

**GROUND S FOR DIVORCE AND MAINTENANCE BETWEEN  
FORMER SPOUSES**

**POLAND**

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**A. GENERAL**

*1. What is the current source of law for divorce?*

In Polish law divorce is regulated by the statute of 25 February 1964 – The Polish Family and Guardianship Code, which came into force on 1 January 1965. The statute is divided into three parts (titles), the first of which concerns matrimonial matters of marriage. This title, in its turn, is divided into five parts (sections) which regulate the following: I) entering into a marriage II) the rights and duties of the spouses III) matrimonial property relations IV) the termination of a marriage V) separation (this was introduced in 1999). Section IV of title I encompasses Articles 55-61.

Article 55 regulates the termination of a marriage resulting from a declaration of the death of one of the spouses, Article 56 - the prerequisites for divorce, Articles 57-58 - the contents of a judgment dissolving a marriage, Article 59 – the impact of divorce on the name of the ex-spouse (if it was previously changed as a consequence of entering into the marriage) Articles 60-61 – the duty of maintenance between the former spouses. In 1975 §§ 2-4 were added to Article 58 and, at the same time, the content of Article 59 was amended.

The Polish Family and Guardianship Code may be seen as a distinct and separate book within the Polish Civil Code of 23 April 1964, which came into force on 1 January 1965. The existence of the two separate

codes does not justify the opinion that family law is a branch of the law which is different from civil law.

Special procedural regulations concerning some distinct features of proceedings in divorce cases are provided in Articles 436–446 of Chapter II (entitled ‘Divorce and separation proceedings’) of Section I (‘Proceedings in matrimonial cases’) of Title VII (entitled ‘Special procedures’) of Book I (entitled ‘Process’) of Part I (entitled ‘Examination of civil law cases’) of the statute of 17 November 1964 – The Polish Code of Civil Procedure, which came into force on 1 January 1965.<sup>1</sup>

## 2. Give a brief history of the main developments of your divorce law

The reattainment of independence in 1918 did not dissolve those matrimonial regulations which had been enacted by the authorities of the states which had previously partitioned Poland. In 1929 the Codification Commission prepared a draft matrimonial law providing for both divorce and separation. This interesting draft did not, however, make it to the statute books and did not therefore have legal effect.

The first uniform act regulating matrimonial law for the whole territory within its new borders was enacted short after World War II and was in the form of a decree with statutory validity – the Matrimonial Law of 25 September 1945 which came into force on 1

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<sup>1</sup> For a selected bibliography in Polish see: Monographs: J. Gwiazdomorski, *‘Alimentacyjny’ obowiązek między małżonkami* Warsaw, 1970; W. Stojanowska, *Rozwód a dobro dziecka*, Warsaw, 1979 (summary in English); A. Olejniczak, *Materiałnoprawne przesłanki udzielenia rozwodu* Poznan, 1980 (summary in French); A. Maczynski, *Rozwód w prawie prywatnym międzynarodowym*, Warsaw, 1983 (summary in French); T. Sokolowski, *Skutki prawne rozwodu*, Poznan, 1996 (summary in English). Publications concerning family law as a whole: J. S. Piatowski (ed.), *System prawa rodzinnego i opiekunczego*, Ossolineum, 1985 (*the divorce regulations drawn up by J. Winiarz and the maintenance after divorce by J. Gwiazdomorski*); T. Smyczyński, *Prawo rodzinne i opiekuncze, analiza i wykładnia*, Warsaw, 2001; Actual academic textbooks by J. Ignatowicz (multiple editions), J. Strzebinczyk, J. Winiarz (multiple editions), A. Zielinski. Commentaries: J. Pietrzykowski (ed.) *Kodeks rodzinny i opiekunczy z komentarzem*, Warsaw, 1993; K. Piasecki (ed.), *Kodeks rodzinny i opiekunczy z komentarzem*, Warsaw, 2000 (*pages 283-286- bibliography*); J. Gajda *Kodeks rodzinny i opiekunczy, komentarz*, Warsaw, 2000. A review of the case law: J. Gudowski, *Kodeks rodzinny i opiekunczy – orzecznictwo*, Zakamycze, 1998.

January 1946 and remained valid until 30 September 1950. The provisions concerning divorce were regulated in Articles 24-35. This decree allowed for the possibility of a divorce from a state court at the request of a spouse. The positive prerequisite for a divorce was a 'permanent disintegration of matrimonial life' (irretrievable breakdown of the marriage) arising from, by way of example, enumerated causes such as: adultery, threatening the plaintiff's life, debauched or dissolute conduct, the committing of a heinous crime, chronic drunkenness or drug addiction, infectious venereal disease, mental disease lasting for more than one year, hand impotence. The negative prerequisite for a divorce was the welfare of minor children. When hearing the case it was the duty of the court to establish whether guilt could be attached to any of the spouses except when the cause of breakdown was mental disease or impotence. This statute did not include separation as a ground.

According to the decree it was admissible to dissolve a marriage upon a unanimous motion by the spouses if their marriage had lasted for at least 3 years.

The next legal act devoted to family law – The Family Code of 27 June 1950 - which came into force on 1 October 1950 and remained binding until 31 December 1964, was an attempt to align the family law of Poland with that of Czechoslovakia—Divorce was regulated by Articles 29-34. This act abandoned the enumeration of the possible causes of a breakdown, for which the previous decree of 1945 provided, in favour of the following main substantial prerequisite for divorce as follows: 'if, because of important reasons, a complete and permanent disintegration of matrimonial life has occurred between the spouses, each of them may request that the court dissolves their marriage by divorce'. However, a divorce was inadmissible, if as a consequence:

- it proved to be detrimental to the welfare of the common minor children, or
- the divorce was being sought by the spouse who was the sole guilty party in the disintegration of matrimonial life, unless the other spouse had expressed his or her consent thereto. However, despite the lack of such consent, the court could nevertheless grant the divorce – taking into consideration

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social interest - in exceptional cases, if the spouses remained in a state of permanent and actual separation.

When granting a divorce it was the duty of the court to establish whether one or both of the spouses was to blame, although such blame was not attributed if both parties were in agreement that they did not wish "guilt" to be determined.

Since 1 January 1965 matrimonial law has been regulated by the Polish Family and Guardianship Code (see Question 1 *et seq*). Comparing the three statutes which came into force, it is to be concluded that Polish law now firmly adheres to the notion of the dissolution of a marriage by a court judgement as a result of the irretrievable and complete disintegration of matrimonial life (the so-called 'positive' prerequisite for divorce). Increasingly precise is the regulation of those situations in which, despite the existing disintegration of matrimonial life, the divorce cannot be granted (the so-called 'negative' prerequisite of the divorce).<sup>2</sup>

3. *Have there been proposals to reform your current divorce law?*

In 1995 a draft bill introducing changes in the divorce regulation was submitted by a group of members of Parliament. It provided that when the spouses have no children, the sole prerequisite for divorce would be a request by one of the spouses to have the marriage dissolved. According to the draft, in such cases the court would not be obliged to establish either whether the matrimonial life has actually disintegrated or which of the spouses - if any - is responsible for the disintegration. The opinion of the other spouse was to be - according to the draft - of no significance. Those responsible for the draft justified the proposed changes with the need to protect each spouse's right to privacy. However, the draft was generally considered to deprive an innocent spouse of protection, not to take the social significance of marriage into account and even to be immoral and was eventually - in the course of legislative proceedings - rejected.

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<sup>2</sup> For information on Polish law see the information contained in the footnote to Question 1.

There is some relationship between the institutions of divorce and separation. The latter was introduced into the Polish system of family law in 1999. The regulation of separation shows certain similarities to that of divorce. Separation is decided by the court when there is a complete (but not irretrievable) disintegration of matrimonial life. The judicial decree of separation in principle has the same effects as a divorce, unless otherwise provided by statute. The most significant difference is that a separated person is not allowed to remarry. The introduction of separation, however, has not led to any changes in the provisions regulating divorce. Thus, the latter provisions do not treat separation as a cause of divorce nor as a condition therefor. On the other hand, the provisions on separation do not say anything about the possibility of a subsequent divorce, although such a possibility is generally considered to exist. It seems correct to conclude that separation in Polish law is to be an instrument to ensure the durability of marriage through preventing rash divorces, rather than an institution which is a substitute for divorce. In the legal literature there are those who are in favour of granting a divorce simply on an unanimous motion by the spouses.<sup>3</sup>

## **B. GROUNDS FOR DIVORCE**

### **I. General**

#### *4. What are the grounds for divorce?*

The positive prerequisite for divorce is – as provided in Article 56 § 1 Polish Family and Guardianship Code – ‘the irretrievable and complete disintegration of matrimonial life’. This complete disintegration will consist of a lack of any spiritual, physical and economic bonds between the spouses. According to the view of the Supreme Court, however, some elements of an economic bond may remain due to the specific circumstances, which do not exclude such a complete disintegration if the lack of spiritual and physical bonds is complete. However, even sporadic physical intercourse will, as a general rule, mean that the disintegration is not complete.

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<sup>3</sup> For information on Polish law see the information contained in the footnote to Question 1.

Then, the irretrievable nature will depend on the assumption that the spouses will not return to each other at any time. It is not necessary to establish that the revival of matrimonial life is definitely excluded. It is sufficient to establish that in the given circumstances of the case a return to common matrimonial life will not occur.

That the disintegration of matrimonial life is complete and irretrievable must occur simultaneously. Contrary to the regulations of The Family Code of 1950, it is no longer essential that the complete and irretrievable disintegration of matrimonial life has occurred due to an important specific cause.

Despite the complete and irretrievable disintegration of matrimonial life, a divorce will not be granted if:

- as a consequence it is detrimental to the welfare of the common minor children of the spouses (Article 56 § 2 Polish Family and Guardianship Code);
- granting the divorce would be contrary to the principles of social intercourse (Article 56 § 2 Polish Family and Guardianship Code)
- it has been requested by the spouse who is the sole guilty party for the disintegration of matrimonial life, unless
  - the other spouse has expressed his or her consent thereto, or
  - the refusal of such consent by the other spouse is - in the given circumstances - contrary to the principles of social intercourse (Article 56 § 3 Polish Family and Guardianship Code)

The existence of the prerequisites for divorce will be examined by the court *ex officio* (of its own motion).<sup>4</sup>

5. *Provide the most recent statistics on the different bases for which divorce was granted.*

There are currently around 42,020 divorces per year (45,230 in 1998, 38,115 in 1995, 42,436 in 1990).

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<sup>4</sup> For information on Polish law see the information contained in the footnote to Question 1.

There is only one ground for divorce: the permanent disintegration of matrimonial life (irretrievable breakdown of the marriage).

This disintegration occurs due to different reasons: adultery - 30%, incompatibility - 27%, chronic drunkenness - 23%, a sexually ill-situated marriage - 5%, financial disagreement - 4%, abuse 4%.

6. *How frequently are divorce applications refused?*

Divorce applications are refused in 11.8% of all cases.

7. *Is divorce obtained through a judicial process, or is there also an administrative procedure?*

A judicial process is the only way in which to obtain a divorce. The court examines divorce cases in contentious proceedings.<sup>5</sup>

8. *Does a specific competent authority have jurisdiction over divorce proceedings?*

Divorce cases are examined in the first instance by regional courts (Article 17 point 1 Polish Code of Civil Procedure), which constitute the second level in the structure of Polish courts of common law, intermediate between district courts (that form the first level) and the courts of appeal (the third level). The competence *ratione loci* of the courts in divorce proceedings is determined by the following circumstances:

- the last common place of domicile of both spouses if one of the spouses still remains there (not necessarily takes up domicile!),
- the defendant's place of domicile (which is a general rule for competence *ratione loci* in Polish civil proceedings);
- the plaintiff's place of domicile (Article 41 Polish Code of Civil Procedure).<sup>6</sup>

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<sup>5</sup> For information on Polish law see the information contained in the footnote to Question 1.

<sup>6</sup> For information on Polish law see the information contained in the footnote to Question 1.

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9. *How are divorce proceedings initiated? (e.g. Is a special form required? Do you need a lawyer? Can the individual go to the competent authority personally?)*

Divorce proceedings are initiated by lodging a petition for divorce (dissolution of the marriage) by one of the spouses (Article 56 § 1 Polish Family and Guardianship Code), which is also characteristic of any litigious proceedings according to the Polish Code of Procedure (Article 187 § 1 Polish Code of Civil Procedure). It is not possible for divorce proceedings to be initiated either by the public prosecutor (who is able to initiate any other proceedings of his own motion in civil cases, including family law cases in general (other than divorce), Article 7 sentence 2 Polish Code of Civil Procedure), or any other person.

A statement of counter claim is inadmissible in divorce proceedings (Article 439 § 1 Polish Code of Civil Procedure), although the defendant may, as a result, also request a divorce or separation (Article 439 § 3 Polish Code of Civil Procedure).

Since the services of a lawyer is not obligatory in divorce proceedings, each party may personally go to the competent court, undertake certain actions in connection with the legal proceedings, lodge motions, appoint an attorney or – in some cases – request the court to appoint an attorney for him or her.<sup>7</sup>

10. *When does the divorce finally dissolve the marriage?*

A marriage will be dissolved at the moment when the judgement becomes final, i.e. when the judgement cannot be appealed because of the expiry of time-limit for lodging an appeal or because of the exhaustion of the appeal process. Entering the divorce in the marriage register at the marital status office is only of declaratory significance and thus has no constitutive force.<sup>8</sup>

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<sup>7</sup> For information on Polish law see the information contained in the footnote to Question 1.

<sup>8</sup> For information on Polish law see the information contained in the footnote to Question 1.

*If under your system the sole ground for divorce is the irretrievable breakdown of marriage answer part II only. If not, answer part III only.*

**II. Divorce on the sole ground of irretrievable breakdown of the marriage**

*11. How is irretrievable breakdown established? Are there presumptions of irretrievable breakdown?*

There are no presumptions as to the complete and irretrievable disintegration of matrimonial life under Polish law. The court establishes the disintegration according to general rules regulating the hearing of evidence (types of evidence, evaluation of evidence) with the following distinctions:

- A decision may not be exclusively based on the admission of the claim or of certain facts by the defendant (Article 431 Polish Code of Civil Procedure);
- hearing the testimonies of both parties is an obligatory source of evidence (Article 432 sentence 1 Polish Code of Civil Procedure);
- if the defendant admits the claim and the spouses have no common minor children, the court may limit the hearing of evidence to hearing the parties (Article 442 Polish Code of Civil Procedure).

It should be emphasized that the hearing of evidence aims first of all, to establish the circumstances regarding the disintegration of matrimonial life as well as circumstances regarding the parties' children and their situation, and –when the defendant admits the claim – reasons why the defendant has admitted the claim (Article 441 Polish Code of Civil Procedure).

As the regulation of separation has only been in force for a relatively short period of time in Polish law, there is yet no case law on whether a previous decree of separation will act as a presumption of the existing disintegration of matrimonial life.<sup>9</sup>

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<sup>9</sup> For information on Polish law see the information contained in the footnote to Question 1.

*12. Can one truly speak of a non-fault-based divorce or is the idea of fault still of some relevance?*

Establishing guilt in the disintegration of matrimonial life – although it is not a positive prerequisite for a divorce – remains an important aspect in divorce proceedings. When hearing the case for a divorce it is a duty of the court to establish which of the spouses – if any – is to be blamed for the disintegration of matrimonial life (Article 57 § 1 Polish Family and Guardianship Code). The court may be blamed for the unanimous request of the spouses (Article 57 § 2 sentence 1 Polish Family and Guardianship Code), which will lead to the same results as in the case when neither of the spouses can be blamed for the disintegration of matrimonial life (Article 57 § 2 sentence 2 Polish Family and Guardianship Code).

One of the three following situations is possible:

- Sole guilt can be attributed to one of the
- both spouses are deemed to be guilty
- none of the spouses is considered to be guilty

Establishing the guilt of one or both spouses is of essential significance for the following:

- the admissibility of the divorce – since it is inadmissible to decide on a divorce at the request of a spouse to whom sole guilt can be attributed for the disintegration of matrimonial life (see Question 4).
- the existence and scope of the duty to pay maintenance (see Question 65).

These provisions have been critically evaluated by the legal literature.<sup>10</sup>

*13. To obtain the divorce, is it necessary that the marriage was of a certain duration?*

A certain duration of the marriage is not a prerequisite for the admissibility of divorce under Polish law. According to the view of the

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<sup>10</sup> For information on Polish law see the information contained in the footnote to Question 1.

Supreme Court, a short period of time since contracting a marriage by spouses of a young age does not in itself preclude a divorce from being granted. In its present form divorce under Polish law has the aim of eliminating 'dead' marriages irrespective of how long they have lasted.<sup>11</sup>

*14. Is a period of separation generally required before filing the divorce papers? If not, go to question 16. If so, will this period be shorter if the respondent consents than if he/she does not? Are there other exceptions?*

No period of separation (either formal or factual) is required before filing the divorce papers.<sup>12</sup>

*15. Does this separation suffice as evidence of the irretrievable breakdown?*

Establishing that spouses remain separated – due to the prevailing interpretation of the term 'complete and irretrievable disintegration of matrimonial life' - is of some significance, although not decisively so. Because of the housing shortage judicial decisions assume that common occupancy of the same home by both spouses does not exclude a complete and irretrievable disintegration of matrimonial life.<sup>13</sup>

*16. In so far as separation is relied upon to prove irretrievable breakdown:*

(a) Which circumstances suspend the term of separation?

See Question 15.<sup>14</sup>

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<sup>11</sup> For information on Polish law see the information contained in the footnote to Question 1.

<sup>12</sup> For information on Polish law see the information contained in the footnote to Question 1.

<sup>13</sup> For information on Polish law see the information contained in the footnote to Question 1.

<sup>14</sup> For information on Polish law see the information contained in the footnote to Question 1.

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(b) Does the separation need to be intentional?

See Question 15.<sup>15</sup>

(c) Is the use of a separate matrimonial home required?

See Question 15.<sup>16</sup>

17. *Are attempts at conciliation, information meetings or mediation attempts required?*

According to Articles 436 – 438 Polish Code of Civil Procedure, before appointing the date of the first hearing the parties will be summoned before a court for a reconciliation sitting presided over by a designated judge. The designated judge will encourage reconciliation, bearing in mind the welfare of the children and the social significance of a lasting marriage.

A reconciliation sitting should be held subject to the condition that it facilitates mediatory activity by the court and ensures the possibility of free and unconstrained dialogue between the parties.

If the court finds it necessary for the parties to be given a specialist opinion, the judge will persuade them to consult a specialist or send them to an approved family and matrimonial guidance centre.<sup>17</sup>

18. *Is a period for reflection and consideration required?*

*Tempus deliberandi* is neither a procedural nor a substantive prerequisite for divorce. Moreover, according to the general rule governing civil proceeding (Article 6 Polish Code of Civil Procedure), the court should avoid prolonged proceedings and should attempt to reach a decision at the first hearing. However, divorce proceedings

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<sup>15</sup> For information on Polish law see the information contained in the footnote to Question 1.

<sup>16</sup> For information on Polish law see the information contained in the footnote to Question 1.

<sup>17</sup> For information on Polish law see the information contained in the footnote to Question 1.

should be conducted in such a way that - while observing the principle of concentration of evidence - the parties have sufficient time for reflection before the final decision. In particular, this rule affects the date of the first hearing.

Regardless of the above-mentioned rule, it should be emphasized that in practice - as a consequence of the considerable backlog in the Polish courts - there is usually a considerable period of time between lodging the petition of divorce at the court and the date of the first hearing, which means an extensive *tempus deliberandi* for the parties.

Divorce proceedings shall be suspended:

- on the unanimous request of the parties (Article 178 Polish Code of Civil Procedure);
- if the court believes that there is a real possibility of sustaining matrimonial life (Article 440 § 1 Polish Code of Civil Procedure)

The court may use the latter possibility only once in a given case: in the case of the unexcused absence of the plaintiff at the first sitting (Article 428 Polish Code of Civil Procedure)

Reopening proceedings which had been suspended on the basis of Article 440 § 1 Polish Code of Civil Procedure is admissible on a motion by either of the spouses and this motion must be lodged after three months (Article 440 § 2 in connection with Article 428 § 2 Polish Code of Civil Procedure). If there is no such a motion, the court will terminate the divorce proceeding after a year (Article 428 § 2 sentence 2 Polish Code of Civil Procedure).<sup>18</sup>

*19. Do the spouses need to reach an agreement or to make a proposal on certain subjects? If so, when should this agreement be reached? If not, may the competent authority determine the consequences of the divorce?*

The spouses do not need to reach any agreement or make proposals on any subject. The defendant's admission of the claim is only required if sole guilt can be attributed to the plaintiff for the disintegration of

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<sup>18</sup> For information on Polish law see the information contained in the footnote to Question 1.

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matrimonial life unless a lack of such an admission is found by the court to contradict the principles of social intercourse.<sup>19</sup>

*20. To what extent must the competent authority scrutinize the reached agreement?*

A joint request for divorce by both spouses does not in itself justify the granting of a divorce. However, if the spouses have no common minor children, the court may limit the hearing of evidence to hearing the parties.<sup>20</sup>

*21. Can the divorce application be rejected or postponed due to the fact that the dissolution of the marriage would result in grave financial or moral hardship to one spouse or the children? If so, can the competent authority invoke this on its own motion?*

A divorce will not be granted, if, as a consequence, it is detrimental to the welfare of the common minor children of the spouses. The welfare of the children is a strict negative prerequisite of divorce.

Grave financial or moral hardship to one spouse may exclude the divorce if the court finds it to be contrary to the principles of social intercourse (see Question 11).

The existence of all the positive and negative prerequisites for divorce will be examined by the court (Article 431 Polish Code of Civil Procedure).<sup>21</sup>

## **C. SPOUSAL MAINTENANCE AFTER DIVORCE**

### **I. General**

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<sup>19</sup> For information on Polish law see the information contained in the footnote to Question 1.

<sup>20</sup> For information on Polish law see the information contained in the footnote to Question 1.

<sup>21</sup> For information on Polish law see the information contained in the footnote to Question 1.

55. *What is the current source of private law for maintenance of spouses after divorce?*

The maintenance of spouses after divorce is regulated by Articles 60 and 61 of the Polish Family and Guardianship Code (see the answer to question 1). The provisions thereof are to be applied in the annulment of a marriage (Article 21 Polish Family and Guardianship Code).

Article 60 §§ 1-2 regulates the prerequisites for the duty of maintenance between former spouses, while § 3 regulates the situations in which the duty ends. Article 61 provides for maintenance between the former spouses, while other provisions regulate maintenance between relatives, i.e. Articles 128 – 130 and 132-139 Polish Family and Guardianship Code.<sup>22</sup>

56. *Give a brief history of the main developments of your private law regarding maintenance of spouses after divorce.*

The provisions concerning the consequences of divorce, including maintenance between the former spouses, were regulated in the three acts (described in answer 3), i.e. the decree on Matrimonial Law of 1945, the Family Code of 1950 and the Polish Family and Guardianship Code of 1964.

The Matrimonial Law of 1945 provided that the spouse to whom guilt could be attributed for the disintegration of family life could be

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<sup>22</sup> For a selected bibliography in Polish see: Monographs: J. Gwiazdomorski, *'Alimentacyjny' obowiązek między małżonkami* Warsaw, 1970; W. Stojanowska, *Rozwód a dobro dziecka*, Warsaw, 1979 (summary in English); A. Olejniczak, *Materiałnoprawne przesłanki udzielenia rozwodu* Poznań, 1980 (summary in French); A. Maczynski, *Rozwód w prawie prywatnym międzynarodowym*, Warsaw, 1983 (summary in French); T. Sokolowski, *Skutki prawne rozwodu*, Poznań, 1996 (summary in English). Publications concerning family law in its entirety: J. S. Piatowski (ed.), *System prawa rodzinnego i opiekunczego*, Ossolineum, 1985 (*divorce regulations drawn up by J. Winiarz and maintenance after divorce by J. Gwiazdomorski*); T. Smyczynski, *Prawo rodzinne i opiekuncze, analiza i wykładnia*, Warsaw, 2001; Actual academic textbooks by J. Ignatowicz (multiple editions), J. Strzebinczyk, J. Winiarz (multiple editions), A. Zielinski. Commentaries: J. Pietrzykowski (ed.) *Kodeks rodzinny i opiekunczy z komentarzem*, Warsaw, 1993; K. Piasecki (ed.), *Kodeks rodzinny i opiekunczy z komentarzem*, Warsaw, 2000 (*pages 283-286 - bibliography*); J. Gajda *Kodeks rodzinny i opiekunczy, komentarz*, Warsaw, 2000. Reviews of case law: J. Gudowski, *Kodeks rodzinny i opiekunczy – orzecznictwo*, Zakamycze, 1998.

ordered to pay the other spouse compensation for the damage incurred as a result of the divorce, as well as for the acts that constituted the ground for divorce.

There was also the possibility to order compensation for moral injury. Such provisions were not included in the subsequent legislation, however. In addition, matrimonial law introduced a duty to provide the means of subsistence upon a motion by the innocent ex spouse, if he or she was not able to maintain him/herself by his/her own means.

When both spouses were deemed to be guilty, the entitlement to demand maintenance could also be granted to a guilty spouse. The amount established in the decision could be amended if there was a change in the financial situation of either of the parties.

The duty to provide maintenance ceased when the entitled party remarried. It did not, however, cease with the death of the party obliged to pay maintenance and his/her heirs were encumbered with this debt.

The Family Code of 1950 regulated the duty of maintenance upon a motion by the innocent party, and if both parties had been deemed to be guilty, also on a motion by a guilty party. This duty ceased in of the following cases:

- the death of the party obliged to pay maintenance
- the remarriage of the entitled party
- 5 years after the divorce became final.<sup>23</sup>

*57. Have there been proposals to reform your current private law regarding maintenance of spouses after divorce?*

No. However, a new regulation concerning matrimonial property relationships is currently being prepared.<sup>24</sup>

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<sup>23</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>24</sup> For information on Polish law see the information contained in the footnote to Question 55.

58. *Upon divorce, does the law grant maintenance to the former spouse?*

Yes. According to Article 60 Polish Family and Guardianship Code the court may award maintenance to the former spouse. See Question 55.<sup>25</sup>

59. *Are the rules relating to maintenance upon divorce connected with the rules relating to other post-marital financial consequences, especially to the rules of matrimonial property law? To what extent do the rules of (matrimonial) property law fulfil a function of support?*

The rules relating to maintenance upon divorce are not directly connected with the rules relating to matrimonial property law, but there does appear to be a close functional connection. One of the main consequences of divorce is the transformation of the joint property of the spouses (indivisible joint co-ownership) into co-ownership in fractional parts (Article 42 Polish Family and Guardianship Code). The former spouses can partition joint property into two equal parts (Articles 43, 45 and 46 Polish Family and Guardianship Code). In this way each of the spouses obtains his/her own property for the purposes of his/her future existence. In practice, however, the joint ownership of the matrimonial home will prove to be a problem. The court takes the amount of matrimonial property into account when deciding on maintenance.<sup>26</sup>

60. *Do provisions on the distribution of property or pension rights (including social security expectancies where relevant) have an influence on maintenance after divorce?*

Yes, see Question 59. If a former spouse receives any income, including by way of a pension or by the distribution of property, his/her situation is improved and it influences the amount of maintenance.<sup>27</sup>

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<sup>25</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>26</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>27</sup> For information on Polish law see the information contained in the footnote to Question 55.

61. *Can compensation (damages) for the divorced spouse be claimed in addition to or instead of maintenance payments? Does maintenance also have the function of compensation?*

No. Compensation cannot be claimed by the divorced spouse. Moreover, the majority of Polish case law denies that maintenance has the function of compensation.<sup>28</sup>

62. *Is there only one type of maintenance claim after divorce or are there, according to the type of divorce (e.g. fault, breakdown), several claims of a different nature? If there are different claims explain their bases and extent.*

See Question 55. In the field of maintenance a general rule exists that the extent of the maintenance depends, on the one hand, on the 'justified needs of the person entitled' and, on the other, 'the economic and earning ability of the person obliged to pay the maintenance' (Article 133 Polish Family and Guardianship Code).

Between former spouses there are two types of maintenance claims: the 'narrow' one and the 'broad' type. According to Article 60 § 1 Polish Family and Guardianship Code, the background of the narrow type is lack of means (poverty). The extent of this maintenance depends on the 'justified needs of the entitled spouse' and on 'the economic and earning ability of the spouse obliged to pay maintenance'; the spouse who is solely to blame for the breakdown has no right to maintenance (Article 60 § 1 Polish Family and Guardianship Code).

According to Article 60 § 2 Polish Family and Guardianship Code, the broad type only exists between the 'guilty' spouse and the 'innocent' party, who can demand maintenance if 'the divorce has led to a serious deterioration in the economic life of the innocent spouse'. The amount of this type of maintenance is higher than the narrow one and it depends on the justified needs of the entitled innocent spouse. The amount of the maintenance must also be 'reasonable' and depends on

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<sup>28</sup> For information on Polish law see the information contained in the footnote to Question 55.

'the economic and earning ability of the spouse obliged to pay maintenance'. Practically speaking the entitled spouse cannot maintain the same standard of living as before the divorce.

According to Article 60 § 1 Polish Family and Guardianship Code the spouse who has sole guilt for the breakdown of the marriage cannot claim any maintenance.<sup>29</sup>

*63. Are the divorced spouses obliged to provide information to each other spouse and/or to the competent authority on their income and assets? Is this right to information enforceable? What are the consequences of a spouse's refusal to provide such information?*

Yes, the divorced spouses are obliged to provide such information. If necessary the court can demand such information (Article 433 Polish Code of Civil Procedure ) and can order all those concerned (including any institution, as well as banks) to provide information concerning the financial situation of the spouses (Articles 3 and 248 Polish Code of Civil Procedure).

If there is no way to estimate the financial situation of a spouse the court will take into consideration the age, profession and the economic and earning capacity of the debtor.<sup>30</sup>

## **II. Conditions under which maintenance is paid**

*64. Do general conditions such as a lack of means and ability to pay suffice for a general maintenance grant or do you need specific conditions such as age, illness, duration of marriage and the raising of children? Please explain.*

See Questions 55 and 62.

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<sup>29</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>30</sup> For information on Polish law see the information contained in the footnote to Question 55.

It depends of the type of maintenance. In the *narrow type* (Article 60 § 1 Polish Family and Guardianship Code) a lack of means and ability to pay is sufficient, because this maintenance can be paid as regards both innocent or guilty spouses.

In the *broad type* of maintenance (Article 60 § 2 Polish Family and Guardianship Code) it is necessary that the divorce has led to a serious deterioration of the economic standard of living of the innocent spouse. Usually the entitled spouse is a wife who has spent a large part of her life raising children as opposed to building up a professional carrier and her economic independence.<sup>31</sup>

65. *To what extent does maintenance depend on reproachable behaviour or fault on the part of the debtor during the marriage?*

The fault of the debtor is one of the determinative factors in the broad type of maintenance which will automatically entitle the innocent spouse. If fault appears on both sides it has no importance as far as the amount of maintenance is concerned (Article 60 Polish Family and Guardianship Code).<sup>32</sup>

66. *Is it relevant whether the lack of means has been caused by the marriage (e.g. if one of the spouses has give up his/her work during the marriage)?*

See Question 64. It is not relevant that the lack of means has been caused by the marriage, but in practice the court can take this into consideration when establishing the amount of maintenance. The Court will specifically say so in the grounds for the decision.<sup>33</sup>

67. *Must the claimant's lack of means exist at the moment of divorce or at another specific time?*

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<sup>31</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>32</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>33</sup> For information on Polish law see the information contained in the footnote to Question 55.

No, not as a rule. Only if both former spouses are innocent will the maintenance be for a period of five years and the claimant's lack of means must become apparent during this period (Article 60 § 3 sentence 2 Polish Family and Guardianship Code).<sup>34</sup>

### **III. Content and extent of the maintenance claim**

*68. Can maintenance be claimed for a limited time-period only or may the claim exist over a long period of time, maybe even lifelong?*

According to Article 60 § 3 Polish Family and Guardianship Code it depends on the circumstances of the case whether fault can be attributed to the debtor. This, in turn, determines for how long maintenance will be paid.

If both spouses are guilty or the debtor is guilty the maintenance is lifelong. If both former spouses are innocent, the duration of the maintenance is only five years but it can be claimed later if the circumstances giving rise to maintenance have occurred within this period.<sup>35</sup>

*69. Is the amount of the maintenance granted determined according to the standard of living during the marriage or according to, e.g. essential needs?*

According to Article 60 § 1 and § 2 Polish Family and Guardianship Code this depends of the type of maintenance.

In the narrow type the amount of the maintenance only depends on the level of essential needs and the standard of living during the marriage has no influence on establishing the amount of maintenance.

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<sup>34</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>35</sup> For information on Polish law see the information contained in the footnote to Question 55.

In the broad type the amount depends on two factors: on the standard of living during the marriage and on the economic ability of the debtor. In practice, no 'Maintenance Standards' exist as such.<sup>36</sup>

70. *How is maintenance calculated? Are there rules relating to percentages or fractional shares according to which the ex-spouses' income is divided? Is there a model prescribed by law or competent authority practice?*

See Question 69. There are no precise rules or models prescribed by law or, for that matter, any competent authority practice.<sup>37</sup>

71. *What costs other than the normal costs of life may be demanded by the claimant? (e.g. Necessary further professional qualifications? Costs of health insurance? Costs of insurance for age or disability?)*

According to Article 60 Polish Family and Guardianship Code the court only establishes one set amount as maintenance to be paid on monthly basis. At the hearing the claimant must adduce all relevant factors so that this monthly sum can be properly calculated. (the claimant thereby has to provide evidence of health insurance premiums, the necessity to obtain professional qualifications etc.).<sup>38</sup>

72. *Is there a maximum limit to the maintenance that can be ordered?*

See Question 62. There is no maximum limit to the maintenance that can be ordered, although the court cannot order a sum which is above 'the economic and earning capacity of the obliged spouse' (Article 60 § 1 Polish Family and Guardianship Code).<sup>39</sup>

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<sup>36</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>37</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>38</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>39</sup> For information on Polish law see the information contained in the footnote to Question 55.

73. *Does the law provide for a reduction in the level of maintenance after a certain time?*

No, the law does not provide for such a reduction in the level of maintenance after a certain time if the circumstances remain unchanged.<sup>40</sup>

74. *In which way is the maintenance to be paid (periodical payments? payment in kind? lump sum?)?*

As a rule the maintenance payment has to be paid in kind ('*alimentum*'), but this is actually an anachronism. Practically everybody pays by the way of periodical monetary payments. A lump sum is excluded in family law, although it does exist in tort.<sup>41</sup>

75. *Is the lump sum prescribed by law, can it be imposed by a court order or may the claimant or the debtor opt for such a payment?*

A lump-sum payment is not possible.<sup>42</sup>

76. *Is there an (automatic) indexation of maintenance?*

This is possible but the courts make use of it extremely rarely in practice. There are no indexation regulations or standards.<sup>43</sup>

77. *How can the amount of maintenance be adjusted to changed circumstances?*

If circumstances have changed there are two ways in which to adjust the amount of maintenance:

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<sup>40</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>41</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>42</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>43</sup> For information on Polish law see the information contained in the footnote to Question 55.

- by means of a new claim and thereby a new decision
- by means of a contract (consensus) between the former spouses.<sup>44</sup>

#### **IV. Details of calculating maintenance: Financial capacity of the debtor**

78. *Do special rules exist according to which the debtor may always retain a certain amount even if this means that he or she will not fully fulfil his maintenance obligations?*

The debtor has no competence to reduce the monthly payment. If the debtor's circumstances have changed this can only be done by bringing a separate action to reduce the amount of maintenance.<sup>45</sup>

79. *To what extent, if at all, is an increase of the debtor's income a) since the separation, b) since the divorce, taken into account when calculating the maintenance claim?*

In practice the courts only take into account any significant increase in the debtor's income.<sup>46</sup>

80. *How far do debts affect the debtor's liability to pay maintenance?*

The court, when calculating the debtor's ability to pay, has a discretion to take into account all reasonable debts if they affect that debtor's liability to pay. Reasonable debts mean e.g. those debts incurred to cover the cost of ordinary subsistence, education etc. The court is free to decide in this respect and there are no provisions or standards.<sup>47</sup>

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<sup>44</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>45</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>46</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>47</sup> For information on Polish law see the information contained in the footnote to Question 55.

81. *Can the debtor only rely on his or her other legal obligations or can he or she also rely on his or her moral obligations in respect of other persons, e.g. a de facto partner or a stepchild?*

See Question 80. As a rule, the debtor only relies on a legal obligation, but the court can take into consideration some of the debtor's moral obligations if he/she has to incur reasonable costs concerning his/her new family. This can be a legal family as well as a de facto family. If the family is not a legal one, the term 'family' means that within this new family at least one child resides. In this sense a de facto partnership (*concubinatus*) without a child is not a 'family situation' but only a feature of the 'private' life of the debtor. Because the debtor has no obligation to support his partner, such a situation does not influence the debtor's financial capacity.

82. *Can the debtor be asked to use his or her capital assets in order to fulfil his or her maintenance obligations?*

Yes. There are no provisions limiting the liability of the debtor in this respect. The court will take into consideration all the debtor's assets and income.<sup>48</sup>

83. *Can a "fictional" income be taken into account where the debtor is refusing possible and reasonable gainful employment or where he or she has deliberately given up such employment?*

Yes. According to Article 60 § 1 and § 2 Polish Family and Guardianship Code the court can take into consideration the 'economic and earning capacity' of the debtor and this occurs quite often in practice. (See Question 62).<sup>49</sup>

84. *Does the debtor's social security benefits, which he or she receives or could receive, have to be used for the performance of his or her*

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<sup>48</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>49</sup> For information on Polish law see the information contained in the footnote to Question 55.

*maintenance obligation? Which kinds of benefits have to be used for this purpose?*

According to Article 60 § 1 Polish Family and Guardianship Code, all benefits paid to the debtor, including social security benefits, have to be used to pay the maintenance obligation without any limitation.<sup>50</sup>

85. *In respect of the debtor's ability to pay, does the income (means) of his or her new spouse, registered partner or de facto partner have to be taken into account?*

See Question 62. According to Article 60 § 1 Polish Family and Guardianship Code the court can take into account the income of the debtor's new spouse, as one of the important factors which determine his/her economic situation and financial capacity.<sup>51</sup>

#### **V. Details of calculating maintenance: The claimant's lack of own means**

86. *In what way will the claimant's own income reduce his or her maintenance claim? Is it relevant whether the income is derived, on the one hand, from employment which can be reasonably expected or, on the other, from employment which goes beyond what is reasonably expected?*

This depends of the type of maintenance. In the *narrow type* (Article 60 § 1 Polish Family and Guardianship Code) the relevant factor is a lack of means and usually if the claimant is in employment, he/she has his/her own resources which provide a sufficient standard of living. In that case the spouse cannot demand maintenance.

In the *broad type* (Article 60 § 2 Polish Family and Guardianship Code) the divorce must have led to caused a serious deterioration in the economic standard of living . The claimant (usually the woman) can earn her own income, giving her an ordinary standard of living, but

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<sup>50</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>51</sup> For information on Polish law see the information contained in the footnote to Question 55.

the divorce has nevertheless resulted in such a deterioration and the court will always take into consideration the real, current situation. Of course in that case if she really does earn much more money than is reasonably expected, the amount of maintenance can thereby be reduced.<sup>52</sup>

*87. To what extent can the claimant be asked to seek gainful employment before he or she may claim maintenance from the divorced spouse?*

This also depends on the type of maintenance as well as the age and health of the claimant. According to Article 60 § 1 Polish Family and Guardianship Code, the poverty of the claimant is the relevant factor in the narrow type of maintenance. This means that the claimant does not have a possibility to support him/herself and if he/she does not seek gainful employment – especially when he/she is relatively young – then he/she still has economic capacity and poverty will not occur.

According to Article 60 § 2 Polish Family and Guardianship Code, in the broad type of maintenance the level of the maintenance depends on various factors and there is no doubt that the court always takes into consideration the fact that the claimant – especially when he/she is relatively young - avoids seeking gainful employment.<sup>53</sup>

*88. Can the claimant be asked to use his or her capital assets, before he or she may claim maintenance from the divorced spouse?*

This depends on the type of maintenance. According to Article 60 § 1 Polish Family and Guardianship Code, in the narrow type if the claimant has significant capital there will be no lack of means.

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<sup>52</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>53</sup> For information on Polish law see the information contained in the footnote to Question 55.

According to Article 60 § 2 Polish Family and Guardianship Code, in the broad type the claimant is not obliged to use his or her capital assets before claiming maintenance from the divorced spouse.<sup>54</sup>

89. *When calculating the claimant's income and assets, to what extent are the maintenance obligations of the claimant in relation to third persons (e.g. children from an earlier marriage) taken into account?*

According to Article 60 Polish Family and Guardianship Code, the maintenance obligations of the claimant in relation to third persons are taken into account in full, by the court, as an important element in determining the financial situation of the claimant.<sup>55</sup>

90. *Are there social security benefits (e.g. income support, pensions) the claimant receives which exclude his or her need according to the legal rules and/or court practice? Where does the divorced spouse's duty to maintain rank in relation to the possibility for the claimant to seek social security benefits?*

According to Article 60 Polish Family and Guardianship Code the amount of maintenance always depends justified needs of the entitled spouse. If the entitled spouse does not claim social security benefits the obliged spouse can demand an appropriate reduction in the maintenance.

According to Article 60 § 1 Polish Family and Guardianship Code, the relevant factor in the narrow type of maintenance is lack of means and if social security benefits can fulfil the basic needs of one spouse the other spouse has no obligation to support him/her.<sup>56</sup>

## **VI. Questions of priority of maintenance claims**

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<sup>54</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>55</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>56</sup> For information on Polish law see the information contained in the footnote to Question 55.

*91. How is the relationship between different maintenance claims determined? Are there rules on the priority of claims?*

According to Article 130 Polish Family and Guardianship Code the maintenance obligation towards the former spouse ranks above the maintenance obligations towards other relatives.

However, sometimes the debtor not only has a duty to maintain his former spouse but also other persons e.g. his child or parent. There are no rules of priority relating to maintenance claims. In such a case an accumulation of claims will occur'. In such a situation the court must adequately divide the maintenance between those persons who are entitled.<sup>57</sup>

*92. Does the divorced spouse's claim for maintenance rank ahead of the claim of a new spouse (or registered partner) of the debtor?*

According to Articles 27, 60 and 130 Polish Family and Guardianship Code, the former spouse and the current spouse can sue the debtor for maintenance and they both have equal ranking. In Polish law the institution of a registered partnership does not exist.<sup>58</sup>

*93. Does the claim of a child of the debtor, if that child has not yet come of age, rank ahead of the claim of a divorced spouse?*

No, according to Articles 129 and 130 Polish Family and Guardianship Code the child and the former spouse can sue the debtor for maintenance and they both have equal ranking, although the backgrounds to and the amount of the maintenance will be different. The court must adequately divide the maintenance between the child and the divorced spouse. In practice children often sue their parents

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<sup>57</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>58</sup> For information on Polish law see the information contained in the footnote to Question 55.

for maintenance. A divorced spouse will sue his/her former spouses only very rarely.<sup>59</sup>

94. *What is the position if that child has reached the age of majority?*

When the child has reached the age of majority (usually eighteen years) the background to the maintenance will change but the ranking will remain the same. According to the decision of the Polish Supreme Court if the adult child is still studying, he/she has the right to claim maintenance during the time which is necessarily to complete the study without any break or prolongation although such a maintenance obligation will automatically terminate when the child reaches the age of twenty six.<sup>60</sup>

95. *Does the divorced spouse's claim for maintenance rank ahead of the claims of other relatives of the debtor?*

No, the accumulation of claims will occur in such a situation. See Questions 91-93.<sup>61</sup>

96. *What effect, if any, does the duty of relatives or other relations of the claimant to maintain him or her have on the ex-spouse's duty to maintain him or her?*

According to Article 129 § 1 and 2 and Article 130 Polish Family and Guardianship Code the relatives have a duty to maintain in subsequent rank. As long as the former spouse has a sufficient ability to pay maintenance the duty of relatives or other persons will not arise.<sup>62</sup>

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<sup>59</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>60</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>61</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>62</sup> For information on Polish law see the information contained in the footnote to Question 55.

## **VII. Limitations and end of the maintenance obligation**

*97. Is the maintenance claim extinguished upon the claimant's remarriage or entering into a registered partnership? If so: may the claim revive under certain conditions?*

According to Article 60 § 3 Polish Family and Guardianship Code, the right to maintenance always terminates if the entitled spouse remarries.<sup>63</sup>

*98. Are there rules according to which maintenance may be denied or reduced if the claimant enters into an informal long-term relationship with another person?*

There is no provision in this respect, but if the claimant enters into a lasting partnership the court may deny the maintenance claim on the basis of equity (Article 5 Polish Civil Code).<sup>64</sup>

*99. Can the maintenance claim be denied because the marriage was of short duration?*

No, but in practice this does have a significant influence on the amount of maintenance.<sup>65</sup>

*100. Can the maintenance claim be denied or reduced for other reasons such as the claimant's conduct during the marriage or the facts in relation to the ground for divorce?*

Yes, according to Article 60 § 1 Polish Family and Guardianship Code the claim will be denied if sole guilt can be attributed to the claimant for the breakdown of the marriage.

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<sup>63</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>64</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>65</sup> For information on Polish law see the information contained in the footnote to Question 55.

According to Article 60 § 2 Polish Family and Guardianship Code in that case the innocent spouse can claim the broad type of maintenance if the divorce has resulted in a serious deterioration in his/her economic standard of living.

But the broad type of maintenance is neither an 'award' for 'innocence' nor a punishment for 'fault'. It has no compensatory character or function. The idea of the broad type of maintenance is that the situation of the spouses is considered to be akin to the situation of partners in a commercial partnership; if one commercial partner decides of his own accord to terminate the partnership he has to bear all the costs of liquidation. It is therefore not compensation as such, but a kind of continuation. It means that the consequences of marriage survive after divorce during the post-divorce period and the problem of the duration of the post-divorce period will also occur.<sup>66</sup>

*101. Does the maintenance claim end with the death of the debtor?*

Yes. According to Article 139 Polish Family and Guardianship Code the maintenance claim terminates with the death of the debtor.<sup>67</sup>

### **VIII. Maintenance agreements**

*102. May the spouses (before or after the divorce or during the divorce proceedings) enter into binding agreements on maintenance in the case of (an eventual) divorce?*

No, the spouses have no competence to enter into such an agreement during the marriage but they can enter into a contract concerning the amount of the maintenance during the actual divorce proceedings as well as after the divorce. The monthly rate of maintenance cannot be

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<sup>66</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>67</sup> For information on Polish law see the information contained in the footnote to Question 55.

any lower than the level of maintenance which the court will usually determine in such a situation.<sup>68</sup>

*103. May a spouse agree to renounce his or her future right to maintenance? If so, are there limits on that agreement's validity?*

No. The spouse has no right to renounce his/her future right to maintenance.<sup>69</sup>

*104. Is there a prescribed form for such agreements?*

No.<sup>70</sup>

*105. Do such agreements need the approval of a competent authority?*

No, but the court can refuse such an agreement if the level of maintenance is too low, according to Article 60 Polish Family and Guardianship Code.<sup>71</sup>

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<sup>68</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>69</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>70</sup> For information on Polish law see the information contained in the footnote to Question 55.

<sup>71</sup> For information on Polish law see the information contained in the footnote to Question 55.