pri ogranichenii ili lishenii roditelskikh prav" [Resolution of the Plenum of the Supreme Court of the Russian Federation of November 14, 2017 No. 44 "On the Practice of Application by the Courts of Law in Resolving Disputes Related to the Protection of Rights and Legitimate Interests of a Child in Immediate Threat to His Life or Health, as well as in Restriction or Deprivation of Parental Rights"] // Byulleten Verkhovnogo Suda Rossiyskoy Federatsii [Bulletin of the Supreme Court of the Russian Federation]. 2018. No. 1.

For example, the decision of the District Court¹ denied the father of the child's lawsuit to change the previously established order of communication with his nine-year-old son by a court decision.

By an Appeal Decision of the Judicial Collegium for Civil Cases of the Vladimir Regional Court of May 31, 2022², the decision of the Court of First Instance was overturned in part to deny satisfaction of the lawsuit to establish the order of communication between the father and his son during the May holidays. A new decision was made in this part, which defined the order of communication between the father and his son during the May holidays of each year for 4 days, from May 7 to 10, with the organization of overnight stays of the son at his father's place of residence. At the same time the court of appeal indicated that “taking into account the military-patriotic education of the boy by his father, his age, the father's ability to have a positive impact on the physical and mental health of the child, the son's stay with his father during this period will contribute to the formation of patriotism and a sense of pride in his country”.

However, patriotism, citizenship, service to the country and responsibility for its future are considered traditional values in Paragraph 5 of the Basic State Policy for the Preservation and Strengthening of Traditional Russian Spiritual and Moral Values.

The Cassation Court agreed with this approach³.

It seems that the insufficient application of traditional values by the courts to justify the judicial acts is facilitated by:

- the absence of a basic legal definition of the concept of traditional family values, their list, as well as the criteria for attributing phenomena and moral guidelines to such;
- lack of references to traditional family values in normative legal acts.

¹ Reshenie Gorokhovetskogo rayonnogo suda Vladimirskoy oblasti ot 27 yanvarya 2022 goda po delu No. 2-12/2022 [Decision of the Gorokhovets District Court of Vladimir Region on January 27, 2022 in case No. 2-12/2022] // Arkhiv Gorokhovetskogo rayonnogo suda Vladimirskoy oblasti [Archive of the Gorokhovets District Court of the Vladimir Region].

² Apellyatsionnoe opredelenie sudebnoy kollegii po grazhdanskim delam Vladimirskogo oblastnogo suda ot 31 maya 2022 goda po delu No. 33-1946/2022 [Appellate ruling by the Judicial Board for Civil Cases of the Vladimir Regional Court on May 31, 2022 in case No. 33-1946/2022] // Arkhiv Vladimirskogo oblastnogo suda [Archive of the Vladimir Regional Court].

³ Opredelenie sudebnoy kollegii po grazhdanskim delam Vtorogo kassatsionnogo suda obshchey yurisdiktsii ot 15 noyabrya 2022 goda po delu No. 88-25180/2022 [Ruling of the Judicial Panel on Civil Cases of the Second Court of Common Pleas of November 15, 2022 in Case No. 88-25180/2022] // Arkhiv Vladimirskogo oblastnogo suda [Archive of the Vladimir Regional Court].

With regard to the sphere of family relations, within the framework of our monographic study to identify traditional family values we used two criteria *theoretical* and *empirical*¹.

Under the empirical criteria, we analyzed the Constitution of the Russian Federation and Constitutions of European states (in the editions that were in effect before the aggressive imposition of neoliberal views in a few states and making changes in the Constitution under their influence) to identify the most significant patterns in the family sphere, since the constitutional level of certain family imperatives indicates their high importance and value for the state and society, as well as the existence of a national (public) consensus on their significance and value. As N. S. Bondar rightly points out, “constitutional values reflexively express the values of society,” and “constitutions are the main custodians and sometimes generators of the value norms of states”².

The theoretical criterion involves attributing to traditional family values those socio-normative modes that ensure that the family performs its basic functions.

Application of these criteria in dialectical unity allowed us to identify the following traditional family values: marriage as a voluntary union of a man and a woman; family as the basis of society; motherhood, fatherhood, and childhood; care for children, the good of the child; family education of children; building family relationships based on high spiritual and moral principles and feelings; care for disabled family members; equality of spouses; autonomy of family relations.

At the same time, traditional family values are proposed to mean normative models of due in family relations, ensuring performance by family of basic functions (demographic, educational, economic, sociocultural, household, primary social control, social status, spiritual, emotional, leisure, etc.), constituting moral basis of family relations, having natural imperative for most members of society.

To expand the application of traditional family values by courts, it is necessary to include in the Family Code of the Russian Federation direct references to the regulation of family relations by traditional family values.

In particular, in Article 4 of the Family Code of the Russian Federation it should be specified that civil legislation applies to property and personal non-

¹ Yakushev P.A. Traditsionnye tsennosti v mekhanizme pravovogo regulirovaniya semeynykh otnosheniy v Rossii i stranakh Evropy: diss. ...d-ra yurid. nauk [Traditional values in the mechanism of legal regulation of family relations in Russia and European countries: dissertation of Doctor of Legal Sciences]. M., 2021. Pp. 64–78.

² Bondar N.S. Aksiologiya sudebnogo konstitutsionalizma: konstitutsionnye tsennosti v teorii i praktike konstitutsionnogo pravosudiya [The axiology of judicial constitutionalism: constitutional values in the theory and practice of constitutional justice]. M.: Yurist, 2013. Pp. 8–9.

property relations between family members not regulated by family legislation if it contradicts the essence of family relations and traditional family values (supplementing the article after the words “essence of family relations” with the words “traditional family values”). Article 5 of the Family Code of the Russian Federation should be supplemented with a provision to the effect that in the absence of norms of family and (or) civil law to be applied to family relations by analogy of law, the rights, and obligations of family members shall be determined on the basis not only of principles of justice, humanity, and reasonableness but also traditional family values (supplementing the last sentence of the article after “justice” with “traditional family values”). Paragraph 2 of Article 6 of the Family Code of the Russian Federation must be supplemented with a provision on the inadmissibility of applying the rules of international treaties contradicting both the Constitution of the Russian Federation and the foundations of law and order and morality and traditional family values (supplementing the first sentence of paragraph 2 after the word “morality” with the words “traditional family values”).

Therefore, despite the inclusion of traditional family values at the constitutional level in the sphere of legal regulation, as well as the task of protecting traditional values in a number of strategic normative legal acts, the courts do not use the regulatory potential of traditional values enough. The expansion of the application of traditional values by the courts to justify the adopted judicial acts will be facilitated by the normative consolidation of the definition of traditional family values, their list, the criteria of attributing phenomena and moral guidelines to such, as well as the inclusion of references to traditional values in the normative legal acts.

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