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**PROCEEDINGS IN CASES CONCERNING
MAINTAINING CONTACT WITH A CHILD**

Summary

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Maintaining contact with a child belongs to the most sensitive spheres of life that carry a serious risk of violating the child welfare. One of the major problems parents have to face after the family breakdown is impeded contact with their child. The question of contact with a child often gives rise to dramatic and protracted conflicts that might have a highly negative impact on the emotional state of the child.

The subject of the thesis is a comprehensive analysis of the procedure related to maintaining contact with a child, introduced into the Polish legislation by the Act dated 26 May 2011. By enforcing the provisions of Art. 598¹⁵-598²² of the Code of civil proceedings, the Polish legislator aimed at strengthening the right to maintain contact with a child through imposing financial measures.

The thesis is divided into nine separate chapters.

The considerations begin with the chapter devoted to material and legal aspects of maintaining contact with a child in which Art. 113-113⁶ of the Family and guardianship code, precisely regulating the issue of maintaining contact with a child, are discussed. Emphasis was placed on the entities authorised and obliged to contact, and then the forms of maintaining the contact and the rules of its establishing were addressed, ending with the questions of limited or even prohibited contact with a child.

The second chapter is devoted to comparative law issues of the solutions implemented in foreign systems in the field of maintaining contact with a child. Statutory instruments which may be resorted to in cases where no contact is maintained with a child or such contract is hindered, as foreseen in the legal systems of other countries, such as Germany, Spain, Italy or France, are presented therein.

In the third chapter, the separate proceedings to regulate contact with a child, conducted in a non-contentious mode, and proceedings concerning the claims related to the regulation of contact with a child coinciding with other claims regarding, for instance, parental responsibility and matrimonial matters, are discussed. The possibility of regulating contact with a child by concluding a settlement before a court or a mediator is also addressed therein.

The fourth chapter includes the comments on the domestic jurisdiction, competency of the court, and its composition in cases related to maintaining contact with a child. All types of jurisdiction and competency of the court that are allowed in such cases are analysed in this chapter.

The next chapter deals with the participants to the proceedings related to maintaining contact with a child. It has been pointed out that the procedural rules are strictly related to the provisions of Art. 113 and 113⁶ of the Family and guardianship code on the condition to be authorised to participate in the proceedings to regulate contact with a child. A person authorised to participate in the proceedings in question may be an applicant or a participant to the proceedings.

The sixth chapter is devoted to the issue of initiating proceedings related to maintaining contact with a child. It is explained therein how that type of procedure can be initiated and what application should be regarded as initiating. In addition, the formal and fiscal conditions of the application for the threatening with a payment order of a specified sum of money and of the application for ordering the payment are discussed in depth. In conclusion, the effects of formal and fiscal deficiencies of both types of application are specified.

In the seventh chapter entitled “The course of proceedings in cases related to maintaining contact with a child”, the particular stages of the proceedings in question are discussed. Proceedings ending at a certain stage and those pending thereafter are discriminated therein. In the second part of the seventh chapter, the question of examining the participants to the proceedings and the child itself is addressed. The third part of the seventh chapter is devoted to the evidence that may be admitted and taken in the course of the proceedings related to maintaining contact with a child, starting with documentary evidence, through evidence obtained by hearing of the witness and expert opinions, and ending with other documents, in particular those containing image, sound or image and sound at once.

In the next chapter, the types of decisions that guardianship court can issue in proceedings related to maintaining contact with a child are discussed. The decision on the threat of ordering payment of a specified sum of money, decision on ordering payment of a specified sum of money, decision to reimburse reasonable expenses incurred for preparations made for the sake of the envisaged contract with a child that, in fact, failed to take place, as well as decision to discontinue the proceedings are thoroughly presented therein.

The ninth and at the same time the last chapter of the thesis is devoted to the remedies in cases related to maintaining contact with a child. The chapter is divided into two main parts. The first part concerns the issue of the complaint, whereas the second one pertains to the remedies which are not allowed in cases related to maintaining contact with a child. The remedy which is discussed most thoroughly is the complaint. The formal and fiscal conditions

are expounded therein in detail, as well as the considerations on the two most questionable issues concerning the complaint in the above-mentioned proceedings. The first one is the question whether a person who has lost a case related to maintaining contact with a child might seek a remedy, and, if so, which one. The other issue that raises doubts is the question whether it is a higher instance court or a court of first instance of a different composition which is competent to examine the complaint.