

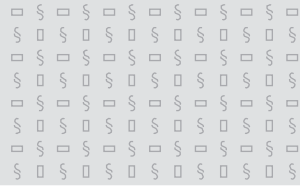


MASARYK UNIVERSITY  
FACULTY OF LAW

# CZECH FAMILY LAW

## III. REGISTERED PARTNERSHIP

©  
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2015



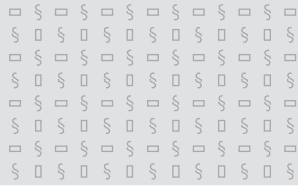
# THE NATURE OF REGISTERED PARTNERSHIP

Act No. 115/2006 Coll.

- „act on registration“
- not „act on rights and duties of partners“

since 1. 7. 2006

- permanent cohabitation of two persons of the same sex
- not a marriage
- not allowed for a man and a woman



# IMPEDIMENTS TO PARTNERSHIP

- INFANCY (under 18 years)
- BIGAMY - POLYGAMY - MARRIAGE - REGISTERED PARTNERSHIP
- BLOOD AND ADOPTIVE RELATIONSHIP  
(siblings, ascendants - descendents)
- MENTAL ILLNESS AND INCAPACITY
- FOREIGNERS (ONE MUST BE A CZECH CITIZEN)



# CONCLUSION OF PARTNERSHIP

## mutual consent

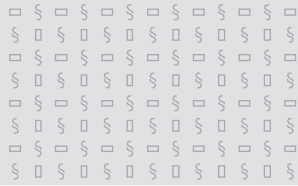
- ONLY CIVIL CONCLUSION

- before some special municipality authorised to keep registers



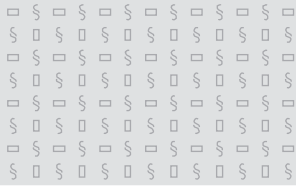
# PERSONAL RIGHTS AND DUTIES OF PARTNERS

- EQUALITY
- NO to live together, to be faithful to each other, to mutually respect their honour and human dignity, to help each other and no duty to create healthy living environment and background
- to represent each other
- NO to adopt a child together, NO to be foster parents or guardians together



# PARTNERS PROPERTY LAW

- NO JOINT PROPERTY OF PARTNERS
- NO COMMUNITY OF PROPERTY
- only OWNERSHIP WITH SHARES TOWARDS THINGS (CC)
- MAINTENANCE DUTY



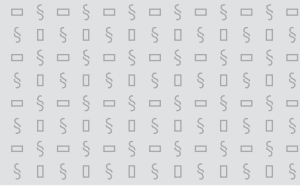
# DISSOLUTION OF PARTNERSHIP

## ■ ONE GROUND:

- no existence of partnership *de facto*

## ■ SPECIAL COURT PROCEEDINGS:

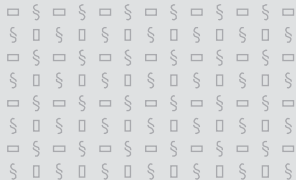
- on the motion of one of the partners or both of them
- partners are participants of this proceeding



# TWO WAYS TO DISSOLUTION OF PARTNERSHIP

- PROOF OF BREAKDOWN
- PRESUMPTION OF „NO EXISTENCE OF PARTNERSHIP“
  - „agreement“ of both partners





# CASE LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS

## ■ Schalk and Kopf v. Austria

same-sex couple

- no possibility to marry or have their relationship otherwise recognised by law

*no violation of Art. 12*

*no violation of Art. 14 in conjunction with Art. 8*





■ Fretté v. France

a single homosexual man

- „difficulties with practical consequences - child's arrival“
- x the best interest of the child - balance - the principle of proportionality

*no violation of Art. 14 in conjunction with Art. 8*

■ E. B. v. France

a woman living in de facto same-sex partnership with a woman, who did not want to adopt jointly

- the role of mother and father
- but personal qualities and aptitude for bringing up the children
- best interest of the child

*violation of Art. 14 in conjunction with Art. 8*

*no effect on Czech AF or other acts*



# MASARYK UNIVERSITY FACULTY OF LAW

# COHABITATION



# NATURE OF COHABITATION

*de facto* relationship



# PERSONAL RIGHTS AND DUTIES OF COHABITEES

- EQUALITY (Constitution)
- NO to live together, to be faithful to each other, to mutually respect their honour and human dignity, to help each other and no duty to create healthy living environment and background
- NO to represent each other
- NO to adopt a child together, NO to be a foster parents or guardians together



# PROPERTY ASPECTS OF COHABITATION

- NO JOINT PROPERTY OF SPOUSES
- NO COMMUNITY OF PROPERTY
- only OWNERSHIP WITH SHARES TOWARDS THINGS (CC)
- NO MAINTENANCE DUTY

only rights and duties according to contracts/agreements -  
(inominat) - seldom happen  
property protection of unmarried mother or pregnant woman  
(LIMITED MAINTENANCE etc. - CC: 920)



# CASE LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS

## ■ Keegan v Ireland (1994)

*the child was born out of marriage, but there was informal long lasting relationship!*

*mother left the father and gave the child for adoption*

*violation of Art. 8*