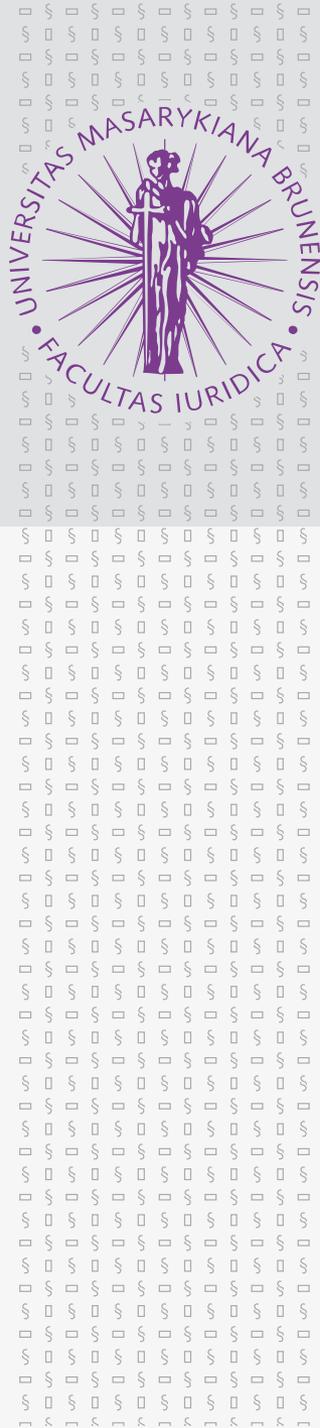


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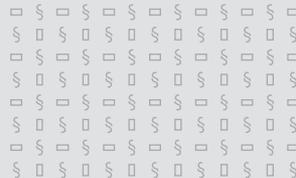
MAINTENANCE DUTY

Martin Kornel



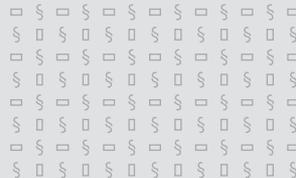
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OVERVIEW

- 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*



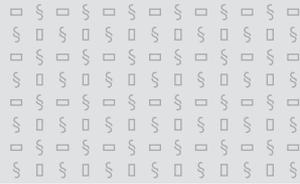
MAINTENANCE DUTY IN GENERAL

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

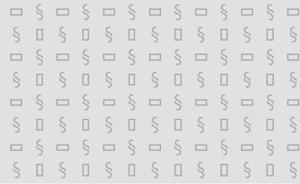
- providing all reasoned needs of obligee



MAINTENANCE DUTY IN GENERAL

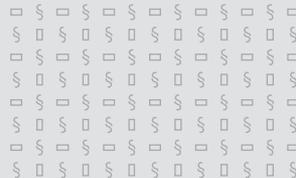
AMOUNT

- *depends on potenciality of obligor and needs of obligee*
- *same material and cultural level; fair maintenance; adequate maintenance; necessary maintenance*



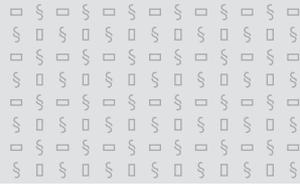
MAINTENANCE - BASIC RULES FOR REGULATION

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



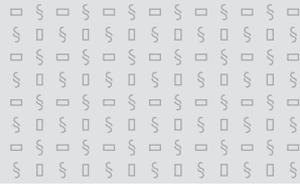
Maintenance Duty of Parents to their Children

- 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]



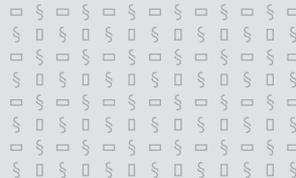
Maintenance Duty of Parents to their Children

- 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,



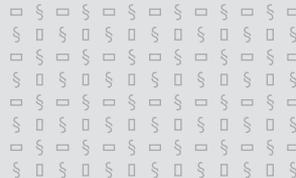
Maintenance Duty of Children to their Parents

- 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**



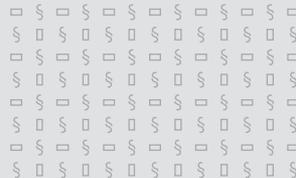
Maintenance Duty between other Relatives

- 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**



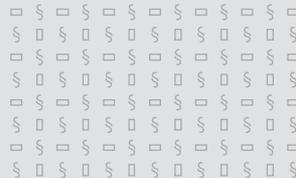
Maintenance Duty between Spouses

- 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 the day of institution** of judicial proceedings [sec. 98 Act on Family]
- **Proceeding** may be started only upon a petition
- Maintenance is paid **monthly**



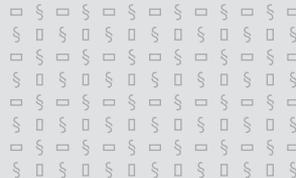
Maintenance Duty between Divorces Spouses

- 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



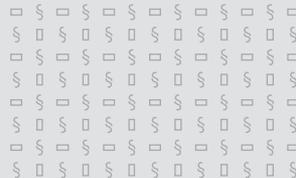
Maintenance Duty between Divorces Spouses

- **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]



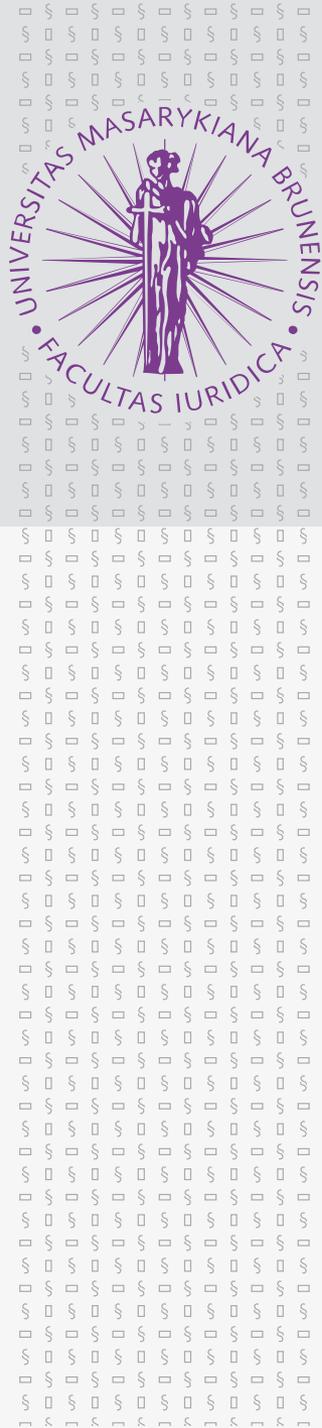
Contribution to Maintenance and Coverage of Several Cost of an Unmarried Mother

- 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]



MASARYKOVA UNIVERZITA PRÁVNICKÁ FAKULTA

THANK YOU

Martin Kornel, mkornel@seznam.cz