

CHURCH DIVORCE, MARRIAGE ANNULMENT - PRO-DIVORCE MENTALITY
AND INDISSOLUBILITY OF CANONICAL MARRIAGE

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Media is the most common source of information about a marriage annulment process. Articles usually compare the divorce process in a civil court with the process of annulment of marriage in a episcopal court, incorrectly calling it a „church divorce”. This fact is confirmed by the Internet search in which the interested parties are confirmed in this false terminology. After typing "church divorce" in a web browser (like google) – canonical law firms’ websites appear. In fact, client learns that there is no divorce or annulment in the Catholic Church, after meeting with a lawyer or a court employee. It is worth considering whether the positioning (e.g. in google) of canon law firm websites under the slogans "church divorce" or "annulment of a church wedding", is appropriate due to the different nature of the canonical process and civil process. Also, Catholic media devote too little time to the subject and matter. That is why – canonists' statements on a nationwide television about the reasons for marriage annulment and stages of the procedure are extremely valuable. The last time Catholic affairs became widely commented – where the reforms of Pope Francis in 2015, about acceleration of marital trials in Catholic Church courts.

Church court staff should pay attention to the proper naming and purpose of the trial, which is to examine the validity of the marriage. During the first contact with lawyer or when making a claim, the importance of truthfulness should be emphasized throughout the whole process. The parties of the trial must be aware that usage of false evidence or manipulation (even if it may result in a positive judgment), is still a valid marriage. It is necessary to respond to unethical behaviour of litigants and witnesses (e.g. by saying that the content of testimonies should be written down, "that it would be good"), that they should have a clear declaration that such practises is not tolerated in church courts. Unfortunately, most of the people in court are unaware of the seriousness of the oath before confessing, hence the interrogator should illustrate the sincerity of confessions in court by the example of sin confession. If the penitent in confession does not tell the whole truth, then the received absolution will be invalid. Similarly, in a marriage annulment trial, a judgment based on false testimony can only be positive on paper.

Erroneous naming of marriage annulments can be rooted in the fact that more and more marriages in the Catholic Church are contracted as so-called concordat marriages (canonical marriage with civil rights effects). When such a marriage breaks up, the parties go to court for a civil divorce. The ease of receiving such a court judgment is an encouragement to divorce under Catholic Church. Only knowing the reasons for the annulment of canonical marriage makes people convince themselves of the lack of analogy in both cases. Although the effects of judgments in both legal systems are similar at first glance, in fact they differ not only in terms of names but also in the subject of court proceedings. In the divorce process, it is examined whether there

has been a permanent and complete disintegration of the marriage life, while in the annulment process the court is seeking the answer to the question whether on the day of the marriage there were reasons that caused the marriage annulment, and thus its non-existence. The vast majority of church courts require a copy of a divorce decree when filing a claim. For church courts, among other evidences, an important role is signed to the official documents, e.g. justification for a divorce decree, or a record of a mediation meeting.

The use of incorrect names when defining the canonical process may also result from the fact that the canonical reasons for marriage annulment are also present in the Family and Guardianship Code, e.g. relationship, affinity, mental illness, mental retardation, coercion, error etc.

When examining the annulment of a marriage, the church court examines whether the reasons for the annulment listed in the plaintiff existed at the time of the getting married by couple. If a marriage obstacle or a defect in marriage consent only arose after the marriage was concluded, e.g. a spouse's alcoholism arose two years after entering into a church marriage as a result of losing his job. However, the civil court does not focus its attention on the date of marriage, but based on the evidence gathered, it states that there is no chance of reconciliation between the spouses due to the complete disintegration of the marriage. A more accurate comparison the annulment of a marriage is an action known under family law as action to determine the non-existence of a marriage.