

## Chapter 3

### Divorce

#### 3.1. History

##### 3.1.1. 1918 – 1949

Short after the rise of the CSR new regulation of marital relations was under preparation. As compared to the initial enthusiastic approaches the so called Marriage Amendment of 1919 (Act No. 320/1919 Coll.) was considerably compromising. It stipulated newly made marriages, legal obstacles to marriage, and divorce.

The Marriage Amendment had introduced, in addition to a church wedding, an option of a civil wedding as well as the possibility of divorce as a legal termination of marriage regardless of the religion of the spouses, and retained the earlier institute of marriage separation (*separatio a mensa et thoro*) which, however, did not have effects of legal termination of marriage as through granting marriage separation only the duty of spouses to cohabit became extinct.

Legal rules for divorce were rather complex. So called absolute grounds for divorce were given under the Amendment, however they also recognized so called relative grounds (irresistible aversion and breakdown of marital relations). The proceedings were complex and in some cases a separation suit had to be filed prior to petitioning for divorce.

Grounds for divorce were specifically enumerated under the provision of § 13, Marriage Amendment. When proving some of the specified grounds for divorce the married spouses were entitled to get the divorce granted. The grounds for divorce were listed as follows:

- a) adultery
- b) other spouse was sentenced to jail for a term of at least three years, or for a shorter term, but for a crime arising from, or committed under circumstances showing his/her perverseness;
- c) he/she deserted his/her spouse maliciously and did not return back within six months upon a court's notice,
- d) the spouse has premeditated to deprive his/her spouse of life or health;
- e) he/she was inflicting grievous bodily harm to his/her spouse or repeatedly insulting him/her;
- f) he/she was leading a licentious life;
- g) permanent or periodically repeated occurrence of mental disorder of one of the spouses