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The legal concept of breakdown of marriage in Polish law

The only condition for dissolution of a marriage through divorce, according to Article 56 § 1 of the Family and Guardianship Code, is a complete and lasting breakdown of marital life. This condition is absolute because the law does not provide any exceptions to it.

The breakdown of marital life belongs to the category of legal concepts for which it must be assumed from the outset that a strict statutory definition is not possible. The task of defining this concept falls to case law and legal literature. All attempts to define this concept start with defining the concept of shared marital life.

Shared life, as understood in Article 23 of the Family and Guardianship Code, consists of the spiritual, physical, and economic bond between spouses, which is the purpose of marriage and enables the fulfillment of its basic tasks.

The positive condition for divorce is fulfilled when the breakdown of marital relations is permanent and complete.

The breakdown is complete if there are no longer any physical, emotional, and economic ties between the spouses. If at least one tie, such as an economic one, is maintained, then a positive condition for divorce cannot be established, and the divorce claim should be dismissed.

Determining the permanence of the breakdown of the relationship can be challenging as it always involves a prognosis for the future. It is not necessary to establish that the spouses will absolutely not reconcile in order to determine that the breakdown is lasting. It is sufficient to make an assessment based on life experience that, given the circumstances of the case, the spouses will not reconcile. The breakdown is certainly considered permanent if the spouses enter into new marriages, especially if children are born in these unions.

The legislator does not provide specific regulations regarding the time that must elapse since the complete breakdown of the relationship in order to consider it as lasting.

The passage of several, let alone a dozen years since the cessation of marital bonds, implies that the breakdown is permanent. Usually, a short period of complete breakdown compared to a very long period of marriage may indicate a transient nature of the breakdown.

When determining the complete and lasting breakdown of marital life, the court is not obliged to assess the validity of its reasons, i.e., it is not obligated to examine whether, in light of the principles of social coexistence, these reasons can be considered sufficiently significant.

Pursuant to the judgment of the Supreme Court of 4 February 1998, II CKN 582/97: "The only condition for the dissolution of a marriage through divorce, according to Article 56 § 1 of the Family and Guardianship Code, is a complete and permanent breakdown of the marital relationship." In the Judgment of 5 May 1999, III CKN 863/98, the Supreme Court stated as follows: "The breakdown of the marriage between the parties is characterized by both durability and completeness."

According to the judgment of the Supreme Court of 8 December 1998, I CKN 817/97: "The durability and completeness of the breakdown are positive conditions for divorce that are related to each other. The lack of completeness of the breakdown means it cannot be classified as lasting." Also significant is the judgement of the Supreme Court which was issued in case I CKN 73/97. The Supreme Court stated as follows: "The permanence and completeness of the breakdown of the marital relationship as a condition for divorce (Article 56 § 1 of the Family and Guardianship Code) are subject to judicial assessment within the framework of applying family law."

References:

Supreme Court, Judgment, 4 February 1998, II CKN 582/97.

Supreme Court, Judgment, 4 February 1998, II CKN 582/97.

Supreme Court, Judgment, 8 December 1998, I CKN 817/97.

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