

## Contact with the Child after the Divorce of Parents in the Light of Own Research

### Kontakty z dzieckiem po rozwodzie rodziców w świetle badań własnych

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**Abstract:** The article addresses the issue of the impact of the amendments to the Family and Guardianship Code of November 6, 2008 on contacts between parents and children after divorce, noting the on the benefits and risks to the welfare of the child. The purpose of the study was to sentence the respondents' awareness of the contacts in question in the context of the cited amendment. In order to achieve the indicated goal, an analysis of the literature, legal acts and a survey were conducted. As a result of the analysis, several key findings were confirmed. Respondents demonstrated an awareness that family relationships are the foundation of proper child development. It was also noted that improper implementation of contacts with the child can have negative consequences for the child's well-being. Moreover, indirect forms of contact such as long-distance communication are not a substitute for face-to-face contact. The research also pointed out the difficulties that arise from interference by third parties, and stressed the importance of appropriate conditions in the courts that provide comfort in hearing the child. The conclusions of the research suggest the need for further development of the court system and support for parents to effectively protect the welfare of the child in divorce proceedings, taking into account the child's emotional and psychological needs.

**Keywords:** child welfare, amendment, court interference, research hypotheses

**Abstrakt:** Artykuł podejmuje problem wpływu nowelizacji Kodeksu rodzinnego i opiekuńczego z dnia 6 listopada 2008 roku na kontakty rodziców z dziećmi po rozwodzie, zwracając uwagę na korzyści i zagrożenia dla dobra dziecka. Celem opracowania było zbadanie świadomości respondentów na temat przedmiotowych kontaktów w kontekście przywołanej nowelizacji. Aby osiągnąć wskazany cel przeprowadzono analizę literatury, aktów prawnych oraz badanie ankietowe. W wyniku przeprowadzonej analizy potwierdzono kilka kluczowych ustaleń. Respondenci wykazali świadomość, że relacje rodzinne są fundamentem prawidłowego rozwoju dziecka. Zauważono również, że niewłaściwe realizowanie kontaktów z dzieckiem może mieć negatywne konsekwencje dla jego dobra. Ponadto, pośrednie formy kontaktów, takie jak komunikacja na odległość, nie zastępują kontaktów bezpośrednich. Badania wskazały także na trudności wynikające z ingerencji osób trzecich oraz podkreśliły znaczenie odpowiednich warunków w sądach, które zapewniają komfort wysłuchania dziecka. Wnioski z przeprowadzonych badań sugerują potrzebę dalszego rozwoju systemu sądowego oraz wsparcia dla rodziców, by skutecznie chronić dobro dziecka w postępowaniach rozwodowych, w uwzględnieniu jego potrzeb emocjonalnych i psychicznych.

**Słowa kluczowe:** dobro dziecka, nowelizacja, ingerencja sądu, hipotezy badawcze



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## INTRODUCTION

The family constitutes the fundamental unit ensuring the effective functioning of state. Family relationships play a pivotal role in shaping a child's subsequent social interactions, as the family is the primary site of early socialization. A young individual needs to follow a reliable role model in order to develop positive personality traits during the formative stages of life. For this reason, rational upbringing practices by parents and a recognition of the child's needs are of utmost importance. Love, a sense of security, acceptance, respect, belonging to a community, and the ability to pursue one's interests are fundamental desires of every human being, who by nature needs the presence of other people. Parents, therefore, bear a significant responsibility to provide the child with a stable and nurturing environment conducive to further development (Łodzińska 2012, 109). Divorce and the determination of contact with the child, as legal procedures, inherently disrupt the stability of the family and carry adverse consequences for the child's mental well-being (Stojanowska 2011, 265).

To examine respondents' views on child-parent contact following divorce and to explore the application of the provisions of the Family and Guardianship Code, an online survey was conducted among respondents from across Poland. The study was performed between May 2021 and October 2021. The research utilized an online questionnaire, and respondents were informed about the voluntary and anonymous nature of their participation. A total of 150 surveys were collected via the internet, all of which met the formal criteria, as the system would not allow the respondent to proceed to the next question without correctly completing the previous one. The main study was preceded by a pilot survey involving a sample of 25 individuals. The aim of the pilot study was to verify (i.e., test the quality of) the research instrument. The return of completed surveys indicated that none of the participants reported any objections.

Responses to individual questions were measured using a five-point Likert scale (ordinal level of measurement ranging from "definitely not" to "definitely yes") (Babbie 2008, 197-198).

### 1. RESEARCH HYPOTHESES

The process preceding the empirical research concerning child-parent contact following divorce involved formulating, on the basis of literature and case law in the field of family and guardianship law, the following research hypotheses:

Hypothesis No. 1: Parents are aware that family relationships play a key role in the child's development. This hypothesis was formulated on the basis of the publication by J. Rembowski, in which the author emphasizes that all children, without exception, need love, recognition, and acceptance from both parents. On one hand, the child actively seeks to fulfill these needs to feel safe and happy; on the other, they are subject to parental control, which enables a broad sense of order in their life. The interrelated dynamics of dependence, independence, and

interdependence which are formed between the child and parents, as well as the quality of the contact between them, are crucial for the child's ability to function independently in the future (Rembowski 1986, 128-130).

Hypothesis No. 2: Improper enacting of child-parent contact negatively affects the child's well-being. This hypothesis was based on the publication of A. Rogalska, according to whom such contact should be harmonious, free from negative stimuli from either parent, and should not place the child in uncomfortable situations which would induce the feeling of dissonance of loyalty toward the mother or father. Balanced contact with both parents allows the child to observe interpersonal behaviors, helping them to understand how to communicate and reach agreement in a discourse which involves divergent views being presented in a manner that grants respect for the other interlocutor. When parents deprive their child of this type of observations, they cause harm by instilling patterns that hinder the formation of meaningful relationships, and thus obstruct the development of the sense of self-fulfillment and social fulfillment (Rogalska 2019, 92-93).

Hypothesis No. 3: Indirect contact with the child via means of remote communication is not capable of substituting direct, in-person contact. This hypothesis was formulated on the basis of J. Ignaczewski's publication, where he asserts that indirect contacts do not replace direct interactions but rather serves a supplementary function. An exception might be made in such a situation as the parent residing permanently abroad; even then, however, the child's best interests must remain paramount (Ignaczewski 2011, 23).

Hypothesis No. 4: Parents are aware that third-party interference hinders the upbringing process. This hypothesis emerged from the pilot testing of the research instrument.

Hypothesis No. 5: Creating appropriate, child-friendly courtroom conditions ensures the comfort of hearing the child. This hypothesis is based on the article by K. Korol, in which the author discusses the origin of child-friendly interview rooms and the impact of interview conditions on children's psyche (Korol 2016, 385-387).

Hypothesis No. 6: Socio-demographic factors (e.g., age, sex, place of residence) differentiate respondents' views regarding the institutions of parent-child contact. This hypothesis originated from the pilot testing of the research instrument.

## 2. ANALYSIS OF THE RESULTS OF THE AUTHOR'S OWN RESEARCH

The questionnaire concerning child-parent contact following divorce consists of 9 single-choice questions, 4 semi-open questions, and 5 multiple-choice questions. The single-choice questions relate to respondents' views on subjects of: the attitudes of individual family members toward the child and their impact on the child's development; replication of role models learned at home by the child; indirect communication with the child; court-appointed guardian supervision; and the assistance of a mediator in cases where parents are not in agreement regarding the way of regulating contact with the child. The questionnaire also includes questions regarding: court-imposed

prohibitions on parental contact; the essence of primary socialization; the assessment of whether maintaining parent-child contact should constitute both a statutory right and a duty; and the interference of third parties in the upbringing process. The semi-open questions concern: the individuals with whom the child spends time and the resulting influence on the child's character formation; respondents' opinions on whether child contact concerns only the parents; the hearing of the child by the court in child-friendly conditions; and the evaluation of the model of family justice system in Poland. The multiple-choice questions address issues such as: hearing the child by the court; the child's contact with close family members; the child's wellbeing and the impact of improper contact arrangements; and family socialization.

### 2.1. Respondents' Awareness of the Role of Close Family Members in the Upbringing Process

In the semi-open question, respondents were asked to indicate what, in their opinion, is the impact on the child's well-being of the people with whom the child spends time. Among the most frequent responses were provided the following answers:

- The child observes the behavior of people with whom they spend time and adopts these behaviors as models (80 respondents)
- Influence on the child's development, self-confidence, and sense of self-worth (20 respondents)
- The child may have difficulties in finding their own "self" (8 respondents)
- The influence may be either positive or negative (7 respondents)
- The influence is significant (7 respondents)
- The influence is emotional (5 respondents).

### 2.2. Respondents' Position Concerning Contact with the Child

In the semi-open question, respondents were asked for their opinion on whether contact with the child pertains exclusively to the parents. Among the negative responses, the following statements were noted:

- Contact also pertains to extended family (55 respondents)
- Contact concerns anyone the child cares about (5 respondents)
- Contact also pertains to individuals outside the family who are involved in the upbringing process, e.g., teachers, caregivers (16 respondents)
- Contact also pertains to individuals outside the family with whom the child spends a considerable amount of time, e.g., friends, peers (12 respondents)
- Contact also pertains to individuals who the child regards as authority figures (5 respondents)
- All interpersonal relationships shape the child (7 respondents)
- Among the affirmative responses, the following statements were noted:
- Contact with other family members is important; however, the most important is the child's contact with the parent (10 respondents),
- Only parents are fully responsible for the child (7 respondents).

### 2.3. Respondents' Views on the Child Being Heard by the Court and the Assistance of the Mediator

During the course of the research, respondents were once again presented with a semi-open question:

In your opinion, does direct hearing of the child by the court, under conditions friendly to the child, fulfill multiple important functions? Respondents were free to express their opinions. Those who answered in the negative indicated the following concerns:

- It induces stress in the child (5 respondents),
- Such a child lacks life experience (2 respondents).

Those who answered in the affirmative referred to the following justifications:

- It allows to obtain honest answers, the court may ascertain the child's true position, uninfluenced by external parties (60 respondents),
- A friendly environment reduces the risk of the experience being traumatic for the child (10 respondents),
- It is easier for the child to open up and speak about their problems to a stranger (15 respondents),
- It gives the child a sense of agency and the opportunity to indicate where they feel safe (15 respondents),
- It allows an assessment of whether the child requires support of a psychologist (9 respondents).

### 2.4. Respondents' Position on the Child's Well-being and the Model of Family Justice System in Poland

In this section, respondents had the opportunity to express their views on the impact of the improper exercise of contact on the child's well-being, other than those proposed in the research tool. The following proposals were indicated:

- Educational impact (5 respondents),
- Isolating the child (10 respondents),
- Lowering the child's self-esteem (14 respondents),
- Disrupting the child's hierarchy of priorities (9 respondents).

Respondents were again given the opportunity to express additional opinions. They were asked to indicate whether, in their view, the model of family justice system in Poland is appropriate. Respondents who answered "no" indicated that:

- Fathers are portrayed in a negative light from the outset and, in practice, have less chance of receiving decisions favorable to both themselves and the child (7 respondents),
- The child's best interest is neglected in favor of parental conflict (6 respondents),
- The child's will is not respected (8 respondents),
- Excessive length of proceedings (5 respondents),
- Lack of psychological care for children whose parents have divorced (7 respondents),

- Excessive complexity of legal procedures and occasional gaps in family legislation (5 respondents),
- Family court judges fail to approach each case individually, disregarding its character and circumstances, and often lack sufficient life experience (5 respondents).

Respondents who selected the answer “yes” indicated that:

- If the parents are immature, there is little the court can do (5 respondents),
- The court strives to adjudicate fairly (5 respondents),
- The court seeks to make the best decision in the child’s best interest, but there are significant shortcomings in this regard (5 respondents).

### 2.5. Respondents’ Views on the Formation of a Child’s Identity in the Socialization Process

The overwhelming majority of respondents agree that the effects of processes occurring in infancy and childhood (primary socialization) are felt throughout an individual’s entire life.

Seventy-eight percent (78%) of respondents believe that primary socialization is intended to prepare the child for functioning in society. Sixty-five point three percent (65.3%) consider primary socialization to be the inculcation of a system of norms and values accepted within the family. The response “imitation of behaviors observed in the immediate environment” received 31% of the indications. Twenty-one point three percent (21.3%) of respondents indicated the response “social control based on the rewarding and punishing of desirable and undesirable behaviors.”

### 2.6. Respondents’ Views on Maintaining Parent-Child Contact After Divorce and Third-Party Interference in the Upbringing Process

One-third of respondents strongly agree with the statement that maintaining contact with the child should be both a statutory right and obligation of the parents. 28.7% answered “rather yes,” 14.7% indicated “no opinion,” 18.7% responded “rather not,” 4.7% of respondents selected “definitely not.”

The majority of respondents, however, rather agree or strongly agree with the statement that third-party interference may disrupt the upbringing process conducted by the person currently exercising custody of the child.

## 3. VERIFICATION OF RESEARCH HYPOTHESES

Hypothesis No. 1, which stated that: “Parents are aware that family relationships play a key role in the child’s development” – was confirmed in the vast majority of cases. According to 99.3% of respondents, the attitudes demonstrated by individual family members toward the child play a significant role in the upbringing process. Affirmative responses, which altogether account for 92%, also predominated in relation to the child’s replication of personal models acquired from the family home and through interactions with individual family members. Furthermore,

84.7% of affirmative responses were given when asked whether the individuals with whom the child spends time influence the development of the child's character. According to 92% of respondents, the effects of processes occurring in infancy and early childhood (i.e., primary socialization) are felt throughout an individual's entire life. Additionally, 78% of respondents believe that the notion of family socialization includes preparing the child for functioning in society.

Hypothesis No. 2, which stated that: "Improper enacting of child-parent contact negatively affects the child's well-being" – was likewise confirmed in the majority of cases. The highest percentage of responses to the question regarding the impact of improperly implemented contact with the child on the child's well-being indicated the response "harmful," selected by 94% of participants. It is worth noting that the other negative responses: "destructive" and "manipulative" were also selected by the overwhelming majority of respondents, at 88.7% and 80%, respectively. It should further be emphasized that the most frequently selected definition of the "child's well-being" (80.7%) was: "a system of values determined by a variety of diverse factors."

Hypothesis No. 3, which stated that: "Indirect contact with the child via means of remote communication is not capable of substituting direct, in-person contact" – was confirmed to a significant degree. In response to the question of whether indirect contact via remote communication means could replace direct contact, negative answers predominated, comprising as much as 93.3% of responses. Moreover, according to 80.7% of respondents, if maintaining contact between the parents and the child seriously threatens the child's well-being, the court should prohibit such contact. In the view of 93.3% of respondents, in the situation where the parents cannot reach an agreement on the regulation of contact with the child, a mediator could be of assistance. Supervision by a court-appointed guardian was considered helpful in cases where mutual distrust exists between the parents, according to 52.7% of respondents.

Hypothesis No. 4, which stated: "Parents are aware that third-party interference hinders the upbringing process" – was largely confirmed. In response to the question of whether, in the respondents' opinion, contact with the child pertains exclusively to the parents, negative answers prevailed, constituting a total of 66.7%. Additionally, 69.3% of respondents answered affirmatively that, in their view, third-party interference may disrupt the process of raising a child by the person currently exercising custody.

Hypothesis No. 5, which stated: "Creating appropriate, child-friendly courtroom conditions ensures the comfort of hearing the child" – was confirmed in the majority of cases. According to 72.7% of respondents, direct hearing of the child by the court under conditions tailored to the child's needs serves many important functions. The highest percentage of responses to the question of when, in the respondents' view, hearing the child in court is necessary amounted to 75.3%, and the prevailing answer was: "when the child's mental development, health condition, and level of maturity allow for such a hearing."

Hypothesis No. 6, which stated: "Socio-demographic factors (e.g., age, sex, place of residence) differentiate respondents' views regarding the institutions of parent-

child contact” – was fully confirmed. Among individuals aged 41-46 and those aged 46 and over, there were respondents who did not select the response “harmful” as an effect of improperly exercised contact with the child. In the age groups 20-25, 36-40, 41-46, and 46 and over, there were individuals who did not select “manipulative” as an effect of improperly executed contact. It is worth noting that the 36-40 age group showed a particularly high rate of non-responses to this item. Among respondents who described their financial situation as “very poor,” 8.7% selected the answer that the child’s well-being is “a system of values determined by a single factor.” In the remaining groups distinguished by financial self-assessment, no one chose this answer. Men (81.3%) more frequently than women (61%) indicated instilling in children a system of values accepted within the family as a component of the concept of family socialization. Regarding the question of whether contact with the child pertains exclusively to the parents, a higher percentage of women selected the responses: “rather not,” “definitely not,” and “definitely yes,” whereas a higher percentage of men responded: “I don’t know” and “rather yes.” To the question of whether a mediator could assist the parents if they are unable to agree on the regulation of contact with the child, men more often than women selected “rather yes” and “definitely not.” No male respondent selected “rather not” or “I don’t know.” In contrast, women more frequently chose “definitely yes,” “rather not,” and “I don’t know.” When asked whether the court should prohibit the parental contact with the child if such contact seriously threatens or violates the child’s well-being, men more often answered: “definitely not,” “rather not,” and “I don’t know,” while women more frequently selected: “rather yes” and “definitely yes.”

## CONCLUSION

The family holds immense existential significance for every individual, while simultaneously constituting the most intimate environment of one’s life. Its exceptionality lies in the unique nature of interpersonal interactions and in the specific ways it fulfills fundamental functions and satisfies the needs of its members. Unfortunately, this essential environment of human life is increasingly becoming unstable, transient, and vulnerable to contemporary challenges. The modern world is marked by ambiguity, competing processes, and antagonistic interpersonal relationships, generating feelings of threat, disorientation, and uncertainty, which often lead to family dysfunction. Such dysfunction may manifest in marital, parental, caregiving, and educational spheres. Consequently, divorce is increasingly becoming a stage in the developmental cycle of both the individual and their family (Cywińska 2021, 91).

A divorced family, as a form of incomplete family, does not provide the child with continuous contact with both parents, due to the severance or limitation of the marital bond. Divorce is a traumatic experience for the child, resulting in a sense of emotional orphanhood. It induces anxiety, depressive states, feelings of threat, a lack of security, and a sense of loneliness and rejection by a close family member (Cywińska 2021, 101).

Any post-divorce parental behaviors directed toward the child, such as competing for the child's affection, involving the child in conflict with the former partner, attempting to form an alliance with the child, or striving for physical and psychological exclusivity through isolating the child from the other parent and demeaning them should be regarded as forms of emotional abuse. These actions also constitute violations of one of the child's fundamental rights, which is the right to maintain a relationship with both parents (Poremska and Odolczyk 2022, 63).

Parental competences should be continually developed and expanded. This involves the necessity of adopting new social roles, modifying behaviors across various life domains, and adapting one's motivations to emerging challenges. In light of the transformations occurring in industrial civilization, it is needed for parents to be pedagogically prepared to fulfill their emotional, socializing, and educational roles within the family, based on a solid scientific foundation (Kwaśniewska 2022, 243).

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