

COMPARISON ELEMENTS ON THE BACKGROUND CONDITIONS OF ANCIENT ROMAN AND CONTEMPORARY ROMANIAN MARRIAGE

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ABSTRACT: *The family is a biological reality achieved by the union of man and woman, and procreation. The model of the European family has its origins in the old Indo-European relative system, which founded marriage as its main source. From Roman antiquity up to present, we can observe and state that the family has represented the basic nucleus of human social organization, having marriage as magical, religious, and legal basis. We consider that it is interesting and useful to have a comparative perspective between the juridical regulations of the ancient Roman marriage and the one of the present, so much more that in Romania, a new Civil Code has been adopted, giving up the idea of a distinct code of the family. If in Rome marriage was preceded by an engagement (sponsalia), which was a natural practice, in our Romanian law, the new Civil Code, as novelty, regulates engagement as a promise of marriage with potential juridical effects. It seems edifying, as a constant along centuries, that there have been several conditions of imperative nature for the validity in the perfecting of marriage, both in Roman law, and in the present Romanian law. Two of these conditions, the accord and age, have represented in Roman law, and do also represent today indispensable elements in the legalization of marriage. It is worth observing that there is a similitude of essential requirements for marriage in both legal systems, so much more that there is a more and more diluted condition, with tendencies of annulment, in the legal practice of many European countries, and not only there. It is the condition of sexual differentiation of the potential spouses.*

KEY WORDS: *family, engagement, marriage, basic conditions, sexual differentiation.*

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