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LEGAL ISSUES RELATING TO PATCHWORK FAMILIES: A NORMATIVE ANALYSIS AND THE LEGAL STATUS OF THE CHILDREN

1. PRELIMINARY REMARKS

Polish people value the institution of the family, as the results of a study conducted in 2015 by GUS (Statistics Poland) confirm.¹ The family was ranked in this study as one of the three most important values. However, “the family” is an expression used with reference to smaller and smaller groups of individuals, even communities of just two persons. Moreover, the term pertains to members of communities engaged in relationships which differ from traditional ones, as described in its dictionary definitions. The contemporary meaning of “the family” encompasses the concept of a “blended” or “patchwork family,” also known as a “reconstructed family.” Such families are formed when individuals, at least one of whom is divorced, contract a new marriage, bringing children from their previous marriages into the patchwork family and raising them together with children born within the new marital union.² In such families, there are biological ties only between the new spouses and

¹ Główny Urząd Statystyczny, *Jakość życia w Polsce w 2015 roku. Wyniki badania spójności społecznej*, access: <http://stat.gov.pl/obszary-tematyczne/warunki-zycia/dochody-wydatki-i-warunki-zycia-ludnosci/jakosc-zycia-w-polsce-w-2015-roku-wyniki-badania-spojnosci-spoecznej,4,2.html> [access 1 December 2025].

² M. MAGDOŃ, *Rodzina zrekonstruowana. Rola macochy i ojczyma. Budowanie relacji z pasierbami*, [in] *Humanitarian Corpus*, ed. W. MOŻGİN, S. RUSAKOV, Vinnytsia 2020, pp. 1-3.

their shared children, but there is no biological relationship between one spouse and the children from the previous marriage of the other spouse.

This study focuses on the patchwork family understood in this way, as derived from the publications listed in the references. However, it should be noted that these premises could also apply to a model in which children are or have been born out of formal wedlock, in a non-formalised relationship. This analysis concentrates on the legal position of the child within a patchwork family, taking into account its relations both with its biological parents and stepparent. Situations in which legal parenthood does not correspond to biological parenthood—such as the presumption of paternity or adoption—are not discussed in detail, as they fall outside the main scope of this study.

A blended family is often considered an alternative form of family life despite the want of legal endorsement and, frequently, of natural parenthood.³ This family model can lead to problems for children, particularly regarding their ability to find their role within the new family relationship.⁴ With a rising divorce rate, more and more individuals are forming new relationships and families which include children from previous relationships and other members of their former families. There seems to be a lack of studies that consider the outlook for children who are in patchwork families. The Polish Family and Guardianship Code⁵ defines the family as one founded by spouses—a man and a woman (cf. Art. 18 of the Polish Constitution)⁶—and regulates situations in which a child is usually raised by a married couple. The position of a child who acquires a “new” mother or father in a subsequent relationship has, of course, been addressed in Polish law, but there is no study which

³ A. KWAK, *Rodzina w dobie przemian. Małżeństwo i kohabitacja*, Warszawa 2013, p. 22.

⁴ C. DE SOUZA BRITO DIAS, E. SCHULER, *Remarried Families: Under the View of Grandparents*, «Psychology» 6.11/2015, p. 3.

⁵ *Ustawa z dnia 25 lutego 1964 r. – Kodeks rodzinny i opiekuńczy* (Dziennik Ustaw 2023, Item. 2809). The Polish Family and Guardianship Code of February 25, 1964, hereinafter referred to as “F.G.C.”

⁶ *Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r.* (Dziennik Ustaw 1997, . No 78, Item 483). The Constitution of the Republic of Poland of April 2, 1997, hereinafter referred to as „Constitution RP”.

gives a precise description of the legal situation of a child with three or even four parents, only two of whom are biologically related to the child. There is a need to assess the regulations in force in Poland concerning the principle of the child's best interests, not only in the context of its biological parents' divorce but also in relation to the child's subsequent upbringing in the new, reconstructed family. It is important to give a precise description of the obligations of biological parents and step-parents toward children, as well as a child's right to seek maintenance from biological parents, as compared to its rights with respect to its new parents.

2. LEGAL STATUS OF CHILDREN IN A BLENDED FAMILY

Polish legal provisions do not refer explicitly to the model of a blended family, nor do they address the position of a child raised in such a family. An examination of the legal status of members of such a family must consider two families, or at least certain biological and legal ties that once united individuals within one family but now exist between two separate social units.

In this section of the paper, I will outline the legal status of two types of child-members of a blended family: a first-marriage child, and a second-marriage child. A thorough analysis of the rights and duties of all members of a blended family would likely require a separate study. However, for the purposes of this paper, the focus will be solely on the legal relations of these individuals.

The "child's legal status" means the legal and biological relations between the child, its biological parent, and its parent's new spouse. In particular, the child's legal relations will result in it either having or not having certain rights to guarantee appropriate conditions for its development and upbringing. First, we need to consider what legal relations will bind the child with its "new parent," i.e., its stepparent. As a result of one of its parent's remarriage, the child will have an affinity relationship with its stepparent, as specified in F.G.C. Art. 61⁸ § 1. This relationship gives rise to certain rights and duties; for example,

the stepparent will have the right and duty to maintain contact with the child (F.G.C. Art. 113).⁶ However, the stepparent will not have parental authority (F.G.C. Art. 92), although he or she will remain obligated to raise the stepchild. Publications on this subject suggest that on the grounds of F.G.C. Art. 27, the stepparent is obliged to satisfy the needs of the stepchild.⁷ However, this interpretation seems flawed, as the literal interpretation of this provision indicates “creating a family together,” which determines the existence of this obligation. It should be noted, however, that the stepparent does not create a new family for the stepchild but is, so to speak, incorporated into an already existing family. The child gains a “new parent,” who does not create a new family but “completes” it, stepping into the role of the missing parent. Notwithstanding, the stepparent remains obligated to care for his or her stepchild’s upbringing and provide appropriate conditions for its proper development. Such a conclusion can be drawn from the purposive interpretation of this provision, which may indicate a moral duty to satisfy the needs of the family (including the child) in a blended family model.⁸ Satisfying the family’s needs includes the duty to raise stepchildren, which should be derived from the moral foundations linking the role of a stepparent with his or her spouse’s children.

Another point which should be taken into account is the stepparent’s financial duty toward his or her stepchildren, i.e. providing for their material maintenance. Since there is no biological relationship between the stepparent and the child, the provisions regulating the maintenance obligation of parents toward their children cannot be applied. The Polish legislator has decided to cater for this issue with just one provision, namely F.G.C. Art. 144, which pertains exclusively to the stepparent–stepchild relationship, i.e., it does not extend to the stepchild’s descendants (unlike the classic maintenance obligation of parents toward their children).⁹ Additionally, the enforcement of this obligation re-

⁷ A. SZŁĘZAK, *Prawnorodzinna sytuacja pasierba*, Poznań 1985, p. 87.

⁸ B. DOBRZAŃSKI, *Pokrewieństwo i powinowactwo*, [in] *Kodeks rodzinny i opiekuńczy. Komentarz*, ed. J. IGNATOWICZ, Warszawa 1975, p. 817.

⁹ Resolution of the Polish Supreme Court of April 4, 1968, case no. III CZP 27/68, «OSNC» 1968, no. 1, pos. 6.

quires the biological parent to remain married to the child's stepparent.¹⁰ A fundamental condition for the admissibility (alongside general prerequisites) of a maintenance claim by a stepchild against a stepparent is its consistency with the principles of social coexistence (F.G.C. Art. 144 § 1). A stepchild is in a more challenging position when it comes to enforcing maintenance obligations compared to minors claiming maintenance from their biological parents. To demand financial support from a stepparent, a child must prove specific factual circumstances that the claim is consistent with the principles of social coexistence.¹¹ Factors such as the stepparent's participation in his or her stepchild's upbringing, the duration of the marriage, and the stepparent's financial contribution will determine the admissibility of the stepchild's maintenance claim.¹² It is evident that a child raised by a biological parent with a new spouse will not always have the same legal standing as a minor raised by both of its biological parents. This is because on the grounds of the provisions discussed above, legal parents are the first in line regarding the duty to maintain their child, and only if there is no legal parent may it be appropriate to seek ways to impose such an obligation on a stepparent.

I will now consider the regulation concerning contact between a child born to one of the parents by his or her previous marriage and subsequently raised in a patchwork family with a biological parent and a stepparent. Primarily, the child will always have the right to maintain contact with both of its biological parents, who are usually also its legal parents, regardless of parental authority (F.G.C. Art. 113 § 1). However, in the context of a patchwork family, where a previous marriage has been dissolved, the divorce court may specify in its judgment the manner of contact with the child (F.G.C. Art. 58 § 1a). A minor will always have the right to contact with both of his biological parents (provided this does not conflict with his best interest). Even in cases where one

¹⁰ Judgment of the Polish Supreme Administrative Court of January 9, 2008, case no. I «OSK» 430/07, «Legalis» no. 117600.

¹¹ J. ŁUKASIEWICZ, *Alimentacja ojczyrna (lub macochy) na rzecz pasierba*, «Prawo w Działaniu» 46/2021, pp. 5-7.

¹² J. GWIAZDOMORSKI, [in] *System Prawa Rodzinnego*, ed. J. PIĄTOWSKI, Wrocław 1985, p. 1023.

of the child's biological parents has been a bad influence on the child, this does not deprive it of its subjective right to contact with both of its parents.¹³ Moreover, the court is obligated to examine and, if necessary, ensure the possibility of maintaining such contact.¹⁴ On the other hand, contact with a stepparent is not subject to strict statutory obligation. A stepparent is not explicitly considered a parent because there is no biological relationship with the minor and the stepparent is not entered as the child's father or mother in its civil status record, even following marriage to one of the child's biological parents. In this context, F.G.C. Art. 113.⁶ turns out to be of decisive importance, because it governs the appropriate application of the institution of child contact in cases involving affinity, such as between a stepparent and a stepchild. While the right of biologically unrelated individuals to contact with a child should not be equated with that of biological parents,¹⁵ there was a need for an explicit regulation of this matter,¹⁶ as provided in F.G.C. Art. 113.⁶ A child raised in a patchwork family should be guaranteed the right to contact with both of its biological parents and the new spouse of one of them. The appropriate application of the institution of child contact in the relationship between a minor and their stepparent signifies the protection of the right to contact and the possibility of judicial intervention regarding the stepparent's contact with the child if the child's welfare is at risk. Judicial regulation of the stepparent's contact with their stepchild does not interfere with the parental authority of the biological

¹³ T. JUSTYŃSKI, *Prawo do kontaktów z dzieckiem w prawie polskim i obcym*, Warszawa 2011, p. 80.

¹⁴ T. SOKOŁOWSKI, *Przysposobienie*, [in] *Kodeks rodzinny i opiekuńczy. Komentarz*, ed. T. SOKOŁOWSKI, H. DOLECKI, Warsaw 2010, p. 668.

¹⁵ J. GAJDA, *Przysposobienie*, [in] *Kodeks rodzinny i opiekuńczy. Komentarz*, ed. K. PIETRZYKOWSKI, Warszawa 2021, p. 1136.

¹⁶ Decision of the Supreme Court of May 10, 2000, case no. III CKN 845/00, «Legalis» no. 278532.

parents.¹⁷ However, the biological parents should be granted priority in determining the manner of contact with their child.¹⁸

One of the legal options worth considering is the possibility of a woman changing the family name (surname) of her child born from a former relationship to the family name the child would have had if born in her current marriage – that is, into a reconstituted family. F.G.C. Art. 90 allows her to change her child's family name to the name her child by her husband would have under F.G.C. Art. 88. The purpose of this provision is to obscure the child's extramarital origin. The name change is made by the spouses' joint declaration before the head of the civil registry office or before a Polish consul. The declaration may be submitted at the time of the marriage or later, but only until the child reaches the age of majority. If the child is 13 or over, its consent is required for the name change, which must likewise be done before the head of the civil registry office.

The sole purpose of changing a child's family name under F.G.C. Art. 88, i.e., giving it the family name it would have had if it were its mother's child by her husband, is to promote the child's integration into the patchwork family and does not constitute automatic establishment of paternity. This means that the change of a child's family name under F.G.C. Art. 90 does not preclude subsequent establishment of paternity—whether by recognition or in a court decision—and regardless of whether another man or the husband who has given his family name to the child is its biological father.

Furthermore, this does not prevent the child from taking the family name of its biological father later.¹⁹ Under F.G.C. Art. 90 § 2, it is not permissible to give a child the name referred to in § 1 on grounds of the spouses' mutual declaration if it already bears its father's family

¹⁷ Resolution of the Polish Supreme Court of November 28, 2012, case no. III CZP 74/12, «OSNC» 2013, no. 5, pos. 61.

¹⁸ P. MOSTOWIK, *Kontakty z dzieckiem*, [in] *Komentarze Prawa Prywatnego. V: Kodeks rodzinny i opiekuńczy. Komentarz. Przepisy wprowadzające KRO*, ed. K. OSAJDA, Warszawa 2017, p. 1361.

¹⁹ Resolution of the Supreme Court of April 26, 1952, case no. C 798/51, «OSNC» 1952, no. 1, pos. 1.

name or a double-barreled surname composed of both parents' family names.

When considering the legal status of a stepchild within the reconstituted family, it is important to mention their limited inheritance rights. Under Art.s 931–934 of the Polish Civil Code, if a decedent leaves neither a spouse nor relatives eligible to inherit his or her estate,²⁰ it is inherited by the children of the decedent's spouse, that is, the stepchildren. However, the stepchildren's descendants have no title to a claim on the inheritance of a grandparent's spouse.

Stepchildren inherit the estate in equal parts, provided that none of their parents are alive at the time the inheritance is opened. Inheritance by stepchildren does not arise from kinship but from the existence of an affinity relationship. This affinity is established upon the marriage of the stepchild's parent to the decedent and continues even after the dissolution of that marriage (F.G.C. Art. 61⁸ § 1).

Hence, if the deceased contracted several marriages during his or her lifetime, the children of each of the deceased's spouses, who are not his or her biological children, are considered stepchildren. It does not matter whether the marriage ended due to the spouse's death or for another reason, such as divorce.

If the stepchild was adopted by the deceased's spouse, the requirement that none of its parents be alive at the time of inheritance must be assessed in accordance with the rules applicable for adoption. This means that, under Art. 934.1 of the Polish Civil Code, if the spouse adopted the stepchild, then from the moment the adoption was established, the stepchild's biological parents are legally regarded as nonexistent, even if still alive.

Thus, it is clear that stepchildren raised in a reconstituted family have limited inheritance rights with respect to their parent's spouse. Those rights depend on the absence of other statutory heirs and the death of their biological parent prior to the opening of the estate. If they were

²⁰ The Polish Civil Code of April 23, 1964, hereinafter referred to as „C.C.”. [*Ustawa z dnia 23 kwietnia 1964 r. – Kodeks cywilny* (Dziennik Ustaw 2024, Item 1061)].

adopted by the deceased, the rules of adoption apply, and their biological parents are treated as legally nonexistent.

When considering the legal position of a child raised in a patchwork family, it is also necessary to address the legal relationships of a child born into such a reconstructed family with their biological parents, siblings, and the former spouse of one of their parents.

It seems that the legal position of such a child would be more favorable and less complex than that of a child from a first marriage. Primarily, the protection of a child born in a second marriage is ensured by the fundamental provisions of the Family and Guardianship Code governing parental obligations for child support, parental authority, parent-child contact, and, ultimately, the full and correct application of F.G.C. Art. 27, which obligates parents to meet the needs of the family established through their marriage. This regulation acts as a safeguard for the rights of a child born into such a family. A child born into and raised in a patchwork family is perceived as a member of a traditional family (i.e., one formed by the marriage of a man and a woman), which forms the foundation of the provisions of Polish family law. We should also keep in mind the child's relationship with the former spouse of one of its parents. In such cases, the former spouse is considered a stranger to the child, both biologically and legally. The only potential connection between the child and this adult might be a shared family name. This situation is plausible when a patchwork marriage involves a man and a woman whose previous marriage has been dissolved, yet she retains her first husband's family name, while her new spouse bears a different family name. In such a case, if they have a child together, under F.G.C. Art. 88 § 1, the spouses make a decision regarding the child's family name, which may be the mother's, and consequently her former husband's family name. However, this is a purely theoretical consideration, because it has no effect on the child's rights and duties. The Polish legislation clearly defines the regulations governing relations between parents (spouses) and their children in this situation.

The legal position of a child raised in a patchwork family varies depending on the relationship in which the child was born, whether in the first marriage of one of its parents or in the marriage forming

the patchwork family. In the latter case, guarantees on the protection of the child's rights arise from the fundamental provisions of the Family and Guardianship Code, which were introduced into the Polish legal system with the traditional family in mind. The legal position of a child born into a patchwork family essentially mirrors the position of a child in a traditional family, as the child has two parents bound by marriage. The only difference is the existence of the former spouse of one of its parents, but this has no effect at all on the legal relationship between the child and its parents. On the other hand, the legal position of a child born into the former family of one of the patchwork spouses is more complicated. First and foremost, its stepparent's duty to provide for its maintenance is limited by the need to adhere to the principles of social coexistence, which does not hold for the biological parents' duty to maintain their minor children. A stepchild's claim against its stepparent should not infringe the principles of social coexistence.²¹ Furthermore, its right to contact with both of its biological parents is still guaranteed (unless the court hands down a decision to the contrary), though in practical terms such contact may be more difficult. However, the stepparent will be bound to maintain contact with the stepchild due to his or her duty to raise and contribute to the child's development. By its nature, a child is the most vulnerable member of a patchwork family, and requires special care from its biological parents.

3. A SPOUSE'S FINANCIAL OBLIGATIONS TOWARD HIS OR HER PARTNER'S BIOLOGICAL CHILD

At this point, it seems appropriate to outline the financial and non-financial claims that a child may bring against its biological parent's spouse in a patchwork family. This is a subject which often gives rise to disputes, including legal ones, as stepparents often have biological children from

²¹ E. KABZA, *Obowiązek alimentacyjny rodziców względem dziecka pełnoletniego po nowelizacji kodeksu rodzinnego i opiekuńczego z 2008 r.*, «Acta Iuris Stetinensis» 6/2014, p. 4.

a previous relationship.²² This situation raises questions about the legal relationship that binds a parent to his or her children—both biological and stepchildren—who are being raised within the framework of a new marital union.

What comes to mind in a discussion of the duty to provide maintenance are first and foremost the maintenance claims to which a child is entitled and which may be imposed on a stepparent, as well as the manner of their enforcement. This is not as straightforward a construct in the context of a patchwork family as in the family law relations connecting members of a traditional family. The imposition of this duty on a stepparent should depend on an individual assessment of each case, as there is no general premise to deny the need for a case-specific interpretation.²³ This complexity arises from the wording of F.G.C. Art. 144, which introduces the concept of “principles of social coexistence” as the grounds for the stepparent’s duty to maintain his or her stepchild. However, this is an indeterminate premise, requiring an examination of the bonds between the parties involved.²⁴ These bonds are primarily established by the stepparent by fostering emotional intimacy,²⁵ in order to create a patchwork family that “works well.” A good patchwork family, one that “works well,” offers grounds for a maintenance obligation rooted in adherence to the principles of social coexistence.

Nonetheless, the stepchild’s right to demand the fulfillment of this obligation by their stepparent is granted *ex lege*, without the need for a separate court ruling.²⁶ However, attention must be paid to the provisions of F.G.C. Art. 144 § 3, which stipulates the appropriate application

²² M. KIERZKOWSKA, K. SKARBK-JASKÓLSKA, *Bonusowe rodzicielstwo – zasoby, wyzwania i zagrożenia związane z rodzicielstwem przybranym w rodzinie patchworkowej*, «Roczniki Pedagogiczne» 4.15/2023, p. 16.

²³ Judgment of the Polish Supreme Court of December 4, 1968, case no. II CR 375/68, «OSNCP» 1969, no. 10, pos. 174.

²⁴ T. DOMIŃCZYK, *Komentarz do art. 144*, [in] *Kodeks rodzinny i opiekuńczy. Komentarz*, ed. K. PIASECKI, Warszawa 2008, p. 859.

²⁵ P. PAPERNOW, *Surviving and Thriving in Stepfamily Relationships*, New York 2013, p. 142.

²⁶ Judgment of the Polish Supreme Administrative Court of December 17, 2020, case no. I «OSK» 1399/20, «Legalis» no. 2536843.

of regulations concerning the maintenance obligation between relatives to the institution of the maintenance obligation of a stepparent toward a stepchild. In light of the above, it seems appropriate to consider the provisions of F.G.C. Art. 132 as well. We may infer from Art. 132 that a stepchild's claim for maintenance from its stepparent may be granted only when its biological parent not married to the stepparent is deceased, or when obtaining maintenance from him or her is impossible or associated with excessive difficulties.²⁷

This position is reflected in the decisions handed down by Polish courts, and shows that the mere fact that the child's mother or father has contracted a new marriage does not automatically impose a maintenance obligation on the stepparent. Additional circumstances must arise in which the child's maintenance claim against its parent's new spouse concurs with the principles of equity, based on generally accepted ethical standards and principles of social coexistence.²⁸

The crucial issue turns out to lie in the prerequisites determining the establishment of a maintenance relationship between a stepchild and its stepparent operating in the framework of a patchwork family. A problem arises if the child is considered entitled but has not formally become a stepchild in the eyes of the law, which essentially means that a full reconstruction of the family is necessary before a duty to provide maintenance may be considered to rest upon the stepparent,²⁹ which requires the stepparent to join the biological parent and his or her child while it is still a minor. Only under such circumstances can one speak of the stepparent assuming the role of a parent, thereby leading to the creation of a maintenance relationship with the stepchild. Conversely, one can hardly attribute the title of stepparent to a person who has not contributed in any way to the upbringing and proper development of the child concerned.³⁰

²⁷ B. DOBRZAŃSKI, *Kolejność obowiązku alimentacyjnego między pasierbami a ojczymem lub macochą*, «Palestra» 14.3/1970, pp. 2-4.

²⁸ Resolution of the Polish Supreme Court of April 4, 1968, case no. III CZP 27/68, «OSNC» 1969, no. 1, pos. 6.

²⁹ J. ŁUKASIEWICZ, *op. cit.*, p. 4.

³⁰ S. GRZYBOWSKI, *Prawo rodzinne. Zarys wykładu*, Warszawa 1980, p. 237.

With reference to F.G.C. Art. 143 § 3, in cases involving a stepparent's duty to provide maintenance for a stepchild, the principle of equal living standards must be taken into account (F.G.C. Art. 135 § 1). In this context, the principle applies to the stepchild, the stepparent, as well as to the child's biological parents.³¹ This means that the entitled child (the stepchild) should, if necessary, receive maintenance in an amount equivalent to the living standards not only of its biological parents but also of its stepparent. Hence, the stepparent is to contribute to meeting the stepchild's needs.³² This is the manner in which the relevant Polish legislation endeavors to ensure that the child is provided with appropriate living conditions.

A stepchild and its stepparent are bound by an affinity relationship. Pursuant to F.G.C., Art. 61⁸, this relationship persists notwithstanding the dissolution of the marriage of the child's parent with its stepparent, but ceases upon its annulment. Consequently, the stepchild remains entitled to assert a claim for maintenance even after the death of its biological parent or the dissolution of its parent's marriage.³³ A different situation arises in the event of annulment, which terminates the affinity relationship (F.G.C. Art. 21), and extinguishes the stepparent's duty to maintain the stepchild.

Under F.G.C. Art. 144 § 3, for a child to claim maintenance from a stepparent, in addition to adhering to the principle of social coexistence, it must fulfill the general prerequisites for maintenance obligations between relatives. The child must be unable to maintain itself on its own, and the stepparent must have sufficient funds to meet the claim.³⁴ The Polish legislation uses indeterminate terms to establish the grounds for the validity of a stepchild's claim. Such a provision appears justified, as it conditions the existence of a maintenance obligation between

³¹ J. IGNATOWICZ, M. NAZAR, *Prawo rodzinne*, Warszawa 2016, p. 603.

³² A. SZŁĘZAK, *op. cit.*, p. 16.

³³ J. ŁUKASIEWICZ, *Podstawy obowiązku alimentacyjnego na gruncie art 144 § 1 kro*, [in] *Prawo cywilne – stanowienie, wykładnia i stosowanie. Księga pamiątkowa dla uczczenia setnej rocznicy urodzin Profesora Jerzego Ignatowicza*, ed. M. NAZAR, Lublin 2015, p. 3.

³⁴ A. SZŁĘZAK, *op. cit.*, p. 37.

individuals not bound by blood relations.³⁵ In situations where the stepchild resides with the stepparent, and the other biological parent is deceased or his or her ability to earn an income or manage assets is significantly limited, it may be considered that, due to the close integration of the stepchild into the family unit, it has the right to enjoy an equivalent standard of living as its biological parent and stepparent.³⁶ Ultimately, it is the court's task to assess whether the relevant prerequisites have been satisfied for the stepchild to receive maintenance from its stepparent.

I have shown that the Polish legislation provides adequate measures for a stepchild to bring a financial claim against its stepparent. These provisions are also applicable in cases where the child is being raised in a patchwork family. Given the absence of blood ties between the parties involved, it comes as no surprise that such claims are subject to certain conditions, which the court must consider. We should not overlook the stepparent's rights, which are afforded a certain degree of protection thanks to the indeterminate terms used in these provisions. The most significant aspect is that the safeguards protecting the financial rights of a child raised in a patchwork family come up to a commendable standard.

4. THE SPOUSE'S NON-FINANCIAL DUTIES TO THE BIOLOGICAL CHILD OF HIS OR HER MARITAL PARTNER

I will now look at the child's non-financial claims on its biological parent's new spouse. Although stepparents do not have parental authority over their stepchild, I will consider the obligations that fall on them regarding the child, and examine the applicability of the institution of parental authority and its effects. The chief non-financial claims which could come in question are parental obligations to work for and

³⁵ Resolution of the Polish Supreme Court of April 4, 1968, case no. III CZP 27/68, «OSNC» 1969, no. 1, pos. 6.

³⁶ J. IGNATOWICZ, M. NAZAR, *op. cit.*, p. 603.

contribute to the family's wellbeing (F.G.C. Art. 23), meet its needs (F.G.C. Art. 27), show respect and offer support for the child (F.G.C. Art. 87), see to its education and provide care (F.G.C. Art. 95 § 1), act in the child's best interests (F.G.C. Art. 95 § 3), and look after its physical and emotional development (F.G.C. Art. 96 § 1). An analysis of these provisions leads to the question of whether and to what extent these norms could be binding on stepparents as well. To answer this question, I will focus on the general obligation of upbringing and working for the benefit of the family.

The provisions of the Family and Guardianship Code do not explicitly refer to stepparents in the context of non-financial obligations to a child. However, this does not mean that a stepparent has no duties with respect to their spouse's child. A purposive interpretation of F.G.C. Art. 23 and 27 leads to the conclusion that the duty to contribute to the benefit of the family and meet its needs applies to stepparents as well.³⁷ In this context, "the family" is understood not only to mean the spouse but also his or her children from a previous relationship. It is appropriate to refer to the stepparent as the stepchild's "next-of-kin" if he or she has cared for the child from an early age.³⁸ Furthermore, if the stepparent hinders the stepchild's contact with its biological parent, the child may invoke the aforementioned provisions to assert its rights.³⁹ Referring again to the purposive interpretation of the provisions, any alternative understanding of these norms would contradict the social function and perception of the family.⁴⁰ A situation where the stepparent has no non-financial obligations with respect to the stepchild would be unwelcome both from a legal and sociological perspective and could

³⁷ Judgment of the Polish Supreme Court of March 7, 1953, case no. C 2031/52, «OSNCK» 1953, no. 4, pos. 123.

³⁸ Judgment of the Polish Supreme Court of November 18, 1961, case no. 2 CR 325/61, «Lex» no. 105715.

³⁹ Judgment of the Polish Supreme Court of November 22, 1968, case no. I CR 434/68, «OSNCP» 1969, no. 11, pos. 203.

⁴⁰ A. SZŁĘZAK, *op. cit.*, p. 21.

lead to a breach of the principle of acting in the child's best interest.⁴¹ Furthermore, on the principle of social coexistence, we should assume that both the biological and the step-parent should be equally committed to the child's development. Raising a child in a patchwork family does not make a distinction between the duties of its biological and step-parent.⁴² Both spouses in a new marital relationship share the obligation to provide personal care for the child. In terms of fundamental parental duties, the concept of the family extends to stepchildren as well. This interpretation of the norms ensures the child's right to be raised in a supportive family environment.

Can a stepparent's educational duties be derived by analogy from the provisions applicable to biological parents (F.G.C. Art. 95 § 1)? Monika Lewandowska-Urbanowicz addresses this issue, reviews the publications on it, and concludes that a stepparent cannot be required to fulfill the duty of raising a stepchild on the grounds of F.G.C. Art. 95.⁴³ She quite rightly points out that the educational duty described in F.G.C. Art. 95 is closely linked to the institution of parental authority, which is vested solely in biological parents. Yet it would be inadmissible to limit the duties of a stepparent listed in F.G.C. Art. 23 and 27 exclusively to the material sphere. A stepparent bears a responsibility for raising a stepchild irrespective of any other obligations arising from the aforementioned provisions. The inapplicability of an analogy to duties related to the exercise of parental authority arises from the fact that this institution operates on the grounds of exclusive entitlement for biological parents.⁴⁴ Only biological parents are subject to the rights and duties arising from this institution, which determines their connection with

⁴¹ A. HAAK-TRZUSKAWSKA, H. HAAK, *Małżeństwo (zawarcie małżeństwa, prawa i obowiązki małżonków)*. Komentarz do art. 1–30 KRO oraz związanych z nimi regulacji KPC, Warszawa 2022, p. 172.

⁴² S. GRZYBOWSKI, *op. cit.*, p. 68.

⁴³ M. LEWANDOWSKA-URBANOWICZ, *Obowiązek wychowawczy ojczyzna (macochy) względem pasierba*, «Ius Novum» 17.2/2023, p. 8.

⁴⁴ J. GAJDA, *Władza rodzicielska*, [in] *Kodeks rodzinny i opiekuńczy*. Komentarz, ed. K. PIETRZYKOWSKI, Warszawa 2021, p. 854.

the child by an individually defined relationship in family law.⁴⁵ Therefore, to determine the educational duties of a stepparent in a patchwork family, we should look at F.G.C. Art. 23 and 27.

This matter calls for a dogmatic interpretation, as it is not addressed explicitly in the provisions. The basic provision determining the existence of a stepparent's educational duty with respect to a stepchild in a patchwork family is F.G.C. Art. 27, which imposes the obligation to meet the family's needs on the spouses, and this can be fulfilled by their personal contribution to raising the children. This provision does not specify what the concept of "raising the children" means. To define the meaning of this obligation, it is necessary to refer to the institution of parental authority and F.G.C. Art. 96 § 1, which outlines the specific parental duties. These, in turn, should be carried out in the educational process, which is characterized by the components enumerated in Art. 96 § 1.⁴⁶

The codified description of the educational duty focuses on its two main aspects: the physical and psychological aspect of education.⁴⁷ This obligation is primarily non-material, although it can sometimes be associated with the maintenance duty through the regulation of F.G.C. Art. 135 § 2, which states that "the performance of the maintenance duty may comprise personal efforts to maintain or raise the entitled person." Raising a child constitutes an element of duties arising from parental authority and, at the same time, may fulfill maintenance duties.⁴⁸ However, in the context of a patchwork family and the present considerations, it is necessary to focus on the non-material nature of a stepparent's educational duty. Physical education relates directly to the child as a person, a live individual, and focuses on care for the child's health, life, and overall physical fitness. In a patchwork family, these duties belong to the responsibilities of the child's stepparent as well. On the other

⁴⁵ Resolution of the Polish Supreme Court of January 26, 1973, case no. III CZP 101/71, «OSNCP» 1973, no. 7, pos. 118.

⁴⁶ M. LEWANDOWSKA-URBANOWICZ, *op. cit.*, p. 10.

⁴⁷ K. JAGIELSKI, *Istota i treść władzy rodzicielskiej*, Warszawa 1963, p. 124.

⁴⁸ T. SMYCYŃSKI, *Obowiązek alimentacyjny*, [in] *System Prawa Prywatnego. Prawo rodzinne i opiekuńcze*.XII, ed. T. SMYCYŃSKI, Warszawa 2011, p. 799.

hand, the psychological aspect of education, which appears to play a key role, should focus on giving the child the right moral training, fostering the development of its conscience, helping it to learn and appreciate social norms, and developing its character for the good of society as a whole. In the realities of a patchwork family, where the child spends most of its time with only one biological parent and its stepparent, the latter plays a key role in preparing the child for life in society. Providing guidance makes up a complementary concept to the stepparent's educational duty with respect to the child, and may constitute as aspect of its upbringing. Guidance emphasizes the leading role of parents (and stepparents) in raising a child,⁴⁹ and constitutes a crucial element of upbringing, as it influences the child's development and the path it takes as it grows up. Guidance is manifested in concrete decisions parents make, affecting the child's everyday life. Until the child is capable of making its own decisions, its parents (including its stepparent) are responsible for guiding the child's actions along the right course. Guidance includes determining the child's place of residence, making decisions on its education, lifestyle, and everyday household duties.⁵⁰ In a patchwork family, the components of the child's upbringing are the responsibility both its biological parent and stepparent, and both are required to work together for the child's benefit, as they share joint custody.

Another, separate issue concerning patchwork families is the relationship between the biological parent's parental authority and the stepparent's educational duty. It would be worthwhile to find an answer to the question of whether, and to what extent, a stepparent can be recognized as the child's "legal guardian" or "representative" whenever neither of its biological or legal parents are able to exercise their rights and fulfill their parental duties. This article will not go into such issues due to the restricted space available; however, they have already received attention either directly or indirectly in specialist publications.⁵¹

⁴⁹ S. SZER, *Prawo rodzinne*, Warszawa 1966, p. 203.

⁵⁰ H. DOŁECKI, *Ingerencja sądu opiekuńczego w wykonywanie władzy rodzicielskiej*, Warszawa 1983, p. 27.

⁵¹ I.e. T. SOKOŁOWSKI, *Charakter prawny władzy rodzicielskiej*, «Ruch Prawniczy, Ekonomiczny i Społeczny» 3/1982, p. 6.

5. CONCLUSION

Patchwork families are becoming a ubiquitous feature of modern societies, including Poland, and present not only sociological and pedagogical but also legal challenges. Given the principle of prioritizing the child's best interest in family relations, it is important to assess whether a child's legal position in a blended family is prejudiced by the lack of a biological connection with one of the parents.

A child in a blended family appears to have a less favorable legal position than one in a traditional family with two biological parents. For example, pursuing maintenance claims is more challenging due to the lack of daily interaction with both parents and the additional requirements to bring a claim against a stepparent. As there is no biological relationship with the stepparent, the child cannot demand maintenance in the same way it would from a biological parent.

The principle of acting in children's best interests applies to their contact both with biological parents and stepparents. In Polish law, the provisions regulating contact are firmly established, ensuring a child's right to maintain relationships with its biological parents, as shown in rulings handed down in Polish divorce courts. Polish law obliges stepparents to maintain a good relationship with their stepchildren, and the relevant provisions ensure that a child in a patchwork family can stay in touch with both their natural parents and those involved in their upbringing.

Stepparents in patchwork families have obligations relating both to the material and non-material aspects of family life. Notably, the maintenance obligation imposed on a stepparent under F.G.C. Art. 144 is crucial for the protection of the rights of children in such families. However, claiming maintenance from a stepparent is contingent on the principles of social coexistence. Nonetheless, the maintenance provision is important, as it allows a child to seek support from their biological parent's new spouse. While a child in a patchwork family is legally disadvantaged compared to its peers in traditional families, the option to pursue claims against a stepparent is significant.

Stepparents also have obligations concerning non-material goods, including the duty to raise the child and work for the family's benefit. These responsibilities, though not explicitly outlined in the Polish legislation,

may be inferred from the country's case law and legal doctrine. F.G.C. Art. 23 and 27 suggest that stepparents are obligated to provide care for the child's upbringing and contribute to the family's wellbeing. A teleological interpretation of these provisions indicates that it is a stepparent's moral and social duty to provide non-material support, nurturing the child and enhancing the family's welfare.

The legal status of children in a patchwork family varies widely. There are numerous provisions that apply specifically to stepparents, but current regulations still do not fully address the needs of children in blended families. The status of stepparents needs to be strengthened, as they lack parental authority and have limited rights. This can have a negative effect on a child's access to a supportive family environment. However, granting stepparents full parental authority is not an ideal arrangement. Instead, children should have the right to bring claims against those raising them, while stepparents should take on greater responsibilities due to their influence on their stepchildren's development.

The restriction on a child's ability to claim maintenance from a stepparent is a cause for concern. In a patchwork family, this support should be available without limitations based on social coexistence principles. Stepparents should also have a broader scope of rights and responsibilities regarding their stepchildren's upbringing, reflecting their significant impact on their stepchildren's welfare. A realignment of these duties with those of biological parents would promote children's well-being and preparedness for life in society.

To conclude, the legal position of children in a patchwork family is not on a par with that of their peers in a traditional family. There is a need to strengthen their status and adjust the rights and obligations of stepparents. Given ongoing changes in parenthood and family structures, legislative efforts to ensure equal rights for all children, regardless of their family model, are urgently required.

LEGAL ISSUES RELATING TO PATCHWORK FAMILIES: A NORMATIVE ANALYSIS AND THE LEGAL STATUS OF THE CHILDREN

Summary

This article examines the legal complexities surrounding patchwork families, focusing on the rights of children within such structures. A patchwork family, defined as a family formed by the remarriage or cohabitation of one or both parents with new partners, often involves multiple parental figures and step-siblings. The article explores legal challenges related to parental authority, maintenance rights, and arrangements for a child's contact with its parents, especially in jurisdictions where traditional family structures are dominant. Key issues discussed include the child's legal status concerning biological parents and stepparents, the legal recognition of the child's relationship with non-biological family members, and the potential conflicts that may arise when there is a gap between legal recognition and social bonds. The article also considers the implications for children's rights in terms of guardianship, support, and the protection of their welfare in a patchwork family.

PROBLEMY PRAWNE FUNKCJONOWANIA RODZINY PATCHWORKOWEJ: ANALIZA NORMATYWNA I STATUS PRAWNY DZIECKA

Streszczenie

Artykuł analizuje złożoność prawną dotyczącą rodzin patchworkowych, koncentrując się na prawach dzieci w takich strukturach. Rodzina patchworkowa, rozumiana jako rodzina powstała w wyniku ponownego małżeństwa lub konkubinatów jednego lub obu rodziców z innymi osobami, często obejmuje wielu rodziców i przyrodnych rodzeństw. Autor bada wyzwania prawne związane z władzą rodzicielską, prawami do alimentacji oraz kwestiami kontaktów, szczególnie w jurysdykcjach, gdzie dominują tradycyjne struktury rodzinne. Omawiane kwestie obejmują status prawny dziecka w stosunku do rodziców biologicznych i przyrodnych, prawne uznanie relacji dziecka z członkami rodziny nienależącymi do biologicznej rodziny oraz potencjalne konflikty, które pojawiają się, gdy uznanie prawne różni się od więzi społecznych. Artykuł rozważa również implikacje dla praw dziecka w kontekście opieki, wsparcia oraz ochrony jego dobra w rodzinie patchworkowej.

Keywords: patchwork family; family models; legal status of the child; parental rights; children's welfare.

Słowa kluczowe: rodzina patchworkowa; modele rodziny; status prawny dziecka; prawa rodzicielskie; dobro dziecka.

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