A study prepared as part of the project:
The Concept of Marriage Through the Prism of Imperative Requirements Theory

Title of the study:
Definition of Marriage and Its Impact on the Institution of Parenthood in Portuguese Law (expert opinion)

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Introductory remarks

The institution of marriage in Portugal has several basic forms. First of all, there is the civil wedding, which takes place in any Civil Registry office (hereafter: registry office) or in a place chosen by the spouses in the presence of an official authorized to perform the ceremony. One should also distinguish between the ecclesiastical wedding, which takes place in a church, and the concordat wedding, which is a combination of the above two types of wedding: civil and ecclesiastical. We should also not forget the so-called symbolic wedding, where the presence of an official is not obligatory, but it must be legalized in the Civil Registry office.

The marriage process is initiated by the people who want to get married or by their representatives, who have so-called special rights, or by a priest or clergyman of the Church operating in Portugal, according to the appropriate request. Marriage can be contracted by a person who has reached the age of 16. However, if the spouse in question has not reached the age of 18, the appropriate consent must be given. It is given by parents or guardians. It is permissible that the said consent be revoked by the USC through a special procedure.

It is necessary to declare the absence of the impediments to marriage specified by the legislator in order to conclude a marriage. These include, but are not limited to: not having reached the appropriate age; suffering from dementia; being a person under guardianship who, for health, disability or behavioral reasons, is unable to fully, personally and consciously exercise his or her rights and obligations; being already married, even if not registered in Portugal; being consanguineous. Such a union may also not be entered into if the fiancées have a relationship known as paternal responsibility for the upbringing of the offspring or are related. With reference to Portuguese law, the situation in which one of the fiancées is the perpetrator or accomplice of the intentional murder of a person to whom the other was married should also be considered. As the foregoing discussion shows, a marriage cannot be contracted without the consent of the parents or guardians of persons under the age of 18, unless such consent has been revoked by the Civil Registry office.

Developing the definition of marriage in the Polish and Portuguese context

For the purposes of this paper, we need to show what the institution of marriage means from the point of view of both Polish and Portuguese scholarship and law. It should be noted that in both cases the essence of marriage is focused on revealing the various characteristics of the relationship. First of all, we will focus on the sociological and psychological approaches, as they are the ones that best capture the aforementioned aspects.

Turning directly to what is known as the encyclopedic perspective, the essence of marriage is the union of a man and a woman as recognized by law, religion, and custom. (The issue of same-sex unions legalized in Portugal will be addressed in the following paragraphs).

In Poland, the most common approach is that marriage is a legal union performed in accordance with the applicable laws. This aspect is emphasized in the Dictionary of the Polish Language, where it is "a union between a man and a woman sanctioned by law"[1]. Another definition has been proposed by W. Doroszewski, who states that it is "a legal union between a man and a woman with the purpose of establishing a family"[2].

It is also worth mentioning the approach of J. Winarz and J. Gajda, which is more detailed than the above-mentioned definitions. They emphasize that it is "a permanent legal relationship that usually unites for life a man and a woman who, in compliance with the constitutive conditions provided for in the provisions of the KRO [Family and Guardianship Code – author's note], have performed a legal act of marriage and, after its performance, have become equal subjects of the complex of marital rights and obligations in order to optimally realize the social functions of the family established by their union"[3].

If we focus on the quoted Polish definitions, we can see that the so-called constitutive feature, i.e. the establishment of the institution of marriage, is heterosexuality, taking into account the manifested formal-legal character. In addition, it should be mentioned that marriage functions in every possible legal culture. Nevertheless, at least such aspects as – the model of marriage, the conditions for its conclusion or dissolution – are shaped with the help of individual cultural, legal, religious or geographical conditions[4]. Directly referring to the provisions of the Polish Family and Guardianship Code[5], it is possible to distinguish a group of provisions regulating the analyzed institution, however, no uniform, universally valid definition has been presented. Already at this stage it should be emphasized that in the case of marriage – as T. Smyczynski points out – we are dealing with the so-called "prescribed concept". In practice, it is a concept which has been the result of many years of human evolution.

Focusing on the conceptualization of the institution of marriage from a legal point of view, it should be noted that this is a difficult undertaking. First of all, it is necessary to recall

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[1] *Małżeństwo*, [w:] *Słownik Języka Polskiego*, http://sjp.pwn.pl/sjp/ma%C5%82%C5%BCe%C5%84stwo;2481015 [accessed: 22.09.2023].
[2] *Słownik języka polskiego*, ed. W. Doroszewski, http://doroszewski.pwn.pl/haslo/ma%C5%82%C5%BCe%C5%84stwo/ [accessed: 22.09.2023].
[3] J. Winiarz, J. Gajda, *Prawo rodzinne*, Warszawa 2001, p. 37.
[4] K. Piasecki, *Prawo małżeńskie*, Warszawa 2011, pp. 11–13.
[5] Law of February 25, 1964. – Family and Guardianship Code (Dz.U.2020.0.1359).

the definition that has a religious basis, according to which: "Marriage is the union of a man and a woman, a means that lasts for life, a union between the laws of the Creator and creation".[6] It is also important to recall the "Justinian Institution"[7], a regulation of Roman law, in which marriage was defined as a legal union defined by *affectio maritalis* (entering into and continuing a marriage).

The Code of Canon Law, on the other hand, focuses on the specific contractual nature of marriage, which is a sacrament in which certain effects are produced by the consent of legally competent persons. This aspect is reflected in article 1055 § 1 of this Code. According to this provision, marriage between a man and a woman constitutes a covenant for life, the common good between them is sought through participation in the sacraments of the Church, and the fruit of this covenant will be offspring who will be educated in the spirit of Christian teaching[8].

Similarly, though with some differences, the institution of marriage is framed in Portuguese academia. Caio Mário da Silva Pereira defines marriage as "the union of two persons of different sexes, achieving a permanent physio-psychic integration"[9]. However, it should be noted that this concept can also be applied to families without marriage. This is because this approach has more philosophical than legal characteristics. Álvaro Villaça Azevedo, on the other hand, focuses on the so-called meta-legal approach, according to which marriage "is nothing more than a spiritual bond that unites the spouses under the aegis of morality and law"[10].

As Pontes de Miranda points out, the institution of marriage derives both indirectly and directly from the concept that it is a contractual and solemn legal relationship between persons of different sexes, in which sexual relations are legalized by means of an indissoluble bond. It is important that it establishes the rules of inheritance in accordance with the applicable laws, as well as issues related to the upbringing and education of children born of this relationship[11]. As Washington de Barros Monteiro points out, marriage is a permanent relationship between a man and a woman, according to the rules established by what is known as civil law, the main objectives of which are procreation, mutual support and the joint

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[6] L. Digesto 23, Tit. II, frag. 1º.
[7] Cf. T. Palmirski, J. Reszczynski, K. Hilman, *Instytucje Justyniańskie*, Warszawa 2022.
[8] *Código de direito canónico* (Code of Canon Law), http://www.vatican.va/archive/cod-iuriscanonici/portuguese/codex-iuris-canonici_po.pdf, p. 186 [accessed: 22.09.2023].
[9] C.M. da Silva Pereira, *Instituições de Direito Civil*, São Paulo 2015, p. 33.
[10] Á. Villaça Azevedo, *Estatuto da Família de Fato.* 2nd ed., São Paulo 2002, pp. 37–39.
[11] F. Cavalcanti Pontes de Miranda, *Tratado de direito de família.* 3º ed., Vol. I, São Paulo 2001, p. 15.

upbringing of children[12]. Silvio de Salvo Venosa, on the other hand, defines marriage as follows: "the union of a man and a woman to create a full community of life"[13].

On the other hand, according to the position of Silvio Rodrigues, we can distinguish an approach where marriage is "a family contract whose purpose is to promote the union of a man and a woman, in accordance with the law, in order to regulate their sexual relations, to care for their common offspring and to support each other"[14]. According to Diogo Leite de Campos, "Marriage is the covenant of all life, a conjugal communion of life, complete, total, exclusive, indissoluble, in which the whole person is involved and which transforms the spouses into one flesh in all aspects of their being and life"[15].

On the basis of the quoted definitions, it is possible to state clearly that in the literature it is possible to distinguish a number of different definitions focusing on the term "marriage". However, it should be noted that there is no approach that is regulated in a way that can be described as universal, i.e. universal marriage. This does not mean that there have not been numerous attempts made by lawyers, religious scholars or sociologists to deal with this issue. For this reason, most definitions take as a basis the heterosexuality of the two spouses, the formality in speaking of the solemnity of the act of marriage, the permanence of the species in considering the offspring, the maternal and paternal duties, the reciprocity in relation to the spouses as well as to the offspring, the consent of the young couple, and the character manifested by the founding act. It is significant, as José Proença points out, that to this day no single concept of this institution has been presented, due to the fact that a universal concept does not exist and will probably never be formulated[16].

The institution of marriage in Portuguese law

When we focus on issues related to the institution of marriage in Portugal, it is necessary to refer to the so-called pre-Tridentine period, that is, before 1545, when the Council of Trent began. During this period, there were two basic forms of marriage. The first was the so-called secret marriage, which took place within the Catholic Church. This was a marriage that did not differ much from the normal procedure, but the witnesses agreed to keep the matter secret, while no announcements were made in the church. It should be noted that at that time, anything that was not performed *in facie ecclesiae*, that is, in the face of the Church, was

[12] W. de Barros Monteiro, *Curso de Direito Civil. Direito de Família.* vol. 2, 37ª, São Paulo 2004, p. 22.
[13] S. de Salvo Venosa, *Direito Civil, Direito das Sucessões.* 3ª, São Paulo 2003, p. 40.
[14] Cf. S. Rodrigues, Direito *Civil – Direito de Família.* vol. 6, 28ª ed., São Paulo 2004.
[15] D.L. de Campos, M. Martinez de Campos, *Lições de Direito de Família.* 3ª ed. ver. e actualizada, Coimbra 2017, pp. 148–149.
[16] J.J. Gonçalves de Proença, *Direito da Família.* 4ª, Lisboa 2004, p. 137.

classified as such a marriage. The second type refers to a marriage that, although not celebrated in the Church, was celebrated in public before a congregation of the faithful according to local custom. It cannot, however, be called secret.

At the same time, it is important to note another of the forms that operated at the time. It presupposed that the qualification for marriage was based on the fact that a male concubine with a *virago* concubine, that is, a woman manifesting "male virtues", was considered by the public to be "married". It was a so-called marriage of "public renown. However, it is important to recall the position of Cabral de Moncada[17], according to which the latter type of marriage did not technically constitute this institution. Nevertheless, we are faced with a simple condition that allows it to be indicated in the case of documents in which there is a certain and definite means of proving the so-called consortium, that is, a union that is not a marriage because it has not been solemnly consecrated by the Church.

For the proof of marriage, it is necessary to focus on the law of Alfonso III the Brave (1210–1279), then King of Portugal, by means of which it was possible to prove the existence of a form of this institution "of public renown", without referring directly or indirectly to autonomous forms of marriage. Thus, in order to prove the existence of the institution of marriage, three basic conditions had to be met. First, both people used the terms husband and wife. Second, there is the distinction of living together, which suggests that there is a so-called marriage knot. The third requirement is that third parties believe that a couple is in fact married.

The question was raised because it was on this basis that marriage in Portugal began to be regulated by canon law. At that time, the institution manifested a contractual nature, resulting from a contract of will between two heterosexual persons, which will culminate in an indissoluble union, regardless of whether they practice conjugal life or not. The aspect of feelings between the couple is also taken into account[18]. Procreation is mentioned as the main goal of marriage[19]. Nevertheless, Orlando Gomes points out that in the 13th century, canon law "did not indicate cohabitation as essential to marriage, although it considered it necessary, in accordance with the teaching of St. Thomas Aquinas, to have the physical capacity to practice it"[20].

After a period in which the Catholic Church completely controlled and regulated the norms specific to the family through canon law, regulations for so-called civil marriages

[17] Cf. L. Cabral de Moncada, *O Casamento em Portugal na Idade Média*, Lisboa 1965.
[18] Á. Villaça Azevedo, *Estatuto da família de fato.* 2., São Paulo 2002, p. 56.
[19] C. Celso Orcesi da Costa, *Tratado do casamento e do divórcio.* Vol. 1, São Paulo 1987, p. 69.
[20] O. Gomes, *Direito de familia*, Rio de Janeiro 1976, p. 65.

slowly began to appear in the Portuguese Constitution and Civil Code. In this case, the regulations of the Kingdom of Portugal are crucial. They constituted a set of laws in force in a given area, with the aim of avoiding a large dispersion of existing norms, which could cause administrative and legal losses. The Ordenações Afonsinas, or Alfonsin Code, is one of the first sets of laws of the modern era, promulgated during the reign of Alfonso V Afonsinas (1432–1481).

In the aforementioned code, there was a regulation of marriage that was taken for granted. It referred to a situation in which two people were in a situation of "marital appearance", meaning that two people of the opposite sex were living as if they were actually married, when in fact they were not. At the time, this was an exchange of marital consent without a valid marriage because of marital impediments.

Since 1564, the norms established by the Council of Trent were introduced throughout the Kingdom of Portugal and all its colonies when we talk about the institution of marriage. The next major changes in this regard came on September 11, 1861, when Law No. 1144 was published. This law introduced changes related to the different beliefs practiced in the country. In fact, this legislation recognized the marriages of non-Catholics if certain rites were observed during the marriage ceremony.

Civil law aspects of the functioning of the family

In Portuguese law, a civil marriage is considered to be a contract concluded between two people, usually with the aim of creating a family. With regard to the different concepts adopted on the basis of doctrine, it is noted that their differences are differentiated in terms of the historical moment in which society was, taking into account the values held. Until 2010, in Portugal there was only a reference to a socially acceptable relationship only between a man and a woman who shared not only a common life, but also property. From a legal point of view, the main legal intervention in the marriage is the property situation of the spouses, taking into account at the same time aspects such as the nature of inheritance, maintenance obligations, responsibilities of both the bride and the groom, also in relation to the children resulting from the union.

Issues related to civil marriage are addressed in most countries of the world. However, in order to have any effect in the so-called civil sphere, the marriage must be solemnized before a state authority. As for the faith professed by the spouses, it is valid only in the context of personal beliefs. It should be noted that in order for a marriage to have certain civil effects, it must comply with the requirements of civil law. In the case of an optional marriage,

the bride and groom may choose to marry in a civil or religious context, but in both cases it is the state that gives the civil effects.

In Portugal, Catholic marriage was compulsory until the current Civil Code of 1966 came into force. (It is worth mentioning that the first Civil Code was enacted in 1867 – it was called the "Maritime Code"). On the basis of its provisions, two basic forms of marriage were introduced. One of them applied to persons of the Catholic faith, according to which only the ecclesiastical courts had the authority to analyze its validity, although the enforcement of judgments was exclusively within the competence of the civil courts. It is stated that civil effects were considered valid if they were in accordance with the beliefs and customs of the state of the bride and groom, the only condition being the registration with the appropriate Civil Registry office.

At present, issues related to the institution of marriage and the rights to found a family in Portugal are regulated by the provisions of the Constitution of the Portuguese Republic[21], more specifically by its Article 36, points 1–2. Also important in the legal regulation of this issue are: the Portuguese Civil Code, already mentioned above, as well as: Decree-Law No. 47.344 of 25 December 1966, together with the updates of Decree-Law No. 261/75 of 27.5; Decree-Law No. 496/77, 25.11.77; Decree-Law No. 227/94, 8.9.94; Decree-Law No. 163/95, 13.7.95; Decree-Law No. 35/97, 31.1.97; Law No. 21/98, 12.05.98; Law No. 47/98, 10.8.98; Decree-Law no. 120/98 and Decree-Law No. 272/2001, 13.10.2001, Book IV - Family Code, articles 1576 to 2020.

Article 1577 of the Portuguese Civil Code states unequivocally that "Marriage is a contract between two people who intend to found a family through full cohabitation, in accordance with the provisions of this Code"[22]. On this basis, marriage consists of elements such as a contract between two people, a plan to create a family, and compliance with the provisions of the civil law system in force in Portugal. The provisions of the Civil Code clearly indicate the existence of a minimum age for marriage, which is 18 years. In addition, civil marriages between persons of one sex have been in effect for 13 years.

At this point, it is also worth mentioning the property issues arising from the institution under review. Portuguese law establishes three basic systems. The first distinguishes a general community of property, which is based on the assumption that all property acquired by the fiancées after the marriage becomes part of the matrimonial

[21] Konstytucja Republiki Portugalskiej z dnia 2 kwietnia 1976 roku, http://libr.sejm.gov.pl/tek01/txt/konst/portugalia.html [accessed: 22.09.2023].
[22] *Código Civil e diplomas complementares*, Lisboa 2008, p. 379.

property. This is based on the assumption that the spouses are treated as "one". This implies that both become the owners of all property, including assets and liabilities they had before the marriage. If there is a separation, the property is divided between them. In the second case, there is a community of property acquired by both parties before the marriage, while in the situation of its dissolution, only the property acquired during its existence belongs to the couple. It is worth noting that Portuguese legislation considers this system mandatory once one of the spouses reaches the age of 60. In Portugal, it is also possible to establish a separation of property, in which there is a complete separation between the assets of each spouse. In practice, this means that each party has his or her own property, both owned before the marriage and acquired after the marriage.

Institutional aspects of the functioning of the family

As noted above, we can now distinguish three state systems for regulating the form of the institution of marriage. First of all, it is necessary to focus on the system of obligatory civil marriage[23]. As noted above, we can now distinguish three state systems for regulating the form of the institution of marriage. First of all, it is necessary to focus on the system of obligatory civil marriage. Simultaneously, we differentiate the so-called optional system, which allows to enter into a civil or religious marriage. It should be taken into account that this system is in use in a number of countries, and not only in those that have had a concordat with the Holy See. In order to get a complete picture of the analyzed situation, it is necessary to add a third system, according to which marriage is obligatory within the framework of a religious form. This form is used mainly in religious states[24]; and we are referring here primarily to Muslim states.

In Portugal, the civil effects of a marriage contracted in accordance with canon law were reflected in Articles 22 and 23 of the 1940 Concordat[25]. These provisions were maintained by Article 2 of the 1975 Protocol[26]. It should be noted that the common practice of the post-concordats implies the occurrence of the so-called institution of entry, in which the very fact of a canonical marriage must be recorded in state registers. This also clarifies the obligation of the parish priest to send a certified copy of the canonical marriage certificate to the Civil Registry office, which will allow the corresponding entry to be made. It is

[23] It is in force in numerous countries, of which, in addition to France, Belgium, the Netherlands and others can be mentioned. Most often, while not prohibiting marriage in a religious form, it imposes the precedence of the civil form over the religious form. See J. Prader, *Il matrimonio nel* monclo, Padova 1986, pp. 3–9.
[24] Ibidem, pp. 15–27.
[25] J. Krukowski, *Konkordaty współczesne: doktryna, teksty (1964–1994)*, Warszawa 1995, p. 24.
[26] T. Włodarczyk, *Konkordaty. Zarys historii ze szczególnym uwzględnieniem XX wieku*, Warszawa 1974, p. 9.

significant, however, that the Concordat does not specify which parish priest is referred to[27].

It should be noted that the provisions of the Portuguese Concordat are much more elaborate than those of other Concordats. In order to focus on the issue under consideration, it is necessary to concentrate on two of the most relevant issues. The first relates to the introduction of the institution of announcements in the Civil Registry office. The second is related to the establishment of basic time limits that determine the possibility of performing actions related to the registration of the aforementioned canonical marriage. The Concordat does not only refer to the registration of marriages in the context of canon law. It also refers to the notification of the intention to enter into a concordat marriage at the competent Civil Registry office. In both cases, the aim is to ensure that there are no conditions that prevent the marriage from taking place in accordance with the law of the state[28]. It should be added that a very similar situation occurs in the case of so-called canonical announcements. The entire procedure can be considered completed when the appropriate certificate is issued by the civil registrar.

In the area of canonical pronouncements, there is a dispensation, that is, an exemption from the applicable provisions of canon law in special cases. In the case of civil pronouncements, the provisions of the Concordat also indicate situations in which this obligation may be waived. The reasons given are: in *articulo mortis* (in the face of death), the situation of imminent childbirth, or when "(...) for the immediate celebration of the marriage the parties – for grave moral reasons – are expressly authorized by their own Ordinary", as indicated by W. Adamczewski[29]. On the basis of the above assumptions, in certain cases it is permissible to enter into a canonical marriage without first carrying out the distinguished procedure of announcement in the Civil Registry office. It will be registered in the state registry at a later date, if one of the parties is not in a previously undissolved civil union with a third party[30].

On the basis of the provisions of the Concordat, it is also possible to specify the conditions related to the performance of legal actions whose direct or indirect purpose is the recognition of the civil effects of a canonical marriage in Portugal. There are three types of such actions. The first is to send a copy of the marriage certificate for authentication. The second is to make the appropriate entry in the Civil Registry. One should also not forget to

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[27] Cf. J. Prader, *Il matrimonio nel monclo*, op. cit., p. 482.
[28] Ibidem, s. 480.
[29] W. Adamczewski, *Uznanie skutków cywilnych małżeństwa kanonicznego w najnowszych umowach konkordatowych* „Ius Matrimoniale", 1996, No. 1, p. 184.
[30] A. Leite, *El matrimonio civil y ei divorcio en Portugal*, Salamanca 1979, p. 257.

inform the ecclesiastical authorities that a copy has been made. These deadlines are set by the Portuguese Concordat. According to W. Adamczewski, "the parish priest should send a copy of the marriage certificate within three days of its conclusion, the registrar has two days to make the entry, and not later than the following day – with the date of the entry – he should inform the competent parish priest"[31]. It should be remembered that exceeding the above deadlines without proper justification is a direct basis for appropriate sanctions against both the pastor and the registrar.

It is important to note that the Portuguese Concordat, apart from the time limits established for the implementation of individual legal acts, establishes the principle that "[...] only those canonical marriages whose registration in the Civil Registry has been made within a maximum period of seven days may have civil effects from the moment of their conclusion"[32]. In other cases, such as the death of one or both spouses, the civil effects depend on the procedure of registration of the marriage. These effects arise only from the moment of this registration and not from the day of the canonical marriage.

With regard to the provisions of the Concordat of 1940, which was concluded on the basis of the Portuguese Constitution of 1933, it can be said that it complied with the so-called principles of religious freedom[33]. Nevertheless, legal scholars drew attention to the content of Article 24, according to which state courts were prohibited from considering divorce cases of persons whose marriage had been concluded in the form shaped by the Concordat[34]. It has been repeatedly pointed out that this provision contradicts the doctrine of the autonomy and independence of the State and the Church. It has been emphasized that it is not the responsibility of the state (state institutions) to enforce the consequences of sacramental marriage, more broadly defined as canonical marriage. Finally, on the basis of the Additional Protocol of 1975, this provision was modified in its entirety[35]. Accordingly, the Holy See declared that it reaffirmed the obligation of the faithful to respect the essential characteristics of marriage. At the same time, it recommended to spouses not to resort to the possibility of civil divorce in the case of a canonical marriage.

Marriage by persons of one sex

As of June 5, 2010, same-sex civil marriages are possible in Portugal. This is in accordance

[31] W. Adamczewski, *Uznanie skutków cywilnych*, op. cit., p. 185.
[32] Ibidem, p. 185.
[33] J. Miranda, *Liberia religiosa, Chiese e Stato in Portogallo* "Quaderni di diritto e politica ecclesiastica", 1988, No. 5, pp. 212–213, 217.
[34] For more on this topic, see A. Leite, *El matrimonio* civil, op. cit., pp. 260–261.
[35] Currently, no concordat agreement explicitly addresses the issue of divorce.

with the provisions of Law No. 9/2010 of 31 May, which amended the wording of Articles 1577, 1591 and 1690 of the Civil Code. On this basis, the definition of marriage is distinguished, according to which it is "a contract between two people who intend to create a family through a full community of life"[36]. These changes are a guarantee of the same rights that only heterosexual couples had until the law was amended.

At the same time, it should be emphasized that since March 15, 2001, Portuguese law has recognized same-sex cohabitation, that is, an informal relationship between two people who live together without the legal sanction of marriage. Both heterosexual and homosexual couples, after two years of cohabitation, are entitled to some of the rights previously enjoyed only by a married woman and man[37]. Significant differences relate primarily to adoption law, where same-sex couples do not have this option.

Summary

To summarize the above discussion, it should be noted that in the case of Portugal, the legal nature of the institution of marriage is contractual. This is indicated, among other things, by the provisions of Article 1577 of the Portuguese Civil Code[38]. Therefore, the institution of marriage is a condition for the occurrence of certain legal effects. It can be said that marriage in Portugal is a legal formula based on the free expression of the will of the parties to enter into it, taking into account the effects on property, which are also regulated by civil law.

The legal effects of marriage in Portugal are primarily the creation of a family and the establishment of ties of affinity between one spouse and the other's relatives, which is regulated by the provisions of Article 1584 of the Civil Code, cited above. It defines affinity as the relationship between one spouse and the other's relatives. As far as personal property is concerned, this category includes, above all, fidelity, cohabitation, mutual assistance and cooperation, as well as marital equality through the assumption of the status of spouses responsible for the family. In this case, Portuguese law provides for equality of rights and responsibilites.

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