

FAMILY RESPONSIBILITY IN POLISH LAW

RESPONSABILIDADE FAMILIAR NA LEI POLONESA

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independent child towards his parent who requires financial assistance in old age. Other cases of legal responsibility of the family are limited to property responsibility, i.e. they concern the debts of a relative. Heirs who acquire an inheritance may also take over the debts of the deceased. In addition, family responsibility may also occur during the debtor's lifetime. Enforcement of obligations often also covers the joint property of the debtor and his spouse. Co-ownership of the property of spouses is the basic property regime in Polish law. In certain cases defined by law, family members may be required to pay tax arrears on behalf of a taxpayer who is their relative and no longer has any assets. It is similar in fiscal criminal law (this is the so-called subsidiary liability). In Poland, there is no legal liability of the family for crimes or torts committed by their relative. Nevertheless, one can observe the tendency of some in society to attribute moral responsibility for prohibited acts. Some people make claims, without any evidence, that the closest relatives of a criminal always have the same character and are prone to such acts. This approach is officially wrong. Nevertheless, some people even in public officially express such views.

Keywords: law. family. liability. obligations. debts.

Resumo

Na legislação polonesa, os membros da família podem, em certos casos, ter e têm responsabilidade legal por seus parentes. Em primeiro lugar, os pais têm a obri-

gação legal de criar e sustentar seus filhos menores. Vale mencionar também que, ao analisar quem pode ser o tutor de uma pessoa incapaz, os tribunais levam em consideração, principalmente, os parentes dessa pessoa. Existe a obrigação de pagar pensão alimentícia, que pode ser imposta a várias pessoas da família, por exemplo, um filho adulto e independente em relação ao seu pai que necessita de assistência financeira na velhice. Outros casos de responsabilidade legal da família se limitam à responsabilidade patrimonial, ou seja, dizem respeito às dívidas de um parente. Os herdeiros que recebem uma herança também podem assumir as dívidas do falecido. Além disso, a responsabilidade familiar também pode ocorrer durante a vida do devedor. A execução das obrigações geralmente também abrange o patrimônio comum do devedor e de seu cônjuge. A copropriedade dos bens dos cônjuges é o regime patrimonial básico na legislação polonesa. Em certos casos definidos por lei, os membros da família podem ser obrigados a pagar impostos em atraso em nome de um contribuinte que seja seu parente e que já não possua bens. O mesmo ocorre no direito penal fiscal (a chamada responsabilidade subsidiária). In Poland, there is no legal liability of the family for crimes or torts committed by their relative. Nevertheless, one can observe the tendency of some in society to attribute moral responsibility for prohibited acts. Some people make claims, without any evidence, that the closest relatives of a criminal always have the same character and are prone to such acts. This approach is officially wrong. Nevertheless, some people even in public officially express such views.

Palavras-chave: direito. família. responsabilidade. obrigações. dívidas.

Introduction

The family holds significant importance in Poland's political system. This is evidenced by the legal regulations contained in the Polish Constitution of 1997. According to Article 18 of the Constitution of the Republic of Poland, the family is one of the entities subject to legal protection. Furthermore, Article 71 of the Constitution stipulates that the state must take into account the welfare of the family in its social and economic policies.

Family is an important element of human life and society. It is quite difficult to define, as it is a natural and universal phenomenon. Both Polish family law and the ecclesiastical law of the Roman Catholic Church consider the family a very important unit that should stick together, be strong, and lasting (SOLEWICZ, 2016, p. 169).

Family life entails a series of rights and obligations. Firstly, there is the need for parents to support and raise minor children. Secondly, there are obligations for their adult children to support elderly parents. Thirdly, in certain situations, other family members can also count on financial support from their relatives.

In various cases, one may also be held financially liable for obligations incurred by a relative. This applies to civil and tax law. However, there are no legal provisions establishing personal legal liability for prohibited acts committed by a family member.

In this context, it is worth considering the legal consequences for the immediate family of a person who has violated Polish law.

Terminological clarification

The concept of legal liability does not have a uniform definition, although it is more specific than the general definition of liability (LANG, 1964, p. 51 et seq.). Many definitions of this category can be found in the literature. According to W. Lang (LANG, 1964, p. 68), these are the negative consequences that an entity suffers for violating legal provisions. Depending on the field of law these violations pertain to, this concept can be further specified and clarified.

Furthermore, many types of liability can be distinguished in law. Based on this, numerous classifications are derived. One example is the division into the following three types of liability (MALEC, 2012, p. 220):

- perpetrator;
- obligator;

- normative.

Perpetrator liability is defined when someone is the perpetrator of something. This perpetrator can be a natural person or a legal entity (e.g., an industrial plant that caused pollution). Another example of this type of liability is the statement: John is the perpetrator of a road accident.

Perpetrator liability occurs when a person is obligated to perform a specific behavior, which can be an act or omission. Examples of such actions include the obligations to:

- pay taxes;
- care for children;
- follow the boss's instructions at work.

Examples of omissions include prohibitions against:

- theft;
- insult;
- hitting others;
- killing.

Normative liability exists when someone can demand something from another person as a result of an event that is associated with a legal provision or a contract granting specific rights. An example is the right to claim compensation from an insurer following an accident. When we speak of legal liability, we most often refer to this type of liability.

Normative liability can be based on three principles (MALEC, 212, p. 221–225):

- fault (here, the perpetrator);
- risk;
- equity.

Regarding the last two principles, there is no causation. This means that a specific person will be held liable even though they themselves have done nothing wrong. An example of the principle of risk is a parent's liability for a neighbor's window broken by a child, despite proper supervision of the child (MALEC, 2012, p. 221–225). Equitable liability applies in the case referred to in Article 431 § 1 of the Polish Civil Code (hereinafter: the Civil Code), under which the owner of an animal that caused damage may be obligated to repair it even if they were not at fault, if the principles of social coexistence, including a comparison of the financial statuses of individual persons, so require.

Another important division of legal liability is based on the main areas of law. It can be divided into civil, criminal, administrative, disciplinary, and constitutional

liability.

Administrative liability concerns orders and prohibitions against specific behaviors (SKOCZYLAŚ, 2011, p. 121). Several types of administrative liability can also be distinguished:

- disciplinary penalties;
- disciplinary liability;
- administrative penalties (LEOSKI, 2006, p. 397 and following).

The most severe type is criminal liability. It primarily carries penalties of restriction of liberty or imprisonment. More minor offenses are punishable by a fine. In addition, the court may impose punitive measures, such as a ban on conducting certain business activities or exercising voting rights. Furthermore, a conviction for a specific offense is entered into the national criminal register and may result in the inability to apply for employment in certain places or obtain a license.

Civil liability is the most free from state coercion (LEOSKI, 2006). Two types are distinguished: contractual liability (resulting from the failure to perform or improper performance of contracts) and tortious liability (resulting from unlawful acts).

In civil law, the parties to a legal relationship are equal. They have considerable freedom in shaping the content of that relationship (LEOSKI, 2006). The principle of freedom of contract applies, limited only by conflict with the law and the principles of social coexistence.

It is worth noting that, in addition to legal liability, there are other forms of liability, including moral liability. These should be respected by the legal system. A good example is voluntary child support payments for children over 25 years of age. Family law does not impose an obligation to pay them, although tax law should recognize them as maintenance payments, not gifts.

The issue of moral responsibility is very broad. It is analyzed by philosophers, among others. Moral judgment depends largely on the values and worldviews of a given society. Some communities may disapprove of behaviors that are, for example, considered neutral in other parts of the world. Nevertheless, certain basic principles can be established for conduct in life and for formulating moral judgments. Killing another person without any rational reason should always be perceived as immoral, regardless of the adopted value system. Moral judgment must take into account behavior over which the individual has at least some influence. Therefore, one cannot criticize, for example, a seriously mentally ill person who adopts offensive facial expressions for immoral conduct. Criticism may be directed at the caregiver, although not always, because sometimes, despite their best efforts, the person in

their care is unable to calm down. In this context, it should be borne in mind that one cannot morally misjudge a person who had no influence on the reprehensible conduct of a close family member.

Another important issue in this text is the stigmatization of the family of a person who has violated the law, especially criminal law. Stigmatization is defined as "the process of cognitively marking an individual as possessing a certain negative characteristic that is so discrediting that it determines how others perceive them. To stigmatize an individual means to define them by reference to this negative attribute and devalue them 'accordingly' to the attached label"(KUDLISKA, 2011, pp. 51–71).

A significant contribution to the analysis of this phenomenon was made by E. Goffman, who defined stigma as "a certain human attribute that has a value that discredits the person in the eyes of the community"(GOFFMAN, 1981, p. 16). Because of this specific discrediting attribute, a given person is perceived as inferior. He argues that people tend to attribute a certain inferiority, danger, or threat to people possessing a different attribute (GOFFMAN, 1981, p. 35). Stigmatization aims to ensure society's safety from such a person. Goffman, however, does not identify stigma with an individual's trait, but with the relationship between the discrediting attribute of the individual and the stereotype that causes the person to be stigmatized (GOFFMAN, 1981, p. 33).

The term "stigma" is often used in the literature to describe stigma. Many authors use these words as synonyms (WIGOST & DBROWSKA, 2017, p. 331). However, it should be noted that some authors do not share this view and distinguish these concepts, attributing an intentional nature to stigma and an unintentional nature to stigmatization.

A characteristic that gives rise to stigma may include physical or mental characteristics (e.g., physical or mental disability), religion, race, gender, poverty (KOSCHE, 2011, p. 125), or the circumstance of violating the law. Its consequences may include, among others, discrimination, distrust, aggression, isolation, and social exclusion (KOSCHER, 2011, p. 125).

In Poland, few researchers have analyzed stigma from a problem-based perspective. One of them is psychiatrist Piotr Witań, who described the stigma of mental illness (WITAJ, 2010, p. 313–342).

The literature emphasizes that, due to the pursuit of "social security," people who have fallen foul of the law and those in psychiatric facilities are particularly stigmatized (KOSCHE, 2011, p. 125). Furthermore, this stigma is also experienced by people related to a dysfunctional environment (KOSCHE, 2011, p. 125). Such

individuals include, among others, relatives of convicts.

Stigmatization of relatives of people who violate the law

The phenomenon of stigmatization of families of people who violate the law is described primarily in relation to people convicted of crimes, especially those imprisoned. The authors note that there is little research in Poland on the impact of prison isolation on the families of convicts (SZCZEPANIK & MISZEWSKI, 2016, p. 57). This may also be due to difficulties researchers have in reaching such families. However, they also emphasize the need to increase the number of such studies for three important reasons (SZCZEPANIK & MISZEWSKI, 2016, pp. 57–58):

- 1) family can provide important support in the resocialization process;
- 2) isolation can negatively impact family relationships and financial status;
- 3) the possible negative impact of a person's imprisonment on the mental condition of children and adult relatives (the problem of “invisible”, “forgotten” victims of the justice system) (LIGHT, CAMPBELL, 2007, pp. 297 – 308).

Meanwhile, there is research showing that close relatives of incarcerated individuals suffer greatly and feel co-punished. Negative feelings include (SZCZEPANIK & MISZEWSKI, 2016, pp. 76–82; FISHMAN, 1995, pp. 148–154):

- shame and humiliation during prison visitation procedures;
- disrespect and objectification by prison officers during visits;
- being perceived by others as demoralized;
- a very strong fear of potential stigmatization among those who are able to conceal the fact

that their loved one is in prison.

A. Sikorska points out in her research that experiences differ between criminal families (i.e., those whose members are repeatedly convicted) and non-criminal families (i.e., those in which someone is imprisoned only once) (SIKORSKA, 2017, pp. 41–60). In the latter, these people most often have a good reputation in society, stable employment, and the circumstance of someone being imprisoned is very dramatic for them.

It should be noted that stigmatization resulting from conflict with the law does not have to be limited to cases in which the perpetrators have been imprisoned. Of course, these are situations that most arouse social disapproval and can therefore also result in stigmatization of such people's families. However, stigmatization can also extend to relatives sentenced to other penalties, such as fines. Moreover, it can sometimes be related to matters outside the realm of criminal law, such as breaches

of civil contracts.

It is necessary, however, to point out that the circumstance of someone being convicted of a crime cannot deprive them of their human dignity. Even such a person deserves a chance to reform. Human dignity is guaranteed by international legal instruments, including those within the UN, as well as in documents of the Roman Catholic Church, such as the constitution *Gaudium et Spes* (MAZUREK, 2001, pp. 142-147; KOSCHE, 2011, pp. 127-128).

Regardless of this, the circumstance of someone violating the law should not influence the assessment of their relative if they had nothing to do with it. However, the fact of a close family bond with a given person can influence how others perceive that person.

With the above in mind, it is worth analyzing the regulations in the Polish legal system regarding legal liability and the possibility of imposing it on a person's family.

Maintenance obligation and parental authority

The obligation to pay maintenance in Poland is regulated by the Family and Guardianship Code (hereinafter referred to as the Family and Guardianship Code). According to Article 128 of the Family and Guardianship Code, the maintenance obligation consists of providing means of subsistence and, where necessary, educational resources. This obligation primarily applies to parents towards their minor children. If the child is an adult (over 18 years of age), but still in school and under 25 years of age, the parents are still obligated to provide maintenance. If the child is over 25, the parent no longer has a legal obligation to provide maintenance. However, they may do so voluntarily out of moral responsibility for the child. This is their moral obligation, but no one can legally compel them to do so.

Pursuant to Article 133 § 3 of the Family and Guardianship Code, parents may be exempt from the obligation to pay maintenance to their adult child in two cases: - it is associated with excessive hardship; - the child does not strive to become self-supporting (for example, does not attend school).

The Polish Supreme Court's resolution of December 16, 1987, Case No. III CZP 91/86, noted that "excessive hardship" does not mean every serious expense, but refers only to a situation in which the maintenance obligation would deprive the parent of the means to live as modestly as possible.

It should be noted, however, that the cases indicated above only apply to situations in which the child has reached the age of majority, meaning they have

reached the age of 18. Article 133 § 3 of the Family and Guardianship Code does not apply to minors (under 18 years old).

The amount of child support depends on the earning and financial capacity of the obligor (DISTRICT COURT IN WGRÓWIEC, 2024, III RC 321/33). They are entitled to an equal standard of living.

The obligation to provide child support is closely linked to parental authority.

In Polish family law, family members other than children may also be entitled to receive maintenance, including:

- a spouse (Article 130 of the Family and Guardianship Code);
- siblings (Article 134 of the Family and Guardianship Code);
- an elderly parent (Article 144 § 2 of the Family and Guardianship Code).

However, this is only possible if the entitled party is in need, as confirmed by Article 133 § 2 of the Family and Guardianship Code. Maintenance for these other family members is only possible if it is justified by their very difficult financial situation. This differs from child support, because in the case of minors, this obligation arises solely by virtue of kinship, and the child's potential possession of sufficient financial resources may exempt them from this obligation.

In explaining the concept of "indigence" under Article 133 § 2 of the Family and Guardianship Code, court case law clarifies that it applies only to the inability to satisfy basic life needs, not additional, luxurious purposes. As the Polish Supreme Court pointed out in the resolution of the Full Bench of the Civil and Administrative Chamber of December 16, 1987, file reference: III CZP 91/86, "individuals who cannot satisfy their justified needs by their own efforts and do not have their own resources in the form of remuneration, retirement or disability pensions, or income from their own assets should be considered to be in need."

In the context of parental authority, it is necessary to cite the provision of Article 427 of the Civil Code, according to which: "Whoever, by virtue of a statute or contract, is obliged to supervise a person who cannot be held responsible due to age, mental or physical condition, is obliged to redress the damage caused by that person, unless he has fulfilled the obligation of supervision or the damage would have occurred even if the supervision had been carried out with due diligence..."

Referring to the above provision, it should be noted that it also covers a person who provided actual care without statutory or contractual obligation (DUBIS, 2017, p. 897). However, this regulation applies to situations in which, for various reasons, the perpetrator of the damage cannot be held responsible. However, a person who knowingly causes damage is responsible for themselves.

Article 427 of the Civil Code can only apply if the injured party proves

negligence regarding supervision. In practice, it is not easy to prove such violations, and as a result, this type of liability applies only to serious omissions. This is confirmed, among others, by the Court of Appeal in Katowice in its judgment of July 5, 1996 (COURT OF APPEAL IN KATOWICE, 1996, I Acr 377.96), in which the court stated:

“The parent exercising supervision will only be liable if the injured party can prove a specific negligence in exercising their supervision obligation that is causally related to the damage. In practice, these will be cases of gross negligence justifying the assumption of the parents' own fault.”

Yet another regulation is contained in Article 422 of the Civil Code, which states that an accomplice, instigator, or person knowingly benefiting from the damage may also be liable for damage. Often, such a person may be a close family member. However, this provision does not refer in any way to familial ties with the perpetrator of the damage. Furthermore, it should be noted that the act referred to in Article 422 of the Civil Code—aiding, instigating, or benefiting from the damage—is, according to this provision, the act of that person, not liability for the act of another person. This is confirmed by the Supreme Court judgment of August 19, 1975 (POLISH SUPREME COURT, 1975, II CR 404/75), in which the court acknowledged that an accomplice's liability exists only when there is a causal relationship between the accomplice's actions and the resulting damage. The case law also emphasizes the requirement of awareness of the accomplice, the instigator, who benefits from contributing to the tortious act (COURT OF APPEAL IN WARSAW, 2014, I Aca 1754/13).

Committing a reprehensible act can have serious legal consequences. In addition to civil law consequences, it will often result in criminal liability. This will be the case when the characteristics of a specific wrongdoing are identical to those specified in the criminal law provision regulating a given crime.

Liability for a crime

Liability in criminal law is significant due to the harmful nature of prohibited acts. In Polish law, only the person who commits a crime is liable for it. This stems directly from Articles 1 and 2 of the Penal Code (hereinafter referred to as the Penal Code), which stipulate that liability for a crime is limited to the person who committed the act prohibited by law and to anyone who neglected a legal obligation to take a specific action. In this context, the word "only" used in the regulations plays a particularly powerful role, emphasizing that this liability cannot be extended to

people who in no way (either actively or passively) participated in the act.

Moreover, pursuant to Article 21 § 1 of the Penal Code, "personal circumstances excluding, mitigating, or aggravating criminal liability shall be taken into account only with respect to the person to whom they pertain." This provision demonstrates that this liability cannot be transferred to anyone. On the one hand, the offender cannot transfer it, and on the other, no one else can assume this responsibility on their behalf.

A specific area of criminal law is fiscal criminal law. It covers prohibited acts committed in connection with violations of tax, customs, foreign exchange, or gambling law. Here, too, liability applies only to the individual who committed the act. This is based on Article 1 § 1 of the Fiscal Penal Code (hereinafter referred to as the Penal Code).

However, it is important to note the aspect of subsidiary liability in fiscal criminal law. It is exclusively financial in nature and occurs when the following conditions are met:

- the perpetrator has been legally sentenced to a fine or ordered to collect the monetary equivalent of the forfeited items;
- the perpetrator acted as a proxy for a given entity;
- the person may derive financial benefit from the fiscal crime;
- the inability to pay or collect the imposed fine or the monetary equivalent of the forfeited items from the perpetrator.

In this context, it is worth emphasizing that acting as a proxy and the possibility of obtaining financial benefits may often occur among such a person's relatives, especially in the case of family businesses. As emphasized by the District Court in Kraków in its judgment of January 24, 2014, IV Ka 468/13, the determination of subsidiary liability has been mandatory since December 17, 2005, provided that the requirements are met. Therefore, the court adjudicating the case has no discretion in this matter. After determining that all the circumstances have been met, it must impose subsidiary liability on the person concerned. According to the Supreme Court (Polish Supreme Court, 1980, VII KZP 41/78), such a financial benefit will include not only the increase in assets but also the avoidance of losses.

It should be added that subsidiary liability under fiscal criminal law is not identical to the liability of the perpetrator of the crime. It is ancillary in nature, limited solely to the financial burden owed by the convicted person. Furthermore, it is not addressed solely to the perpetrator's relatives, but to any person who acted as a substitute and could have benefited from this. Any relationship between these individuals is irrelevant.

As the Supreme Court points out in its ruling of 29 January 2009, I KZP 28/08, "ancillary liability involves shifting responsibility for the execution of a pecuniary penalty to a person (entity) innocent under fiscal criminal law, who is not directly connected to the commission of a fiscal crime". Therefore, this type of liability applies only to the execution of a pecuniary penalty and is not related to the commission of a prohibited act. It is also worth noting that this type of liability does not exist in common criminal law. Fiscal criminal law provides a solution because this area of law is closely linked to public finances and concerns prohibited acts committed to the detriment of the financial interests of the Polish state.

In criminal law, there are various forms of committing an act by another person (aiding, abetting, complicity) (MOZGAWA, 2024, pp. 387-405), but all of them are based on the fact that the other person committed some prohibited act (even a minor one, such as aiding and abetting), something that was prohibited, and that person must then be held accountable for it. However, criminal law does not impose personal criminal liability on anyone other than the perpetrator of the crime.

The legal system is not limited to specific prohibitions and orders regarding behavior in life. It also includes obligations to fulfill previously concluded contracts. Furthermore, there are other obligations arising from administrative law, such as tax law.

Liability for debts

Polish law imposes legal regulations that impose an obligation on the debtor's relatives to repay their debts.

First and foremost, it should be noted that under Article 41 § 1 of the Family and Guardianship Code, a creditor may also demand satisfaction of their debt from the joint property of the debtor and their spouse. This right is available to them when the obligation was incurred by only one spouse, but with the consent of the other. Furthermore, according to the resolution of the Polish Supreme Court of April 11, 2019, Case No. III CZP 106/18: "A creditor's right to satisfaction from the joint property of the spouses under Article 41 § 1 of the Family and Guardianship Code may also be exercised by filing a lawsuit against the debtor's spouse for an obligation to perform a performance resulting from a legal act to which the debtor's spouse was not a party, regardless of whether such performance is covered by a writ of execution previously issued against the debtor himself."

Statutory joint ownership of marital property aims to support the implemen-

tation of fundamental principles of family law, including equal rights for spouses and stabilizing the situation of the economically weaker spouse (PIETRZYKOWSKI, 2015, p. 247).

As a general rule, spouses are subject to joint property. This property arises upon marriage and is governed by Article 31 of the Family and Guardianship Code. This means that the property earned by each spouse during the marriage constitutes their joint property. Although not all property owned constitutes joint property, a significant portion of it may be included in it.

It should be noted, however, that liability for joint property does not mean that a spouse becomes the debtor (NOWAK, 2016, p. 565). As emphasized by the Supreme Court (POLISH SUPREME COURT, 2005, V CK 799/04), such a spouse is liable for another's debt and does not repay their own obligation. Spouses may establish a separation of property pursuant to an agreement or court order, although not all choose to do so.

Another aspect of liability relates to tax law. Under Article 111 of the Tax Ordinance, a family member of a taxpayer may be obligated to pay the taxpayer's tax arrears. The circle of such family members is defined in Article 111 § 3 of the Tax Ordinance and includes:

- descendants;
- ascendants;
- siblings;
- spouses of descendants;
- a person in an adoptive relationship;
- a person in cohabitation.

It should be noted, therefore, that the group of such persons is quite broad, as it includes not only the closest relatives. Liability for a relative's tax arrears arises when the following conditions, specified in Article 111 of the Tax Ordinance, are met:

- the tax arrears relate to the taxpayer's business activity;
- a family member assisted the taxpayer in conducting that activity;
- a family member could have benefited from assisting the taxpayer in conducting that activity.

It should be emphasized that the above-mentioned liability of a family member may also arise while the taxpayer is alive, and even if they have sufficient assets to repay their arrears. The word "jointly and severally" in Article 111 § 1 of the Tax Ordinance means that the tax authority may demand payment of the arrears from the taxpayer and their family member, or from the taxpayer alone, or from their

family member alone.

Article 111 of the Tax Ordinance applies exclusively to tax law. However, it does not create personal liability under fiscal criminal law. It is worth noting that the aforementioned subsidiary liability arises from the need to enforce fines and forfeiture of property, and is also solely financial in nature. Courts in Poland (Provincial Administrative Court in Biaystok, 2014) emphasize that the tax liability of these individuals (spouse, family member) is exceptional and does not relieve the taxpayer from the obligation to pay tax arrears. In its judgment of 4 April 2012, file reference II FSK 1929/10, the Polish Supreme Administrative Court stated that the tax authority must prove the existence of all the prerequisites, and the absence of even one of them prevents the taxpayer from holding a family member liable.

In civil law, which applies to many different contracts, a family member's liability for debts only occurs in the case of inheriting an estate from a relative. Therefore, it applies only to situations where the debtor has died. Of course, liability for previously guaranteeing someone's debt is permissible. However, two issues should be noted here. First, it is the result of an act knowingly undertaken by that person (guarantee). Second, any person, not necessarily a family member, can provide guarantee.

A family member can be liable for the debts of their relative. In standard contracts, this occurs in two cases:

- inheriting an estate;
- joint property of spouses.

However, in tax law and fiscal criminal law, a relative may also be financially liable even if the debtor is alive.

All of the forms of legal liability of family members indicated above are exclusively financial in nature. They concern only certain financial obligations. These may arise, for example, from contracts, tax arrears, or subsidiary liability in fiscal criminal law, although all of them concern financial matters. Liability is something ancillary, additional, because a family bond alone is not sufficient for its existence. Additional conditions must be met, such as a joint property regime of the spouses, which is not mandatory, inheritance, assistance in running a business, or the inability to enforce a fine against the convicted person's assets.

A relative's personal legal liability is the consequence of failing to supervise the actions of a child or a person under their care who has been legally incapacitated. A parent may face legal consequences for failing to supervise the child's behavior. However, beyond this, Polish law does not extend personal legal liability to the family for a violation of the law by one of its members. In this respect, every adult

with full legal rights is legally responsible only for themselves and their actions.

In light of the above, it should be noted that, in addition to legal liability, there are other types of liability, such as moral and social. Society's reactions to individual people play a significant role in assessing social norms.

Moral responsibility and stigmatization

Moral responsibility is important in social life. It can often complement and support legal responsibility. As a result, some people deserve praise, special respect for their achievements, or criticism, negative opinions, or warnings for their misconduct. Nevertheless, such social disapproval of a bad person should not lead to stigmatization but should be a motivation to improve one's behavior. Furthermore, such negative social assessment must be adequately justified, rational, and so on. One cannot criticize someone based solely on the circumstance of close family ties to another person who acts immorally.

It is important to point out here that public opinion often criticizes a given person solely because they are a relative of someone who committed a crime. In the example cited, one politician publicly criticized another politician, basing the accusation on the fact that her spouse had been legally convicted of a VAT offense. It should be emphasized that the politician's reliance on the other person's family ties may indicate that some Polish society likely considers such justification for the criticism rational and justified.

Such criticism, based solely on family ties, occurs despite the fact that the family member in question has not been legally convicted of any offense. Such comments also appear in official media statements. Therefore, it can be concluded that a significant portion of Polish society may be inclined to at least extend their disapproval of the crime to the innocent relatives of such a criminal.

Meanwhile, a convicted person's closest relatives may suffer greatly because their spouse, parent, brother, sister, or child has committed a criminal act. Such comments and remarks from others can cause them even more harm.

It should also be noted that some Polish society disagrees with this type of criticism and does not attribute moral responsibility to the offender's relatives. This is evidenced by comments defending and supporting the individuals attacked in this way.

There are various arguments justifying this attribution of responsibility to the convicted person's close relatives. One of these may be the belief that these close ties can shape their mutual behavior. However, this is not necessarily the case.

Attributing responsibility for a criminal act to someone can only occur if proven in a thoroughly conducted court proceeding.

Polish scholarly literature notes that the imprisonment of one person often has serious consequences for their family. This stems, among other things, from the condemnation and rejection of such loved ones by neighbors (KIESZKOWSKA, 2018, p. 169). Polish society often stigmatizes the convicted person, but also their family (KIESZKOWSKA, 2019, p. 129). Statements such as: "Convicting a family member of a crime leads to the imprisonment of the entire family for an indefinite period" (KIESZKOWSKA 2019, p. 131) exacerbate the difficult situation of such a family and the risk of pathology. At the same time, this can hinder the rehabilitation of the imprisoned person. The authors therefore point to the need for institutional support for the offender's family, including support for children through school education (KIESZKOWSKA, 2019, p. 129). The stigmatization of those closest to the perpetrator by society not only deepens their suffering but can also lead to antisocial behaviors, such as alcoholism and violence. This is dangerous for children who are still developing their interests and personalities.

The formation of a negative opinion about someone whose close relative has committed a crime may stem from many reasons, including the fact that some criminals live in families with various problems that impede proper social functioning, such as addictions, especially alcoholism, a tendency to violence, and others, often colloquially referred to as social pathology. However, this method of shaping opinions about others is flawed for at least two reasons:

- 1) not all convicted criminals live in such families,
- 2) many people who have such problems (e.g., with alcohol) and are labeled as social pathology do not commit crimes.

It is worth noting that the above example of public attribution of responsibility concerned a respected, respected person convicted of a tax offense. It did not refer in any way to individuals with social pathology.

Furthermore, the social stigmatization of the families of convicted individuals can further complicate the process of overcoming the life crisis.

Legal protection against stigmatization

There is no legal definition of stigmatization in Polish law. However, this does not mean it is unlawful. Stigmatization can manifest itself, among other things, as discrimination, which is prohibited by Polish law, including the Polish Constitution. Under Article 32, Section 2 of the Constitution, no one may be discriminated against

for any reason.

Stigmatization can often lead to the violation of the personal rights of the stigmatized individual. According to Article 23 of the Polish Civil Code, these include, among others, honor, image, name, and health. The list of these rights is open-ended, meaning that other rights not listed in this provision may also be considered. Under Article 24 of the Civil Code, a person whose personal rights have been violated has a number of rights, such as demanding:

- removal of the effects of the violation;
- submission of a statement of appropriate form and content (e.g., a public apology);
- compensation for the harm suffered;
- redress for the harm suffered;
- payment of a specified amount for a designated social purpose.

Stigmatization is often associated with the risk of committing the crime of defamation or insult, which are regulated in the Polish Penal Code. According to Article 212.1 of the Penal Code: "Whoever accuses another person, group of persons, institution, legal person, or organizational unit without legal personality of conduct or characteristics that may degrade them in public opinion or expose them to the loss of trust necessary for a given position, profession, or type of activity shall be subject to a fine or imprisonment."

According to the judgment of the District Court in Augustów of February 9, 2017, file reference II K 502/16: "Slander is understood as accusing someone of something, accusing them of something, or wrongly assigning false accusations." Undoubtedly, such a manifestation of defamation can include claiming that a person is less valuable or dangerous because their close relative (e.g., husband, parent) committed a crime or failed to repay debts. Such a claim can humiliate such a person in front of others. Defaming someone with criminal tendencies can sometimes jeopardize the trust necessary for a given profession or activity.

It should be noted that stigmatizing the family of a person who has violated the law does not have to be based solely on accusing a relative of a specific fact, such as a crime committed by a relative. It can take the form of a question or hypothetical gossip indicating the possibility of criminal tendencies in a close relative. Polish judicial decisions extend criminal liability for defamation to such cases, i.e., hypothetical statements and questions. It is worth citing the previously cited judgment of the District Court in Augustów, according to which: "Furthermore, slander does not have to be limited to specific facts; it can take the form of generalities, rumors, or hypothetical statements. However, exposing an entity to humiliation in

public opinion refers to creating a risk of diminishing its value and damaging the existing reputation of that entity. This may concern the professional sphere of the slandered entity or its private life."

It is worth mentioning here that for the crime of defamation to occur, it is not necessary for the injured party to humiliate the public; the mere possibility of causing such an effect is sufficient (RAGLEWSKI, 2006, p. 785; WOJCIECHOWSKI, 2010, p. 1312). (J. Raglewski, [in:] Zoll (ed.), Penal Code, vol. 2, 2006, p. 785; J. Wojciechowski [in:] Wsek, Penal Code, vol. 1, 2010, p. 1312).

Stigmatizing innocent relatives of a convicted person may result in their humiliation. It therefore carries criminal liability for the crime of humiliation, which is regulated by Article 216 of the Penal Code. This is punishable by a fine or restriction of liberty.

Therefore, individuals stigmatized for various reasons, including family ties to a convicted person, have legal remedies to protect them from this stigmatization. However, if victims fail to exercise their rights or are unaware of the stigmatization they are subjected to, the legal system will not protect them. A sufficiently high level of legal awareness in society is also crucial in this regard.

It is also worth discussing the adoption of specific regulations that would directly address the issue of stigmatization among the families of convicted persons and other individuals who have seriously violated the law.

Summary

Polish law provides numerous situations and events in which liability for the behavior of a family member can be incurred. Apart from neglecting to supervise a minor or incapacitated person, all other cases concern liability for financial obligations only. Personal liability for a prohibited act applies solely to the perpetrator, or to anyone participating in the act, such as an accomplice or instigator. However, no one can be held personally legally liable for a crime solely on the basis of kinship ties with the perpetrator.

However, it is noticeable that certain attitudes in society differ from those indicated by the legal system. Perhaps it is worthwhile to undertake pro-social initiatives in Poland that address the problem highlighted in this text, namely, the attribution of personal responsibility for a prohibited act solely on the basis of kinship ties to the perpetrator.

The problem presented above means that the legal system is not always sufficient to educate society about who is responsible for a criminal act. Legal

responsibility applies solely to the perpetrator, not their family, but society often perceives information about crimes differently. Neighbors of such families often limit contact with them or isolate themselves from them, stigmatizing them. This situation is often exacerbated when a loved one is arrested.

A widely accepted ethical view is that family members should not be held responsible for crimes committed by their loved ones. However, in practice, some people stigmatize such individuals.

In light of the circumstances presented, it seems that not everything can be regulated legally. This often requires social actions to raise public awareness. Additional measures can be taken to increase awareness of this issue in Polish society, i.e., if there is a moral imperative to recognize the perpetrator's family affiliation.

Furthermore, in the opinion of the author of this article, further research is needed in Poland on liability for prohibited acts and crimes, specifically liability in the broad sense, understood not only as legal but also moral responsibility. This research should be conducted by interdisciplinary teams, particularly lawyers, ethicists, philosophers, sociologists, and psychologists. Many entities, including universities and non-governmental organizations, could be involved.

Furthermore, this type of research could also be conducted in many other countries around the world. As a result of the many diverse conclusions and research observations, it is possible to expand this topic into the area of human rights and freedoms. People not only have the right to the protection of their family life, but are, or should be, protected from the consequences of punishment for a crime committed against a family member. It is worthwhile for human rights experts, including those from many international organizations, to address these issues. All this could also advance family studies, which are interesting, important, and highly developed, but still require further development.

All these activities, such as research and raising public awareness, aim to respect the rights and dignity of others, who are often innocent and may experience social exclusion and stigmatization based solely on family membership. Only then can it be concluded that the law in this area (defining responsibility for an act) is fully applied.

The issues addressed in this article also relate to the relationship between the legal system, family life, and the social environment. In addition to the applicable statutory law, knowledge, proper understanding, and application by society are also important. On the one hand, a person who violates the law must be held accountable, but on the other hand, this should not result in the stigmatization of their family, who are innocent. The law should also be used to protect against

stigmatization, which can stem from various causes. This emphasizes the crucial role of building public legal awareness.

It's also worth examining the financial responsibility of families in specific areas of law in other countries. This may include tax, civil, and family law, as well as public opinion on the validity or otherwise of such legal regulations.

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