

The Consequences of the Attempts to Re-define the Notion of Family in Polish Law

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Polish Family and Guardianship Code of 1964 is a relatively old legal act. The beginnings of it start in deep communist era. It is still in power, but it was amended several times and now there is no urgent need to construct new law.

The notion of “Family” in the Code is quite clear, although the Code does not contain the definition of family. The legal term “family” is used 22 times, in different contexts. You may argue that family comes only from marriage and the Code is consequent in such “traditional” understanding of family. You may however discuss if in some context the notion of family in the Code is wider, especially by making distinction of “immediate family” in article 134.

Unfortunately, in new legal acts, concerning especially social assistance law, the definition of family is wider. The reason for this is quite obvious – the legislator can not ignore facts that there is more and more unmarried couples having children. The result is that in fact we have two kinds of families in legal acts: the “Code family” and family constructed in the administrative law. There is no consent about the notion of family among family lawyers.

Important question arises – can we treat the changes in the administrative law as a kind of trend to change the regulations in the Code? Such possibility exists, although you may rather expect that the present state of law as a kind of silent compromise between two groups will stay for longer.