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Maintenance Obligation in the Polish Law

Maintenance obligation is regulated by the Family and Guardianship Code of 1964 in the chapter on kinship and affinity (Articles 128-144 [1] kro).

In Polish law, we can speak of a maintenance obligation between relatives, siblings, between certain persons related by affinity (stepson / stepdaughter - stepmother / stepfather), and between spouses and former spouses.

Locked folder entitled to exclude the possibility of a request by a cohabitant of child maintenance from the cohabitant and the cohabitant, both during cohabitation, and at its dissolution.

Maintenance obligation is personal, so off with the death of the debtor and the holder. However, the expiry of a debtor's obligation to update any other obligation of the debtor. It is a tax charged by a strictly defined in art. 129 Family Code order, shall be charged against pre-descendants and relatives against relatives of the proximal extent of further education. The obligation to a spouse within the family needs, and after a divorce or marriage annulment relatives ahead of the maintenance obligation of the spouse (Article 130 Family Code). In turn, if relatives are bound to the same extent, he charged each of them in proportion to his wealth and financial capabilities.

The person entitled may claim maintenance if you can not by itself provide a living (housing, food, clothing, treatment). In the case of children, part of the duty of parents is the education of children. The scope of maintenance is influenced not only justified by legitimate needs, but also the possibility of earning assets and the debtor (Article 135 of the Family Code). If, however, in the last three years prior to the judicial investigation of maintenance, the person has previously committed to them without good reason, waived the right of property (or led to its loss in a different way), or relinquished employment (or change it to less profitable), while determination of maintenance is not taken into account the resulting difference (Article 136 of the Family Code).

Ustalenie alimentów może nastąpić w drodze umowy stron, a w braku tego porozumienia - w drodze powództwa. W razie zmiany stosunków każda ze stron może żądać zmiany orzeczenia lub umowy dotyczącej obowiązku alimentacyjnego (art. 138 Family Code). Prawo do alimentów nie przedawnia się, przedawniają się natomiast roszczenia o świadczenia alimentacyjne z upływem trzech lat (art. 137 Family Code).

Sibling has the ability to evade the maintenance if the fulfillment would be linked to excessive detriment of the debtor or his family (Article 134 Family Code).

The child's father who is not married to the mother is obliged to contribute to cover the relevant part of any expenses related to pregnancy and childbirth, and maintenance costs of the mother during childbirth.

It is able to provide the required maintenance, which has no assets, it is not due to poor health, capable of earning a living and do not receive any benefits. The judicature "possibilities of earning money and property" is not only wages and income actually received from the property of the debtor, but also those that "can and should be given being careful due diligence according to the mental and physical forces of the debtor."

The Polish law does not specify the form of maintenance, each character is allowed (a form of payment, when child - his upbringing, Art. 128 Family Code). In a properly functioning family maintenance obligation of parents to children is achieved mainly in the form of personal efforts for the maintenance and upbringing of the child (Article 135 § 2 of the Family Code).

Under Polish law it is permissible to set aside by the debtor from the obligation to pay maintenance to the holder if the request for alimony is against the rules of social intercourse (Article 144 [1] Family Code).

Given the social importance of the obligation to provide a means of support, persistent avoidance of exercise it is a crime (Article 209 Penal Code).

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Persistent evasion of child support is a crime (Article 209 Penal).

In Poland there is a maintenance fund, the public pays the benefits from public funds for the children until the completion of their 18th years of age, and if they learn in school or college - until their 25th years of age. It was created under the Act of 18 July 1974 on the alimony fund.

In May 2011, entered into force a new law on private international law, which in the art. 63 in the law applicable to maintenance refers to Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in maintenance obligations, though it is the Hague Protocol of 2007 determines the law applicable to maintenance.