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## **Personality Disorders as a Cause of the Invalidation of Catholic Marriage in Poland**

### **Abstract**

**Introduction:** The institution of marital consent, which is the efficient cause of marriage and its annulment on the grounds of specified personality disorders.

**Aim of the study:** The research objectives of this study are as follows: determining the proportion of cases on the sole ground of mental incapacity to other grounds of marriage annulment, the number of marriage annulment declarations among clients suffering from personality disorders with a differential diagnosis, age and gender determination of the person requesting marriage annulment – determining the average value and the standard deviation, the duration of marriage until its annulment – determining the average value and the standard deviation, the number of cases in which marriage annulment application is submitted by men and women as well as determining the proportion of cases concluding with the declaration of marriage annulment to those concluding with a negative judgement.

In the research part of the study the following analysis has been carried out, personality disorders leading to the marriage annulment, distinguishing between gender, the etiology of particular disorders as well as dysfunctional areas demonstrated by court experts concerning both marital and family life.

**Material and methods:** The analysis of psychological opinions extracted from the marriage annulment cases which were considered and judged by the Bishop's Court in the Diocese of Toruń. The research period stretches over five years between 2012 and 2016, during which court experts in clinical psychology issued their opinions in 156 cases concerning 82 persons.

**Conclusions:** On the basis of the analysis, the following conclusions can be drawn: the age of applicants requesting marriage annulment: Men –  $M=37,04$ ;  $SD=7,90$ ; Women –  $M=34,98$ ;  $SD=8,07$ . Duration of marriage until annulment: –  $M=13,23$ ;  $SD=8,24$ . Marriage annulment requests were submitted by 62 men and 94 women. Marriage was declared null and void in 122 cases whereas the negative judgment concerned 36 cases. The conclusions drawn indicate that the predominant disorders resulting in marriage annulment included antisocial personality disorder, narcissistic personality disorder as well as dependent personality disorder (DPD). The conclusions drawn clearly show that the predominant disorder resulting in the invalidation of marriage is antisocial personality disorder, closely followed by narcissistic personality disorder and finally by dependent personality disorder. Out of 189 cases processed by the court within the period of five years, 156 of them concern mental incapacities whereas the remaining ones concern other cases of marriage annulment.

### Keywords

Invalidation of marriage, personality disorders, mental causes, consensual incapacity.

## 1. Introduction

The causative force of marriage in all the cultural and legal systems, including the canon system is marital consent. Consent is an act of will inscribed in man's very nature. Intellect performs an assessment, whereas will makes a choice. Between these two vectors, there must exist syntony.<sup>1</sup>

The human act which constitutes the will to give consent to marriage requires psychophysical development on the one hand, but on the other hand, even after the attainment of the age required by law to get married, the bride or groom may still be incapable of getting married due to lack of mental capacity. The legal capacity is not tantamount to mental capacity to give informed consent to marriage.<sup>2</sup>

The capacity, and at the same time, the freedom to express a human act, may become expressly restricted as personality disorders exert influence on both intellect and will.<sup>3</sup>

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<sup>1</sup> See e.g.: M. Pompèdda, *Il can. 1095 nn. 1 – 2 Nell'economia della disciplina del matrimonio w: Diritto Matrimoniale Canonico*, vol. Il Consenso Studi Giuridici LXI, Vaticano 2003, p. 20.

<sup>2</sup> See e.g.: C. Barbieri, A. Luzzago, *Psicopatologia Forense e Matrimonio Canonico*, Studi Giuridici LXVII, Vaticano 2005, p. 143.

<sup>3</sup> Cf. e.g.: *ibidem*, p. 23.

The first aspect is the incapacity to give consent in subjective distinction. Canon law regulations in can. 1095 n° 1 and n° 2: *"The following are incapable of contracting marriage: 1° those who lack the sufficient use of reason; 2° those who suffer from a grave defect of discretion of judgement concerning the essential matrimonial rights and duties mutually to be handed over and accepted."*<sup>4</sup> Code of Canon Law, do not relate literally to mental disorders, yet they exclusively lead to incapacity and, consequently, render a marriage invalid. It ought to be emphasized that personal incapacity concerns only the period of time during which the matrimonial consent was given.

In the case of the regulation can. 1095 n°1, namely the lack of the sufficient use of reason, psychopathological conditions do not allow the expression of matrimonial consent. The lack of the sufficient use of reason is proportional to the reality, which is to be performed at the moment of giving matrimonial consent. According to the commonly accepted doctrine, it can be of a current nature, such as, for instance, alcoholic intoxication, or it can be of a habitual nature, for example in the event of a mental illness, at the moment of an enhanced psychotic condition. Among flagship mental disorders which are clustered in the form of the aforementioned canonical norm can. 1095 n°1 we can distinguish:

- serious and severe mental retardation, which deprives a person of the ability to reason or recognize the cognitive deficiency<sup>5</sup>,
- specific serious forms of epilepsy with psychotic symptoms<sup>6</sup>,
- severe alcoholic intoxication, including the chronic one with a clinical picture such as alcoholic psychosis, Korsak off syndrome, as well as consciousness interfering substances (LSD, cocaine),
- forms of dementia according to the clinical typology: Alzheimer disease, Parkinson disease, Creutzfeldt-Jakob disease, Huntington's disease, and Pick's disease,
- psychotic forms of schizophrenia, autism, manic-depressive bipolar psychosis, Cotard's syndrome.<sup>7</sup>

<sup>4</sup> Kodeks Prawa Kanonicznego, Kraków 2011.

<sup>5</sup> See e.g.: C. Barbieri, A. Luzzago, *Psicopatologia Forense e Matrimonio Canonico*, StudiGiuridici LXVII, Vaticano 2005, p. 143.

<sup>6</sup> Cf. e.g.: W. Kraiński, *Epilepsja jako przyczyna stwierdzenia nieważności małżeństwa w orzecznictwie rotalnym*, „Studia Gdańskie” (2009) vol. XXV, pp. 102–104.

<sup>7</sup> Cf. e.g.: C. Barbieri, A. Luzzago, *Psicopatologia Forense e...*, p. 144.

The other form of subjective consensual incapacity is referred to in the legal norm of the canon 1095 n°2: *Those are incapable of contracting marriage who suffer from a grave defect of discretion of judgment concerning the essential matrimonial rights and duties mutually to be handed over and accepted.* This norm also does not nominally mention the defects of mental nature, which prevent matrimonial consent; however, as jurisprudence and judicial practice indicate, the mental defect of the client constitute its basis. Psychopathological conditions affect the mental ability of critical evaluation processes concerning the essential matrimonial rights and duties mutually to be handed over and accepted as well as the autonomous choice of spouse in marriage.<sup>8</sup>

Among personality disorders distinguished by the legal doctrine and jurisprudence resulting in personal consensual incapacity, some of the following can be specified: paranoid personality disorder (PPD), schizoid personality disorder (SPD), antisocial personality disorder, borderline personality disorder, histrionic personality disorder, obsessive compulsive disorder (OCD), avoidant personality disorder, dependent personality disorder, and narcissistic personality disorder. All the personality disorders listed above have a considerable influence on the assessment judgment as well as personal consensual capacity<sup>9</sup>.

## 2. Invalidation of marriage in the objective distinction

The objective consensual incapacity is related to essential matrimonial duties. The client is capable of consenting to contracting marriage. He or she features the capacity of recognition, but is incapable of realizing the consent, which means inability to fulfill matrimonial obligations. Roman law emphasized that the impossible is no legal obligation and nobody is held to the impossible (*impossibilla nemo tenetur*) and therefore the appropriately expressed matrimonial consent is invalid.

The objective consensual incapacity for marriage is defined in the canon 1095 n°3: *Incapable of contracting marriage are those who are not able to assume the essential obligations of marriage for causes of a psychic nature.* In the norm cited above, unlike in the previous numbers 1 and 2, the legislator clearly refers

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<sup>8</sup> Cf. e.g.: *ibidem*.

<sup>9</sup> Cf. e.g.: M. Kowalski, *Problem nieważności małżeństwa w świetle kanonu 1095 n. 2 KPK*, Wrocław 2012, p. 195.

to causes of psychic nature (*ob gravem anomalium psychicam*). The term “psychic causes” includes severe conditions of mental illnesses as well as personality disorders, on which the following study is based. Certain specialists in the canon law even go a step further and claim that the incapacity to assume the consensual matrimonial obligations refers to any natural psychic disability of the person involved.<sup>10</sup>

The incapacity (*incapacitas*) which is referred to in can. 1095 n°3 is a much broader notion than a cause of a psychic nature. The objective consensual incapacity constitutes a correlation of a cause of a psychic nature and essential obligations of marriage. Court experts, carrying out their auxiliary tasks for judges, verify in their opinions specific legal requirements which certify the occurrence of the objective consensual incapacity and, consequently, the invalidation of marriage. Legal and psychological criteria of consensual incapacity are clearly defined.

The reason for the invalidation of marriage – mental disorder – must always belong to the category of severe disorders (*gravis*). Only the complete incapacity, and not difficulty, regarding matrimonial consent and realization of genuine conjugal community of life and love, results in the invalidation of marriage. The hypothesis concerning the real incapacity may be put forward only in the event of a serious anomaly which must fundamentally affect in a negative way the capacity to understand and will.<sup>11</sup>

The second criterion of incapacity is antecedence – it is inextricably connected with the causative force of marriage, namely the matrimonial consent. The real incapacity must occur at the moment of expressing matrimonial consent and must make a client absolutely incapable of assuming the essential obligations of marriage. The occurrence of a disorder at the moment of contracting marriage is attested by the etiology of the disorder, which is defined by court experts on the basis of their high relevant psychological and psychiatric experience and expertise.

The judge obtains certainty about the permanence of incapacity, which means its irremovability at the moment of consenting to marriage, on the basis of the

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<sup>10</sup> See e.g.: P. Bianchi, *Le causaenaturaepsychicae – dell’incapacita, in; L’incapacita’ diassumere gli oneri essenziali del matrimonio (can. 1095 n°3) Studi. Giuridici XLVIII*, Vaticano 1998, pp. 141-142, 146-151.

<sup>11</sup> See e.g.: Giovanni Paolo II, *Discorso ai membri del Tribunale Della Rota Romana*, Roma, 5.02.1987, AAS, 79, 1987, p. 1456; Benedetto XVI, *Discorso al Tribunale della Rota Romana in occasione dell’inaugurazione dell’anno giudiziario*, 29.01.2009.

opinion given by a court expert, who customarily informs about the possibility of effective therapy. The absoluteness of incapacity, which concerns every single potential client, is described by the court expert, who determines the severity of the disorder.<sup>12</sup>

The judge, issuing the ruling on the invalidation of marriage, conducts a specific conversation with the court expert, inquiring about the personality disorder, its level of severity, the clinical history of the client and the potential therapy, and finally, about the difficulty in fulfilling the obligations of matrimonial life which a person suffering from this specific personality disorder may confront.<sup>13</sup> In order to determine the degree of actual consensual incapacity, apart from the verification of a psychic cause, that is its severity, antecedence, permanence and absoluteness, it is necessary that the relation between the personality disorder and its influence on the fulfillment of essential matrimonial obligations should be indicated. The science of Canon Law points to two categories of obligations essential in the sphere of matrimony: the good of the spouses and the good of the offspring. These two categories include the whole extent of matrimonial and family reality. The descriptiveness of matrimonial obligations, to which both judges and court experts refer, has been standardized by the judgments of the Roman Rota, the case-law of which has a model structure obliging for all the lower instance tribunals. The essential matrimonial obligations include fidelity, inseparability, psychosexual unity, ability to preserve internal relationship unity as well as mutual assistance. In the analyzed judgments, court experts refer to the dysfunctionality area in terms of both the good of the spouses and their offspring and matrimonial obligations.

### 3. Material and methods

The subject matter under analysis is the objective consensual incapacity, which constitutes the most representative and the most numerous category of personality disorders confronted in practice by not only the Bishop's Court in the Diocese

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<sup>12</sup> See e.g.: G. Canale, *L'incapacità ex can. 1095 n°3: necessaria assolutezza o possibile relatività alla persona dell'altro coniuge?*, in: *L'incapacità' di assumere gli oneri essenziali del matrimonio (can. 1095 n°3) Studi. Giuridici XLVIII*, Vaticano 1998, p. 72, pp. 93–99.

<sup>13</sup> See e.g.: J. M. De Agar, *Giudice e Perito a colloquio*, in: *L'incapacità' di assumere gli oneri essenziali del matrimonio (can. 1095 n°3) Studi. Giuridici XLVIII*, Vaticano 1998, pp. 192–193.

of Toruń, but by all the tribunals. The analysis concerns psychological opinions from 156 cases proceeded by the Bishop's Court in the Diocese of Toruń in the years 2012–2016 on the grounds of consensual incapacity. In all those cases, regulations required an opinion of a psychologist or a psychiatrist for the preliminary ruling to be issued. The analysis concerns 82 persons in the following areas: the number of specified persons divided by gender who have been diagnosed with personality disorders, the number of marriages which have been nullified on the grounds of the clients suffering from a particular personality disorder, and differential diagnosis indicated by court experts. The etiology of personality disorders specified by court experts is so important that in order for it to be the cause of the invalidation of marriage, a given personality disorder must occur at the moment of the contraction of marriage. The analysis also concerns the dysfunctionality area which prevented acceptance and fulfilment of essential matrimonial obligations<sup>14</sup>. The taxonomy of research concerning particular personality disorders will be based on the diagnostic division by the American Psychiatric Association: cluster A personality disorders, cluster B personality disorders and cluster C personality disorders.<sup>15</sup> The division is closely connected also with the jurisprudence of the Roman Rota, which is founded on Diagnostic and Statistical Manual, and thus gives direction for the whole judiciary, including court experts delivering their opinions to ecclesiastical courts.<sup>16</sup>

The study sets out to achieve the following research objectives: determining the proportion of cases based on mental incapacity to the remaining cases concerning the invalidation of marriage, the number of marriages which have been nullified on the grounds of the clients suffering from a particular personality disorder with differential diagnosis, determining the age of specified persons divided by gender who have applied for the invalidation of their marriages – calculating the average and standard deviation, determining the duration of those

<sup>14</sup> Cf. e.g.: A. Czeźnikiewicz, *Zaburzenia osobowości i zachowania u dorosłych*, in: M. Jerema, *Psychiatria*, Warszawa 2017, pp. 387–410.

<sup>15</sup> Cf. e.g.: P. Gałęcki, Ł. Świącicki, *Kryteria diagnostyczne z DSM -5*, Warszawa 2017.

<sup>16</sup> Sententia 25/11/1993 coram Burke: „Adnotationes circa valorem ac usum «DSM». Psychiatriae iam a decenniis strenue conantur tum stabilire terminologiam necnon criteria diagnostica pro individuandis diversis speciebus turbationum psychicarum adhibenda, tum universalem acceptationem huius modi criteriorum assequi. Cum prae oculis habeantur frequentes revisio effectae in noto «Diagnostic and Statistical Manual» ab Associatione Psychiatrica Statuum Foederatorum Americae in lucem edito, sperare quis posset quod conamina incoepta bene progrediantur” in: Sententia from 25.11.1993 coram Burke, *Rotae Romanae Tribunal*, Decisiones seu Sententiae, vol. LXXXV, Vatican, pp. 705–706.

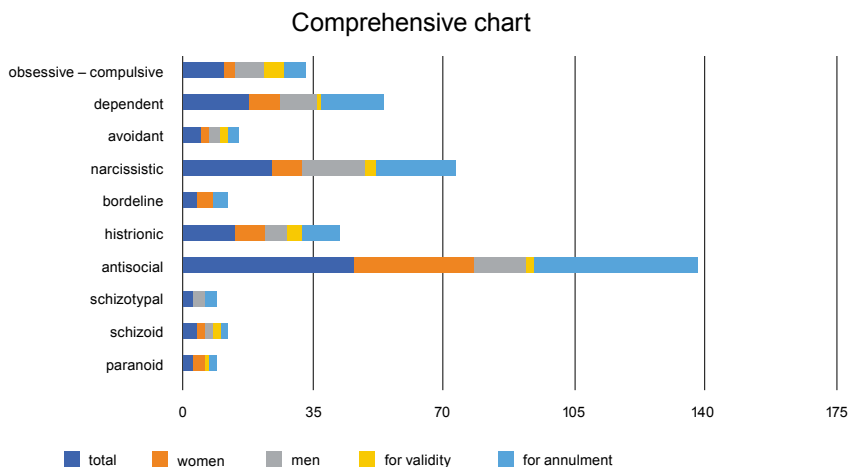
marriages prior to their invalidation – calculating the average and standard deviation, determining the number of applications submitted by men and women as well as the proportion of cases concluding with the invalidation of marriage to those concluding with a negative judgement.

The methodological objectives pursued in this study may supplement the insufficient theoretical knowledge concerning the invalidation of marriage on the grounds of psychic causes. Every annual report of each ecclesiastical court sent to the Apostolic Signatura in Rome contains only statistics concerning the number of cases and grounds on which the invalidation of marriage was ruled in a given year. However, what is the proportion of cases based on mental incapacity to the remaining cases concerning the invalidation of marriage?

## 4. Results

### 4.1. Result Presentation

The following chart presents the proportion of diagnosed personality disorders divided by gender and court rulings in cases with differential diagnosis.



**Fig 2.** The comprehensive chart presents the proportion of marriage annulment cases on the grounds of psychic causes can. 1095 to other marriage annulment cases. Can 1095:-144 other cases 33.



2012						
Case number	Age of male applicant	Age of female applicant	Duration of marriage in years	Gender of applicant	Invalidity judgement	Form of contestation
33/P/10	32	32	12	Woman	Negative	Woman – Man
57/P/08	35	33	12	Man	Man – negative Woman – positive	Reciprocal
63/P/09	35	23	7	Man	Negative	Man– Woman
46/P/08	34	32	16	Woman	Positive	Woman – Man
52/P/10	33	33	8	Woman	Positive	Woman – Man
1r /P/11	36	36	13	Woman	Negative	Woman – Man
61/P/06	54	57	20	Man	Positive	Man– Woman
50/P/10	29	29	8	Man	Positive	Man– Woman
10 /P/11	54	55	30	Man	Positive	Man– Woman
9 a/P/11	33	27	11	Woman	Positive	Woman – Man
47/P/09	33	27	5	Woman	Positive	Woman – Man
19/P/11	33	40	10	Woman	Positive	Woman – Man
21/P/11	40	43	15	Man	Positive	Man– Woman
2r /P/11	36	34	12	Woman	Positive	Woman – Man
12/P/08	30	30	8	Woman	Positive	Woman – Man
48/P/10	31	23	5	Man	Positive	Man– Woman
10/P/12	35	38	16	Man	Positive	Man– Woman
9/P/12	40	27	6	Woman	Positive	Woman – Man
22/P/11	30	28	5	Woman	Positive	Woman – Man

#### 4.2. The results of the data analysis from 2012

The average age of applicants applying for the invalidation of marriage:

Men –  $M=35,95$ ;  $SD=7,01$ .

Women –  $M=34,05$ ;  $SD=9,34$ .

The duration of marriage prior to invalidation –  $M= 12$ ;  $SD=6,39$ .

Number of applications for the invalidation of marriage submitted by men – 8, by women – 11.

Marriage annulment judgement: positive – 16, negative – 4.

2013						
Case number	Age of male applicant	Age of female applicant	Duration of marriage in years	Gender of applicant	Invalidation judgement	Form of contestation
11/P/11	33	32	12	Man	Positive	Man– Woman
35/P/11	30	35	6	Man	Positive	Man– Woman
3/P/12	39	36	13	Man	Positive	Man– Woman
4 /P/10	42	37	20	Man	Positive	Man– Woman
53/P/12	46	41	25	Woman	Positive	Woman – Man
25/P/10	33	28	10	Woman	Positive	Woman – Man
26/P/11	34	35	14	Woman	Negative	Woman – Man
12/P/11	26	25	4	Man	Negative	Man– Woman
36/P/10	38	36	14	Man	Positive	Man– Woman
29/P/11	33	25	7	Man	Positive	Man– Woman
52/P/13	36	33	13	Woman	Positive	Woman – Man
3r/ P/11	46	43	23	Man	Positive	Man– Woman
5/P/10	49	49	28	Man	Positive	Man– Woman
46/P/11	45	36	17	Woman	Positive	Woman – Man
28/P/12	41	30	1	Woman	Positive	Woman – Man
14/P/11	44	38	21	Woman	Negative	Woman – Man
49/P/12	35	36	15	Woman	Positive	Woman – Man
10/P/11	42	38	18	Woman	Positive	Woman – Man
79/P/06	42	41	17	Man	Negative	Man– Woman
23/P/12	31	31	9	Woman	Positive	Woman – Man
11/P/12	47	43	25	Woman	Positive	Woman – Man
43/P/12	32	32	8	Woman	Positive	Woman – Man
9/P/13	37	35	11	Woman	Positive	Woman – Man
36/P/11	30	30	5	Man	Positive	Man– Woman
17/P/12	38	39	14	Woman	Positive	Woman – Man
39/P/11	29	27	9	Man	Positive	Man– Woman
31/P/12	45	40	18	Woman	Positive	Woman – Man
21/P/12	36	22	5	Woman	Positive	Woman – Man
47/P/09	54	51	35	Woman	Positive	Man– Woman
20/P/09	30	30	7	Man	Positive	Man– Woman

Case number	Age of male applicant	Age of female applicant	Duration of marriage in years	Gender of applicant	Invalidation judgement	Form of contestation
13/P/12	33	31	7	Woman	Negative	Woman – Man
33/P/11	31	29	4	Woman	Negative	Woman – Man
29/P/12	45	44	22	Woman	Positive	Woman – Man
48/P/12	25	30	4	Man	Negative	Man– Woman
40/P/10	30	30	7	Woman	Positive	Woman – Man
34/P/12	40	43	13	Man	Positive	Man– Woman

4.3. The results of the data analysis from 2013

The average age of applicants applying for the invalidation of marriage:

Men –  $M=37,56$ ;  $SD=6,94$ .

Women –  $M=34,89$ ;  $SD=6,73$ .

The duration of marriage prior to invalidation –  $M=13,36$ ;  $SD=7,85$ .

Number of applications for the invalidation of marriage submitted by men – 15, by women – 21.

Marriage annulment judgement: positive –29, negative – 7.

2014						
Case number	Age of male applicant	Age of female applicant	Duration of marriage in years	Gender of applicant	Invalidation judgement	Form of contestation
20/P/11	29	26	7	Man	Positive	Man– Woman
32/P/12	29	30	6	Woman	Positive	Woman – Man
1r/P/12	35	33	12	Man	Negative	Reciprocal
1r-P/13	39	35	15	Man	Negative	Man– Woman
44/P/11	37	37	14	Woman	Positive	Woman – Man
52/P/12	42	38	16	Woman	Negative	Woman – Man
7/P/13	58	54	36	Man	Positive	Man– Woman
51/P/12	30	30	4	Woman	Positive	Woman – Man
26/P/12	45	38	22	Woman	Positive	Woman – Man
50/P/13	38	33	10	Woman	Positive	Woman – Man

Case number	Age of male applicant	Age of female applicant	Duration of marriage in years	Gender of applicant	Invalidation judgement	Form of contestation
25/P/11	49	48	23	Man	Negative	Reciprocal
11/P/13	37	37	18	Woman	Negative	Woman – Man
52/P/13	29	25	12	Woman	Positive	Woman – Man
24/P/12	32	31	10	Man	Negative	Reciprocal
31/P/12	38	34	16	Woman	Positive	Woman – Man
40/P/12	43	43	26	Woman	Positive	Woman – Man
4/P/13	35	35	17	Woman	Positive	Woman – Man
22/P/13	65	61	44	Man	Positive	Man– Woman
2/P/13	48	42	20	Woman	Positive	Woman – Man
54/P/12	55	57	28	Woman	Positive	Woman – Man
8/P/14	33	29	11	Woman	Positive	Woman – Man
51/P/13	37	30	9	Woman	Positive	Woman – Man
5/P/13	29	30	7	Man	Positive	Man– Woman
5/P/12	26	24	8	Man	Negative	Man– Woman
25/P/12	28	27	6	Woman	Negative	Woman – Man
37/P/11	31	29	7	Man	Positive	Man– Woman
41/P/12	37	36	20	Man	Positive	Man– Woman
1/P/13	30	23	6	Man	Positive	Man– Woman
59/P/13	55	52	32	Man	Positive	Man– Against himself
58/P/13	29	30	4	Man	Positive	Man– Woman
1/P/14	42	30	9	Woman	Positive	Woman – Man
36/P/12	35	38	12	Man	Positive	Man– Woman
43/P/13	32	35	9	Woman	Positive	Woman – Man
49/P/10	42	41	21	Man	Positive	Man– Woman
47/P/11	37	37	14	Woman	Negative	Woman – Man

#### 4.4. The results of the data analysis from 2014

The average age of applicants applying for the invalidation of marriage:

Men –  $M=37,74$ ;  $SD=9,07$ .

Women –  $M=36,37$ ;  $SD=9,63$ .

The duration of marriage prior to invalidation –  $M=15,17$ ;  $SD=9,40$ .

Number of applications for the invalidation of marriage submitted by men – 16, by women – 19.

Marriage annulment judgement: positive – 26, negative – 9.

2015						
Case number	Age of male applicant	Age of female applicant	Duration of marriage in years	Gender of applicant	Invalidation judgement	Form of contestation
49/P/14	72	64	47	Man	Positive	Man – Woman
36/P/13	34	28	11	Woman	Negative	Woman – Man
30/P/13	31	27	7	Woman	Negative	Woman – Man
41/P/13	30	31	13	Woman	Positive	Woman – Man
46/P/12	29	27	7	Woman	Positive	Woman – Man
28/P/13	36	36	9	Man	Positive	Man – Woman
54/P/13	49	43	27	Woman	Positive	Woman – Man
35/P/13	47	32	12	Woman	Positive	Woman – Man
49/P/11	29	29	6	Woman	Positive	Woman – Man
18/P/14	28	27	7	Woman	Positive	Woman – Man
15/P/13	44	44	24	Man	Positive	Man – Woman
7/P/12	37	35	16	Man	Negative	Man – Woman
38/P/11	34	33	12	Woman	Positive	Woman – Man
19/P/12	36	33	8	Man	Negative	Man – Woman
26/P/13	30	32	9	Man	Negative	Man – Woman
48/P/13	28	28	3	Woman	Negative	Woman – Man
2/P/12	50	50	31	Man	Negative	Man – Woman
12/P/13	29	30	4	Woman	Positive	Woman – Man
15/P/14	40	30	5	Woman	Positive	Woman – Man
22/P/12	28	29	5	Man	Positive	Man – Woman
2/P/14	46	46	17	Woman	Positive	Woman – Man
25/P/14	38	36	17	Woman	Positive	Woman – Man
45/P/12	30	33	8	Woman	Negative	Woman – Man
6/P/13	33	35	14	Woman	Negative	Woman – Man
38/P/14	33	32	12	Man	Positive	Man – Woman

Case number	Age of male applicant	Age of female applicant	Duration of marriage in years	Gender of applicant	Invalidation judgement	Form of contestation
51/P/14	36	30	13	Man	Positive	Man – Woman
45/P/13	39	35	16	Man	Positive	Man – Woman
7/P/14	39	37	19	Woman	Positive	Woman – Man
9/P/14	56	52	30	Woman	Negative	Woman – Man
60/P/13	38	32	12	Woman	Positive	Woman – Man
55/P/13	39	37	14	Woman	Positive	Woman – Man
47/P/13	32	25	2	Woman	Positive	Woman – Man
20/P/14	33	31	11	Woman	Positive	Woman – Man
19/P/14	31	30	8	Man	Positive	Man – Woman
14/P/14	33	33	8	Woman	Positive	Woman – Man
10/P/14	38	30	5	Woman	Positive	Woman – Man
1r/P/14	37	35	15	Man	Positive	Man – Woman
17/P/14	29	26	4	Woman	Negative	Woman – Man
33/P/13	42	50	11	Man	Negative	Man – Woman
6/P/11	29	31	11	Man	Positive	Man – Woman
4/P/15	34	36	8	Woman	Positive	Woman – Man
18/P/15	54	51	32	Man	Positive	Man – Woman
53/P/14	31	32	4	Woman	Positive	Woman – Man
29/P/14	34	35	8	Man	Positive	Man – Woman
37/P/14	26	28	6	Man	Positive	Man – Woman

#### 4.5. The results of the data analysis from 2015

The average age of applicants applying for the invalidation of marriage:

Men –  $M=36,62$ ;  $SD=8,84$ .

Women –  $M=34,82$ ;  $SD=8,32$ .

The duration of marriage prior to invalidation –  $M=12,67$ ;  $SD=9,00$ .

Number of applications for the invalidation of marriage submitted by men – 18, by women – 27.

Marriage annulment judgement: positive – 32, negative – 12.

2016						
Case number	Age of male applicant	Age of female applicant	Duration of marriage in years	Gender of applicant	Invalidation judgement	Form of contestation
26/P/14	37	28	10	Woman	Positive	Woman – Man
22/P/14	37	35	9	Woman	Positive	Woman – Man
30/P/14	34	31	10	Woman	Negative	Woman – Man
34/P/14	43	43	22	Woman	Positive	Woman – Man
36/P/14	37	36	9	Woman	Positive	Woman – Man
33/P/14	29	27	6	Woman	Positive	Woman – Man
43/P/14	54	47	24	Woman	Positive	Woman – Man
20/P/12	36	33	12	Man	Positive	Man – Woman
24/P/14	28	27	5	Woman	Positive	Woman – Man
45/P/14	29	31	7	Woman	Positive	Woman – Man
59/P/14	40	34	11	Man	Positive	Man – Woman
62/P/14	43	43	24	Woman	Positive	Woman – Man
64/P/14	33	31	10	Woman	Positive	Woman – Man
13/P/15	37	35	7	Woman	Positive	Woman – Man
4/P/14	39	36	18	Man	Positive	Man – Woman
44/P/14	34	33	8	Man	Positive	Man – Woman
16/P/14	40	34	10	Man	Negative	Man – Woman
39/P/15	32	27	7	Woman	Positive	Woman – Man
3/P/13	32	30	7	Woman	Positive	Woman – Man
40/P/13	48	41	23	Woman	Positive	Woman – Man
34/P/13	33	31	12	Woman	Positive	Woman – Man

#### 4.6. The results of the data analysis from 2016

The average age of applicants applying for the invalidation of marriage:

Men –  $M=36,90$ ;  $SD=6,39$ .

Women –  $M=33,95$ ;  $SD =5,60$ .

The duration of marriage prior to invalidation –  $M=12$ ;  $SD=6,54$ .

Number of applications for the invalidation of marriage submitted by men – 5, by women – 16.

Marriage annulment judgement: positive – 19, negative – 2.

#### 4.7. The overall results of the data analysis from 2012 to 2016

The average age of applicants applying for the invalidation of marriage:

Men –  $M=37,04$ ;  $SD=7,90$ .

Women –  $M=34,98$ ;  $SD=8,07$ .

The duration of marriage prior to invalidation –  $M=13,23$ ;  $SD=8,24$ .

Number of applications for the invalidation of marriage submitted by men – 62, by women – 94.

Marriage annulment judgement: positive – 122, negative – 36.

## 5. Discussion

In the case of objective consensual incapacity, one could observe that in the cluster A personality disorders court experts diagnosed mental disorders ten times within the period of five years. Individuals with such a typology of disorders are rather unlikely to contract marriages frequently due to their withdrawal from social relations and interpersonal interactions.<sup>17</sup>

In the paranoid personality disorder, gender analysis in scientific research indicates that the majority of sufferers are males.<sup>18</sup> In the research period under scrutiny, this type of personality disorder occurs only among women. The schizoid personality disorder was distinguished by court experts among two women and two men. Scientific literature indicates that in a given population this disorder occurs mainly among men.<sup>19</sup> In the case of the schizoid personality disorder, gender ratio is in accordance with scientific research results in the analysis of issues concerning only men. In 10 cluster A personality disorder cases, court experts distinguished the disorder, whereas in 3 cases (1 paranoid and 2 schizoid) excessive difficulty in fulfilling matrimonial obligations was identified, creating a platform for therapy.

In cluster B, court experts defined the greatest number of personality disorders. The most common one is the antisocial personality disorder. It was identified 46 times among thirty two males, which neatly corresponds to psychological

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<sup>17</sup> Cf. e.g.: J. N. Butcher, J.M. Hooley, S. Mineka, *Psychologia zaburzeń DSM-5*, Sopot 2017, pp. 418–419.

<sup>18</sup> Cf. e.g.: *ibidem*, p. 411.

<sup>19</sup> Cf. e.g.: *ibidem*.



scientific literature<sup>20</sup> In 44 cases court experts indicated the disorder and in the remaining 2 cases, negative personality traits were identified. Sociological research would have to be conducted to corroborate the observations of court experts that the etiological issue related to the occurrence of the disorder is dependent on the generational family as well as social conditions.

The second position in the ranking of disorders contributing to the invalidation of marriage is occupied by the narcissistic personality disorder – 24 cases, 21 of which qualified for annulment of marriage. The majority of cases are represented by men (17), which corresponds to the trends set by the American Psychiatric Association.<sup>21</sup> The histrionic personality disorder occurred 14 times, 8 cases of which were represented by women, whereas 6 cases by men. The American Psychiatric Association indicates gender equality ratio.<sup>22</sup> Cluster B represents the most numerous group of disorders preventing the fulfilment of matrimonial life. Borderline personality disorder is the most distinctive in the diagnostics. Four cases occurred exclusively among women, and in all of these cases marriage was annulled without differential diagnosis.

In cluster C, the third most common personality disorder which influenced the invalidation of marriage was identified. The dependent personality disorder was represented by 18 cases within the period under scrutiny. The majority of them are men (10 cases). The American Psychiatric Association indicates gender equality ratio. Individuals who suffer from dependence are reluctant to leave their primary family, but on the other hand they expect their spouse to replace their parents in their childcare function.<sup>23</sup> There was also a high percentage of marriage annulment judgements as the invalidation of marriage was ruled in no fewer than 17 cases. The avoidant personality disorder was represented by merely 5 cases: 3 men and 2 women. Clients suffering from this personality disorder tend to feel insecure in social interactions, which has a considerable impact on the contraction of marriage. The obsessive-compulsive disorder occurred 11 times and the gender ratio corresponds to the findings of the American Psychiatric Association – the majority of cases were represented by men (8).<sup>24</sup>

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<sup>20</sup> Cf. e.g.: *ibidem*.

<sup>21</sup> Cf. e.g.: *ibidem*.

<sup>22</sup> Cf. e.g.: *ibidem*.

<sup>23</sup> Cf. e.g.: *ibidem*.

<sup>24</sup> Cf. e.g.: *ibidem*.

On the basis of the analysed psychological opinions, it seems difficult to refer to the therapeutic aspect because court experts diagnose clients' psychic condition at the moment of expressing their consent to marriage, which means that they concern the time of the onset of marriage. It is often a time period very distant from the moment of issuing the psychological opinion. Identifying personality disorders sometimes concerns marriages which were contracted in the seventies, eighties or nineties.

Court experts, indicating, in particular cases, the etiology of personality disorders, refer to the generational family and education processes without pointing to genetic theories or those stemming from neuropsychology. With the exception of the borderline personality case, we deal with a broad differential diagnosis, which indicates considerable difficulty in diagnosing personality disorders in clients. This difficulty is a consequence of the fact that a court expert examines a rather distant past period, as well as the practical difficulty in defining personality disorders, which is mentioned in trade literature.<sup>25</sup>

The number of cases brought before ecclesiastical courts is inconsiderable: merely 156 cases within five years with the marriage annulment verdicts, in 122 cases points to the proportional spreading of personality disorders in the population.<sup>26</sup> The average age of clients applying for the invalidation of their marriage is approximately 30, with the duration of marriage not exceeding 10 years, which indicates stable and long-lasting disability of conduct with an expanding dysfunctional area which brings about serious disunion and destroys the relationship with the partner.<sup>27</sup>

Apart from comparing the aforementioned results with the research data published in trade literature, it could also be concluded that the group of clients applying for marriage annulment certificates is relatively representative, although one diocese is restricted to a certain degree. The results of the Roman Rota judiciary activity can be proportionally revealed as the sentences are published five years after their announcement and concern all the appeals from the whole Catholic Church. In *Decisiones seu Sententiae*, 2007, out of 127 published sentences, 70 concerned psychic incapability, 37 of which resulted in the invalidation of marriage. Issues of psychic nature were discussed in the case of 52 men and

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<sup>25</sup> Cf. e.g.: J. N. Butcher, J.M. Hooley, S. Mineka, *Psychologia zaburzeń DSM-5*, Sopot 2017, pp. 412–413.

<sup>26</sup> Cf. e.g.: *ibidem*, p. 411.

<sup>27</sup> Cf. e.g.: *ibidem*.

31 women. From all personality disorders, antisocial personality disorder was distinguished only in two cases, narcissistic personality disorder was identified in another two cases, whereas borderline, paranoid and obsessive-compulsive personality disorders were distinguished in only one case.

Comparing the results of the Roman Rota from 2007 with the overall results from the Diocese of Toruń in the period of 2012–2016, one could discern, at a glance, a significant difference concerning the number of cases. In the Diocese of Toruń in the period of 2012–2016, 156 cases concerning consensual incapability were considered where opinions of court experts from the field of psychology or psychiatry were formally required in order to give judicial decisions.

However, in the Roman Rota as many as 127 cases were submitted within just one year. It makes a significant difference, as far as the time span and the number of cases are concerned. In the Roman Rota only one calendar year was needed to judge an approximate number of cases to that judged by the diocese within a five longer time span. This may indicate the rising awareness of matrimonial rights among spouses with regard to the institution of marriage contracted before God. Another comparison of results of both institutions can be made when it comes to the reasons for the psychic incapability, where almost identical disorders can be distinguished in many cases. In the most numerous group they consist mainly of antisocial and narcissistic personality disorders. It proves that irrespective of the place of residence, the main factor which enables the pronouncement of the invalidation of marriage is the same indicator in the form of the aforementioned personality disorders. An interesting fact is that there is a lack of other psychic disorders such as borderline, obsessive-compulsive or avoidant personality disorders. The disorders listed above occur sporadically and in insignificant number of cases. It only strengthens the significance of the first conclusion concerning the repeatability of cases and the main reasons for the invalidation of marriage regardless of the place of residence.

## 6. Conclusion

The following conclusions can be drawn on the basis of the analysis performed in the study. The age of applicants for the invalidation of marriage: Men –  $M=37,04$ ;  $SD=7,90$ ; Women –  $M=34,98$ ;  $SD=8,07$ . The duration of marriage prior to annulment –  $M=13,23$ ;  $SD=8,24$ . Applications for the invalidation of marriage

were submitted by 62 men and 94 women. The positive judgement was ruled in 122 cases, whereas the negative judgement concerned 36 cases. The conclusions drawn from the analysis make it possible to demonstrate that the dominant personality disorder resulting in the invalidation of marriage is the antisocial personality disorder, followed by the narcissistic and dependent personality disorders. Out of 189 marriage annulment cases brought before the ecclesiastical court within the period of five years, 156 cases concern psychic incapability and the remaining cases concern other invalidation reasons.

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