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PROHIBITION OF MARRIAGE BETWEEN A STEPFATHER (STEPMOTHER) AND A STEPSON (STEPDAUGHTER)

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Abstract

This article addresses the prohibition of marriage between in-laws in the direct line. It focuses on affinity as a legal family relationship that arises between a stepchild and a stepfather (stepmother) when the stepfather (stepmother) marries the stepchild's biological parent. The considerations in this article aim to demonstrate the fundamental thesis: that the prohibition of such marriages between persons related by affinity in the direct line should be lifted due to the lack of rational grounds for its maintenance.

Keywords: family law relationship, marriage ban, direct affinity, stepchild, stepfather, stepmother

INTRODUCTION

The issue of personal relations between in-laws, as regulated by the provisions of the Family and Guardianship Code (hereinafter 'the FGC'), includes various regulations concerning the prohibition of marriage between in-laws in the direct line. This issue is significant from the perspective of the legal status of the stepchild within the family group. The relevant regulation focuses on personal relations between in-laws, particularly regarding the prohibition of marriage between a stepson (stepdaughter) and a stepmother (stepfather). The interpretative assumption adopted in the following analysis can be formulated as the thesis that the interpretation of provisions regulating the prohibition of marriage between in-laws in the direct line

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should strengthen the position of the stepchild as a member of the reconstituted family, bringing their situation closer to that of children in a biological family. This prohibition is set out in Article 14 § 1 FGC. In considering its application to the stepchild and their adoptive parent, it is necessary to assess whether its retention in the code is justified, as it raises significant doctrinal concerns.

AFFINITY

Affinity is understood as a legal family relationship between one spouse and the relatives of the other. It is solely a legal bond.[1] The stepchild's inclusion in the family (Articles 23 and 27 FGC) determines the stepparent's involvement in their upbringing. The stepfather (stepmother), despite not having parental authority over the stepchild, is obliged to support their spouse in raising and maintaining the foster child. Obstructing contact, mistreating the stepchild, or restricting the spouse's ability to fulfil their rights and obligations towards the stepchild may even lead to divorce. Such actions may be recognised by the court as a cause of marital breakdown, and in such a case, the stepfather (stepmother) may be held solely responsible for the dissolution of the marriage.

Affinity, like consanguinity, exists both in the direct and collateral lines. In the direct line, the parents of the husband and wife (in-laws) and the spouse's child (stepchild) are related by law. In-laws in the ascending line include the spouse's parents (in-laws) and their ascendants, while in-laws in the descending line include the spouse's child (stepchild). As shown above, parents and children are first-degree affinities.

The relationship of affinity also has implications for alimony, as defined in the Family and Guardianship Code, particularly concerning the maintenance obligation between a stepchild and a stepfather (stepmother), as well as the provisions on the prohibition of marriage between persons related by affinity in the direct line.[2]

Affinity affects not only relationships between family members but also their rights and obligations. Among the legal consequences of affinity, one should consider not only the stepchild's inclusion in the family (Articles 23 and 27 FGC), the possibility of the stepchild taking the stepfather's surname (Article 90 FGC), and the maintenance obligation between the stepmother or stepfather and the stepchild (Article 144 FGC), but also the prohibition of marriage between persons related by affinity in the direct line (Article 14 FGC), which is discussed later.

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[1] See K. Pietrzykowski, in: Pietrzykowski K. (ed.), Gajda J., Ignatowicz J., Winiarz J., *Kodeks rodzinny i opiekuńczy. Komentarz*, Warszawa, 2010; 'There is no relationship of affinity between the relatives of one spouse and the relatives of the other spouse', cited from J. Ignaczewski, *Kodeks rodzinny i opiekuńczy. Komentarz*, Warszawa, 2010, pp. 448–449; W. Żukowski, 'Projektowana nowelizacja przepisów regulujących dziedziczenie ustawowe', *Kwartalnik Prawa Prywatnego*, 2008, No. 1, p. 262; H. Haak, *Kodeks rodzinny i opiekuńczy. Komentarz*, Toruń, 2009, pp. 16–17; T. Sokołowski, 'Komentarz do art. 61(8) krio', in: Dolecki H., Sokołowski T. (eds), *Kodeks rodzinny i opiekuńczy. Komentarz*, 1st edn, Warszawa, 2010, p. 460; J. Winiarz, in: Piątowski J.S. (ed.), Winiarz J., Ignatowicz J., Gwiazdomorski J., *System prawa rodzinnego i opiekuńczego. Komentarz*, Wrocław, 1985, pp. 623–624, commentary on Article 61(8).

[2] See Z. Tyszka, *Rodzina we współczesnym świecie*, Poznań, 2002, p. 33.

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As mentioned earlier, among the obstacles to contracting marriage, the prohibition of affinity in the direct line raises the most doubts in legal doctrine regarding the advisability of maintaining this regulation in the code.[3] This is particularly due to considerations of the well-being of children who may be born into such a relationship and the stability of the family to be formed.[4] On the other hand, the purpose of prohibiting marriage between in-laws, according to some scholars, including M. Domański, is 'to protect proper family relations and to prevent conflict situations from arising'.[5]

However, this prohibition cannot be equated with other, more significant marriage impediments, such as the prohibition of marriage between an adopter and an adopted person (Article 15 FGC) or the prohibition of bigamy (Article 13 of the Criminal Code). This is reflected in the way doctrine and jurisprudence approach it, including a relatively flexible stance on determining the circumstances that may constitute 'important reasons' for the court to grant permission to marry despite the prohibition of affinity (Article 14 § 1 FGC *in fine*). The impediment of affinity in marriage is therefore a relative impediment. Its removal is permitted through dispensation. According to Article 14 § 1, second sentence of the FGC, the court may grant permission for marriage between affines in the direct line, provided that important reasons, as discussed above, are present. At the same time, it needs to be emphasised that the 'important reason' cannot be a threat to life.

Under the Family and Guardianship Code, there are two substantive prerequisites for the court to grant permission for marriage despite the existence of an affinity relationship between the parties: (1) the existence of affinity in the direct line, and (2) the presence of so-called 'important reasons'. The first criterion is unambiguous – if there is no affinity in a direct line between the prospective spouses, there is no impediment to marriage based on affinity, allowing the marriage to proceed. The legislator did not define the concept of 'important reasons' justifying a court's permission to marry despite an affinity relationship. For instance, it has been observed that 'only if the age difference between the parties is not very significant and there are no objections based on the positive social value of the intended marriage, would

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[3] See A. Zielonacki, *Zawarcie małżeństwa*, Wrocław, 1982, p. 93.

[4] See A. Szlęzak, *Prawnorodzinna sytuacja pasierba*, Poznań, 1985. p. 42; S. Grzybowski, *Prawo rodzinne. Zarys wykładu*, Warszawa, 1980, p. 61; J. Górecki, *Unieważnienie małżeństwa*, Kraków, 1958, p. 19; S. Szer, *Prawo rodzinne*, Warszawa, 1966, pp. 53–54; B. Walaszek, *Zarys prawa rodzinnego i opiekuńczego*, Warszawa, 1971, p. 48; J. Winiarz, *Prawo rodzinne*, Warszawa, 1983, p. 62; A. Zielonacki, *Zawarcie…*, op. cit., p. 93.

[5] See M. Domański, *Względne zakazy małżeńskie*, Warszawa, 2013, pp. 331–332; K. Pietrzykowski, in: Pietrzykowski K. (ed.), *Kodeks rodzinny i opiekuńczy. Komentarz*, Warszawa, 2015, Article 14 II margin number 1; A. Zielonacki, in: Dolecki H., Sokołowski T., Andrzejewski M., Haberko J., Lutkiewicz-Rucińska A., Olejniczak A., Sylwestrzak A., Zielonacki A. (eds), *Kodeks rodzinny i opiekuńczy. Komentarz*, 2nd edn, Warszawa, 2013, pp. 68–69; J. Gajda, 'System prawa prywatnego', in: Smyczyński T., Gajda J., Nazar M., Panowicz-Lipska J., Sokołowski T., Stojanowska W. (eds), *Prawo rodzinne i opiekuńcze*, Vol. 11, Warszawa, 2012, pp. 174–175.

there be no reason to refuse permission to marry.'[6] Conversely, the Supreme Court has ruled that 'a particularly large age difference between the spouses, especially if the woman is significantly older, may – as life experience suggests – lead to the breakdown of the marriage.'[7] Similarly, K. Piasecki, J. Gajda, K. Pietrzykowski, and A. Zielonacki argue that a significant age difference between prospective spouses may pre-emptively threaten the stability of their cohabitation and should, in principle, be grounds for refusing court permission to marry. A different perspective is presented by M. Domański, who maintains that even a very large age difference between spouses does not constitute a marriage impediment under Polish law. The author rightly points out that assuming a significant age difference will inevitably lead to the breakdown of marriage is highly unjustified.[8] Furthermore, Domański highlights the particular concern of one party's young age, especially when the financial dependence of the younger spouse on the older, wealthier in-law raises suspicions that the younger spouse may have been pressured into marriage.[9]

When attempting to specify the concept of 'important reasons' as referred to in Article 14 FGC, M. Domański and J. Gajda cite the views of J. Winiarz and unanimously emphasise that, in accordance with the principle of family protection,

> 'The court, in proceedings for granting a marriage licence between persons related by affinity in the direct line, should take into account: the existence of minor children of one of the prospective spouses, their attitude towards the change of roles in the family, and a prognosis regarding the impact of the marriage on their psychological well-being. According to these authors, the acceptance of the marriage by the closest family members, particularly adult children from a previous marriage, is also important. Furthermore, the court should consider whether the spouse from the relationship that established the affinity is still alive, the nature of their relationship with the father or mother, and whether the marriage of in-laws could negatively impact these relationships. (…) An important circumstance that may lead to an application being approved is when the bride becomes pregnant or gives birth to a child from a relationship with a relative by affinity.'[10]

It seems that the assessment of the validity of the reasons necessary for the court's consent to the marriage should also take into account the previous family situation of the relatives involved. It may be the case that the stepchild has remained within the same family unit as the stepmother (stepfather) or, conversely, that they were never part of this family dynamic. In the first scenario, the situation preceding the issue of marriage between in-laws may resemble a parent-child relationship – for instance, if the stepson (stepdaughter) had played the social role of a child within the family, and the stepmother (stepfather) had assumed a parental role.

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[6] See Z. Wiszniewski, in: Grudziński M. (ed.), Ignatowicz J., Wiszniewski Z., *Kodeks rodzinny i opiekuńczy. Komentarz*, Warszawa, 1966, p. 55.

[7] See judgment of the Supreme Court of 16 March 1956, ref. No. IV CR 127/55, OSN 1956, item 112, Legalis No. 637418.

[8] See M. Domański, *Względne zakazy*…, op. cit., p. 338; J. Gajda, 'System prawa…', op. cit., pp. 177–178; K. Pietrzykowski, in: Pietrzykowski K. (ed.), Gajda J., Ignatowicz J., Winiarz J., op. cit., p. 278; A. Zielonacki, in: Dolecki H., Sokołowski T., Andrzejewski M., Haberko J., Lutkiewicz-Rucińska A., Olejniczak A., Sylwestrzak A., Zielonacki A. (eds), op. cit., pp. 69–70.

[9] See M. Domański, *Względne zakazy*…, op. cit., pp. 338–339.

[10] See ibidem, p. 340; J. Gajda, 'System prawa…', op. cit., pp. 177–178.

In the second scenario, no such relationship would have ever existed, making it fundamentally different from that of a biological family. From this, it follows that the moral considerations that led to the introduction of the prohibition on marriage between in-laws into the Family and Guardianship Code would be particularly relevant in the first scenario. However, even in such cases, a liberal interpretation of the legal provisions governing this institution should be applied. This is because a marriage between in-laws could only take place after the termination of the marriage between the stepfather (stepmother) and the biological parent of the stepson (stepdaughter). In such instances, the previously established system of social roles – which may have given rise to concerns about the moral implications of the marriage – also ceases to exist. This situation is somewhat analogous to the dissolution of adoption. In such cases, the marriage between a former adopter and former adoptee is not subject to court approval. Similarly, in the second scenario – where in-laws have never shared a common family unit – moral considerations should play an even lesser role. In such cases, refusals to grant permission for marriage should be exceptionally rare, and only based on exceptionally important circumstances. Furthermore, a significant age difference between in-laws should not constitute an obstacle to marriage.

In legal doctrine, there are also divergent positions regarding the possibility – or lack thereof – of the court granting permission *ex post* for marriage between persons related by affinity in a direct line. The dominant view supports the admissibility of such permission.[11] Taking into account the literal interpretation of Article 14 § 1, second sentence of the FGC, which indicates the possibility of obtaining the court's permission 'to enter into' a marriage between persons related by affinity, it simultaneously argues against the permissibility of granting such permission *ex post*, once this marriage has already been concluded. In such a case, the court may only dismiss the claim for annulment of marriage due to an impediment of affinity, indicating that there were so-called 'important reasons' justifying the granting of permission to enter into the marriage. According to some authors, including K. Pietrzykowski and J. Gajda, the court's dismissal of an annulment claim due to an obstacle of affinity in such circumstances should be regarded as *de facto* permission to conclude a marriage *ex post*.[12]

Summing up, it seems that the ban on marriages between persons related by affinity contained in Article 14 FGC deserves criticism. Firstly, as indicated in the literature on the subject, marriages between in-laws are very rare, and the refusal to

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[11] See ibidem, pp. 176–177; K. Pietrzykowski, in: Pietrzykowski K. (ed.), Gajda J., Ignatowicz J., Winiarz J., op. cit., Article 14 II, margin number 5; A. Zielonacki, in: Dolecki H., Sokołowski T., Andrzejewski M., Haberko J., Lutkiewicz-Rucińska A., Olejniczak A., Sylwestrzak A., Zielonacki A. (eds), op. cit., p. 70; K. Gromek, in: Gromek K. (ed.), *Kodeks rodzinny i opiekuńczy. Komentarz*, 5th edn, Warszawa, 2016, Article 14 III, margin number 3; K. Piasecki, in: Piasecki K. (ed.), Czech B., Domińczyk T., Kalus S., *Kodeks rodzinny i opiekuńczy. Komentarz*, Warszawa, 2011, p. 100; J. Ignatowicz, M. Nazar, *Prawo rodzinne*, Warszawa, 2010, pp. 106–107.

[12] See judgment of the Supreme Court of 14 February 1961 (ref. No. 1 CR 938/59, OSPIKA 1962, No. 10, item 265); LEX No. 1634095; resolution of the Supreme Court of 25 April 1983 (III CZP 12/83, OSNCP 1983, No. 11, item 174), Legalis No. 23682; resolution of the Supreme Court of 9 May 2002 (ref. No. III CZP 7/02 OSP 2004, No. 1, item 1), LexPolonica No. 355229.

grant consent to enter into such a marriage is also rare, which makes the justification for this prohibition questionable.[13]

Another example would be a situation where a family consists of spouses and children, each of whom is descended from one of the spouses and is therefore a stepchild of the other spouse. In the eyes of the law, these children are legally unrelated to each other. The Family and Guardianship Code does not prohibit marriages between them. However, the situation is different when the family includes a stepchild and a biological child of the spouses, as in this case the inadmissibility of marriage between such children results from the prohibition of consanguinity, which also applies to half-siblings. Since each of the children is biologically related to only one spouse and is legally unrelated to the other, yet resides within the same family unit, the legal provisions on siblings could be applied to them. This raises the question of whether marriage between them should also be prohibited. It seems fair to argue against such a proposal. However, this contradicts the thesis that if the relationship between in-laws resembles that between biological parents and children, it would be reasonable to introduce legal regulations governing the relationship between a stepfather (stepmother) and stepson (stepdaughter), modelled on biological parent-child relationships. Similarly, in a situation where the family includes children of each spouse who are not also children of the other spouse, the regulation on sibling relations should apply to them. Meanwhile, in the above considerations, opposition was expressed to the ban on marriages between a stepfather (stepmother) and a stepson (stepdaughter), as well as to the prohibition of marriage between the children of each spouse, even if they were raised in the same family unit. This criticism does not seem entirely justified. This is because, where the situation within a reconstituted family corresponds to that of a biological family, the analogy to the prohibition of marriage between in-laws is absolutely justified. However, in cases where there was an intention to marry, it should be recognised that the system of relationships between the individuals wishing to marry – either during their time as members of the same family unit or after leaving it – was or became different from the relationships between parents and children or between siblings in a biological family. In such a case, since there are no legal or eugenic obstacles, marriage between such individuals should be allowed. The only possible objection to such a marriage would be moral considerations, which would not apply in such a situation due to the absence of relationships covered by the scope of these norms. Such considerations could be invoked in cases where the individuals wishing to marry had previously shared an emotional bond characteristic of parent-child or sibling relationships. However, in a situation where such ties no longer exist or have never existed, there is no reason why there should be a ban on marriage between such persons, despite the fact that in the past, these persons were members of the same family community. A solution of this kind therefore suggests that, in most cases, the persons mentioned above who intend to marry do not have the same relationship as parents and children or siblings. The hypothesis put forward here is reflected in the sporadic cases of refusal to consent to marriage, referred to

[13] See A. Zielonacki, *Zawarcie małżeństwa*, op. cit., p. 93.

in Article 14 FGC. However, this does not exclude the possibility of entering into marriages between persons who were once connected by emotional ties, such as those found in parent-child relationships. It seems pointless to introduce a ban on marriages between in-laws or to introduce a new ban that would prohibit marriages between the children of each spouse. This is because, as mentioned earlier, firstly, situations of this kind, concerning the conclusion of marriages by the above-mentioned persons, would be very rare, potentially resulting in the introduction of a redundant regulation into the code. Secondly, increasing the number of bans reduces the attractiveness of marriage as an alternative to cohabitation, which, in turn, would lead to far more unfavourable consequences than those the ban seeks to prevent.

Another contentious issue in the doctrine is the nature of the legitimacy of prospective spouses by affinity to submit an application for a marriage permit. According to some, such an application should be submitted jointly by both parties; however, in a situation where such an application is submitted by only one of the prospective spouses, it should be rejected. This view is justified by the nature of the obstacle of affinity, which applies to both parties.[14] According to the second view, such a request may be submitted by either of the persons related by affinity. The other prospective spouse is then considered an interested party in the case and should participate in the proceedings in that capacity.[15] It should be emphasised that in the case of a minor stepdaughter who wishes to marry a widowed stepfather, the application for a marriage permit must be submitted by the stepdaughter herself, as it is not sufficient for her to join the proceedings initiated by the stepfather. This follows from the content of Article 561 § 1, first sentence of the Code of Civil Procedure (hereinafter 'CCP') in conjunction with Article 10 § 1 FGC, which lists as the applicant only a person who has not reached the prescribed age and is therefore entitled to submit the application in question.[16] At the same time, one should agree with the view expressed in the doctrine that considerations of procedural efficiency favour granting a joint permit in relation to both submitted applications. However, there are procedural complications in this situation. Namely, in cases involving a marriage licence for a woman under 18, the decision is made by the guardianship court in non-litigious proceedings (Article 561 § 1, first sentence of the CCP; Article 10), whereas in cases concerning a marriage licence between persons related by affinity, the decision is made by the district court in non-contentious proceedings (Article 507 CCP). This is because, in the first case, the applicant is a minor woman, whereas in the second case, both spouses are involved. At the same time, it is necessary to support the doctrinal view that the age-related obstacle extends further than the affinity obstacle. Therefore, in cases where a permit is issued for a minor to marry a person related in a direct line,

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[14] See J. Gudowski, in: Ereciński T., Gudowski J. (eds), *Kodeks postępowania cywilnego*, Vol. 3, Warszawa, p. 149; P. Cioch, 'Postępowanie nieprocesowe w sprawach o udzielenie zezwolenia na zawarcie małżeństwa', *Przegląd Sądowy*, 2010, No. 3, p. 62.

[15] See J. Gajda, 'System prawa…', op. cit., p. 197.

[16] See commentary on Article 10 of the Family and Guardianship Code in: K. Pietrzykowski (ed.), *Kodeks rodzinny i opiekuńczy. Komentarz*, 8th edn, Warszawa, 2023.

the procedural rules under Article 10 FGC shall apply, in particular the provisions of the CCP governing guardianship court proceedings. It would be unacceptable for the court to grant a separate permit under Article 14 FGC, while leaving open the issue of permission from the guardianship court under Article 10. There can be only one permit, which must take into account the entire situation.[17]

In proceedings for obtaining a marriage permit for in-laws, it is most important that both prospective spouses participate and that both consent to the marriage.

Evidence proceedings in cases for permission to marry between in-laws should be based on documentary evidence as well as evidence from 'personal sources'. Prospective parties should provide copies of birth certificates, a copy of the marriage certificate that established the affinity, proof of its dissolution, and proof that both spouses are unmarried. Regarding 'important reasons', these should be verified and assessed by interviewing both prospective spouses and hearing from relatives, particularly the children of the individuals intending to marry. The court may also order an environmental interview (Article 561^1 CCP). If there are doubts regarding the mental health of the participants, the court should obtain an expert opinion from a psychiatrist.[18]

CONCLUSION

In the doctrine of family law, the above-mentioned solution has been criticised. There have been a number of arguments in favour of abandoning the ban on marriages between persons related by affinity in a direct line. According to A. Zielonacki, there are no rational grounds for maintaining it. As indicated earlier, such marriages occur very rarely, and the ease of obtaining court permission to conclude such a marriage prevents the effective operation of the ban. According to the above author, it is easy to obtain the court's permission to enter into this type of marriage due to the lack of rational grounds for rejecting the application. At the same time, Zielonacki pointed out that a situation in which the exception becomes the rule has a negative impact on respect for the law. Thus, maintaining obsolete regulations has a similar effect.[19]

There have also been positions in the doctrine defending Article 14 FGC. According to J. Gajda, a liberal interpretation regarding the possibility of granting a permit does not undermine the validity of this marriage obstacle. The purpose of the provision is to allow the annulment of a marriage whose validity seems questionable from the perspective of the family unit it establishes. As noted by the

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[17] See commentary on Article 14 of the Family and Guardianship Code in: K. Pietrzykowski (ed.), *Kodeks rodzinny i opiekuńczy. Komentarz*, 8th edn, Warszawa, 2023; J. Winiarz, in: Piątowski J.S. (ed.), Winiarz J., Ignatowicz J., Gwiazdomorski J., op. cit., pp. 191; Z. Wiszniewski, S. Gross, in: Dobrzański B. (ed.), Ignatowicz J. (ed.), Wiszniewski Z., Gross S., *Kodeks rodzinny i opiekuńczy. Komentarz*, Warszawa, 1975, p. 55.

[18] See M. Domański, *Zezwolenie na zawarcie małżeństwa powinowatym w linii prostej*, Warszawa, p. 28.

[19] See A. Zielonacki, *Zawarcie…*, op. cit., pp. 169 et seq.

above author, the court is not obliged to grant permission for a marriage that, from its inception, does not present a positive prognosis for its proper functioning.[20]

To sum up, referring to the arguments of the supporters of maintaining the ban, it should be pointed out that it does not seem that the regulation of Article 14 FGC was an effective or useful instrument for annulling marriages whose existence would be questionable from the perspective of the family unit thus established. The mere identification of a prohibition arising from affinity by the head of the Registry Office is not a complicated matter. Prospective couples must provide evidence of the termination of a previous marriage. Such evidence will unequivocally indicate the existence of affinity. Considering the rarity of marriages between persons related by affinity in the direct line, it should be assumed that a marriage contrary to the prohibition may actually occur only in theory. In addition, the ease of obtaining a permit to enter into such a marriage does not encourage prospective couples to attempt to conceal the prohibition. On the other hand, obtaining a permit excludes the possibility of annulling the marriage on these grounds.

Another issue is the limited group of persons entitled (legitimised) to file a lawsuit for annulment of marriage. Such authorisation, pursuant to Article 14 § 3 FGC, is available only to spouses. This type of marriage cannot be annulled after its termination (Article 18 of the Civil Code).

Problems arising from the application of Article 14 result from the weak justification for the prohibition of marriages between in-laws. As it turns out, in fact, this prohibition is justified mainly by moral beliefs and ethical considerations, and the legislative concept itself stems from a rather inconsistent duplication of previously binding solutions, including those adopted in canon law. Assigning a pragmatic function to the ban proves difficult, but when excluding arguments in favour of this solution, the only remaining justification is the rather unpredictable argument of family unity and stability.

However, the fundamental issue is that the arguments supporting the justification for the prohibition of marriages between persons related by affinity in the direct line are, in fact, arguments against any form of cohabitation between such persons. The prohibition formulated in Article 14 FGC has no real capacity to achieve the objectives it is intended to serve.

Thus, the first objection to the ban under analysis is its ineffectiveness in achieving its assumed objectives. There are no criminal provisions penalising sexual relations between in-laws in the direct line. Likewise, there are no provisions preventing the upbringing of children from a marriage between in-laws or from a factual relationship between in-laws in the direct line.

Taking into account factual, psychological, and emotional considerations, there is no difference between a marriage between persons related by affinity in the direct line and a marriage between individuals who are not formally related by affinity but have developed a so-called actual affinity through a long-term factual relationship. Thus, there would be no legal obstacles for a grandfather to become a stepfather to

[20] See J. Gajda, 'System prawa…', op. cit., p. 197.

his grandchildren. This means that the existing legal framework is both ineffective and inconsistent.

The lack of a strong justification for the prohibition directly impacts the issues surrounding the granting of permission to enter into a prohibited marriage. An analysis of Article 14 FGC reveals that an 'important reason' justifying the marriage licence is simply the absence of any grounds for rejecting such an application. This represents a reversal of the legislator's intent. Such a widely accepted view contradicts the very purpose of the marriage prohibition. In fact, Article 14 FGC does not prohibit marriage between persons related by affinity in the direct line; rather, it establishes that such marriages are permitted unless there are important reasons against them. The liberal approach to this prohibition suggests that its moral and ethical justification is weak and unconvincing.

Another aspect concerns the doubts raised in proceedings for a marriage licence for persons related by affinity in the direct line, particularly regarding personal, financial, housing, and health considerations for adults who are otherwise fully capable of making independent legal decisions. These individuals may also, without any special procedure, enter into marriage with any other person, including persons related by affinity in the collateral line. In such cases, no one would question the housing or personal circumstances of the prospective spouses. Thus, the adopted legal framework can be criticised as an unjustified and excessive interference in the private lives of the spouses.

In light of the above considerations, the prohibition on marriage between persons related by affinity in the direct line should be removed from the catalogue of marriage bans.

BIBLIOGRAPHY

Cioch P., 'Postępowanie nieprocesowe w sprawach o udzielenie zezwolenia na zawarcie małżeństwa', *Przegląd Sądowy*, 2010, No. 3.

Domański M., *Względne zakazy małżeńskie*, Warszawa, 2013.

Domański M., *Zezwolenie na zawarcie małżeństwa powinowatym w linii prostej*, Warszawa, 2010.

Gajda J., 'System prawa prywatnego', in: Smyczyński T., Gajda J., Nazar M., Panowicz-Lipska J., Sokołowski T., Stojanowska W. (eds), *Prawo rodzinne i opiekuńcze*, Vol. 11, Warszawa, 2012.

Górecki J., *Unieważnienie małżeństwa*, Kraków, 1958.

Gromek K., in: Gromek K. (ed.), *Kodeks rodzinny i opiekuńczy. Komentarz*, 5th edn, Warszawa, 2016.

Grzybowski S., *Prawo rodzinne. Zarys wykładu*, Warszawa, 1980.

Gudowski J., in: Ereciński T., Gudowski J. (eds), *Kodeks postępowania cywilnego*, Vol. 3, Warszawa, 2009.

Haak H., *Kodeks rodzinny i opiekuńczy. Komentarz*, Toruń, 2009.

Ignaczewski J., *Kodeks rodzinny i opiekuńczy. Komentarz*, Warszawa, 2010.

Ignatowicz J., Nazar M., *Prawo rodzinne*, Warszawa, 2010.

Piasecki K., in: Piasecki K. (ed.), Czech B., Domińczyk T., Kalus S., *Kodeks rodzinny i opiekuńczy. Komentarz*, Warszawa, 2011.

Pietrzykowski K., in: Pietrzykowski K. (ed.), Gajda J., Ignatowicz J., Winiarz J., *Kodeks rodzinny i opiekuńczy. Komentarz*, Warszawa, 2010.
Pietrzykowski K., in: Pietrzykowski K. (ed.), *Kodeks rodzinny i opiekuńczy. Komentarz*, Warszawa, 2015.
Pietrzykowski K. (ed.), *Kodeks rodzinny i opiekuńczy. Komentarz*, 8th edn, Warszawa, 2023.
Sokołowski T., 'Komentarz do art. 61(8) krio', in: Dolecki H., Sokołowski T. (eds), *Kodeks rodzinny i opiekuńczy. Komentarz*, 1st edn, Warszawa, 2010.
Szer S., *Prawo rodzinne*, Warszawa, 1966.
Szlęzak A., *Prawnorodzinna sytuacja pasierba*, Poznań, 1985.
Tyszka Z., *Rodzina we współczesnym świecie*, Poznań, 2002.
Walaszek B., *Zarys prawa rodzinnego i opiekuńczego*, Warszawa, 1971.
Winiarz J., *Prawo rodzinne*, Warszawa, 1983.
Winiarz J., in: Piątowski J.S. (ed.), Winiarz J., Ignatowicz J., Gwiazdomorski J., *System prawa rodzinnego i opiekuńczego. Komentarz*, Wrocław, 1985, commentary on Article 61(8).
Wiszniewski Z., in: Grudziński M. (ed.), Ignatowicz J., Wiszniewski Z., *Kodeks rodzinny i opiekuńczy. Komentarz*, Warszawa, 1966.
Wiszniewski Z., Gross S., in: Dobrzański B. (ed.), Ignatowicz J. (ed.), Wiszniewski Z., Gross S., *Kodeks rodzinny i opiekuńczy. Komentarz*, Warszawa, 1975.
Zielonacki A., in: Dolecki H., Sokołowski T., Andrzejewski M., Haberko J., Lutkiewicz-Rucińska A., Olejniczak A., Sylwestrzak A., Zielonacki A. (eds), *Kodeks rodzinny i opiekuńczy. Komentarz*, 2nd edn, Warszawa, 2013.
Zielonacki A., *Zawarcie małżeństwa*, Wrocław, 1982.
Żukowski W., 'Projektowana nowelizacja przepisów regulujących dziedziczenie ustawowe', *Kwartalnik Prawa Prywatnego*, 2008, No. 1.

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