



# MASARYKOVA UNIVERZITA PRÁVNICKÁ FAKULTA

# MAINTENANCE DUTY



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# OVERVIEW

- Maintenance Duty of Parents to their Children
  - Maintenance Duty of Children to their Parents
  - Maintenance Duty between other Relatives
  - Maintenance Duty between Spouses
  - Maintenance Duty between Divorced Spouses
  - Contribution to Maintenance and Coverage of Several Cost of an Unmarried Mother
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- *Maintenance Duty between Registered Partners*
  - *Maintenance Duty after Dissolution of Registered Partnership*



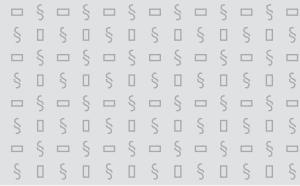
# MAINTENANCE DUTY IN GENERAL

**maintenance duty, alimony, (child) support**

*Means ongoing obligation for a periodic pecuniary or non pecuniary payment made directly or indirectly by an ("obligor") to an ("obligee")*

## PURPOSE

*- Providing all reasoned needs of obligee.*



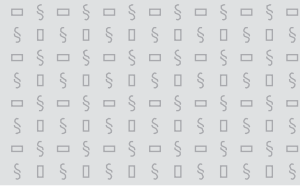
# MAINTENANCE DUTY IN GENERAL

## AMOUNT

*- depends on potentiality of obligor and needs of obligee*

***- levels:***

- 1) same material and cultural level;***
- 2) fair maintenance;***
- 3) adequate maintenance;***
- 4) necessary maintenance***



# MAINTENANCE - BASIC RULES FOR REGULATION

- Derived from status
- Solidarity
- Cannot be awarded *contra bonos mores*
- *Ius cogens*
- Non transferable
- Clausula rebus sic stantibus



# Maintenance Duty of Parents towards their Children

- Sec. 85-86 of the Act on Family
- “child is entitled to take part in his or her parents’ life standard”
- Parental Agreement X Court Decision
- Maintenance may be adjudicated for the period beginning **three years before the day of institution** of judicial proceedings [sec. 98 Act on Family]
- **Proceeding** may be started by court *ex officio* in case of minor children
- Maintenance can be used to make savings [sec. 85a/2 Act on Family]



# Maintenance Duty of Parents to their Children

- Maintenance is paid **monthly** or in a **cash sum for the future** [sec. 97 Act on the Family]
- Maintenance is paid to custodial parent till majority of the child,





## Maintenance Duty of Children to their Parents

- Sec. 87 of the Act on Family
- “children who are able to earn living on their own must provide to their parents a fair maintenance if the parents are in need of thereof”
- Agreement X Court Decision
- Maintenance may be adjudicated from **the the day of institution** of judicial proceedings [sec. 98 Act on Family]
- **Proceeding** may be started only upon a petition
- Maintenance is paid **monthly**



## Maintenance Duty between other Relatives

- Sec. 88-89 of the Act on Family
- “ancestors and descendants have a mutual maintenance duty”
- “the entitled persons have the right only if they necessarily need it
- Agreement X Court Decision
- Maintenance may be adjudicated from **the the day of institution** of judicial proceedings [sec. 98 Act on Family]
- **Proceeding** may be started only upon a petition
- Maintenance is paid **monthly**



## Maintenance Duty between Spouses

- Sec. 91 of the Act on Family
- “the extent of maintenance duty shall be determined so that material and cultural level of both spouses is principally the same”
- Agreement X Court Decision
- Maintenance maybe adjudicated from the day of institution of judicial proceedings [sec. 98 Act on Family]
- Proceeding may be started only upon a petition
- Maintenance is paid monthly



## Maintenance Duty between Divorces Spouses

- Sec. 92-94 of the Act on Family
- [A] “a divorced spouse who is not able to earn living may ask the former spouse to maintain him adequately”
- Extinct after new marriage of obligee or death of obligor
- [B] “a divorced spouse who *did not predominantly take part in breakdown* of the marriage and who *suffered a considerable harm* due the divorce may be awarded maintenance in the extent of maintenance duty between spouses”
- Extinct under same conditions as [A] and also after passing three years after divorce



# Maintenance Duty between Divorces Spouses

- **Agreement X Court Decision**
- Maintenance maybe adjudicated from **the the day of institution** of judicial proceedings [sec. 98 Act on Family]
- **Proceeding** may be started only upon a petition
- Maintenance is paid **monthly** or **in a lump sum** [sec. 94/2 Act on Family]



## Contribution to Maintenance and Coverage of Several Cost of an Unmarried Mother

- Sec. 95 of Act on the Family
- “father of the child ... must provide the mother an adequate contribution to coverage of living for two years ... as to coverage of cost connected with pregnancy and birth”
- “the court may ... impose the person whose fatherhood is probable to grant the *necessary sum in advance*”



# Contribution to Maintenance and Coverage of Several Cost of an Unmarried Mother

- **Agreement X Court Decision**
- Maintenance maybe adjudicated from **the the day of institution** of judicial proceedings [sec. 98 Act on Family]
- **Proceeding** may be started only upon a petition
- Maintenance is paid **monthly** or **in advance** [sec. 95/2 Act on Family]



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# THANK YOU

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