



MASARYK UNIVERSITY  
FACULTY OF LAW

# CZECH FAMILY LAW II.

MARRIAGE AND DIVORCE

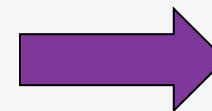
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updated by Radovan Dávid, 2015

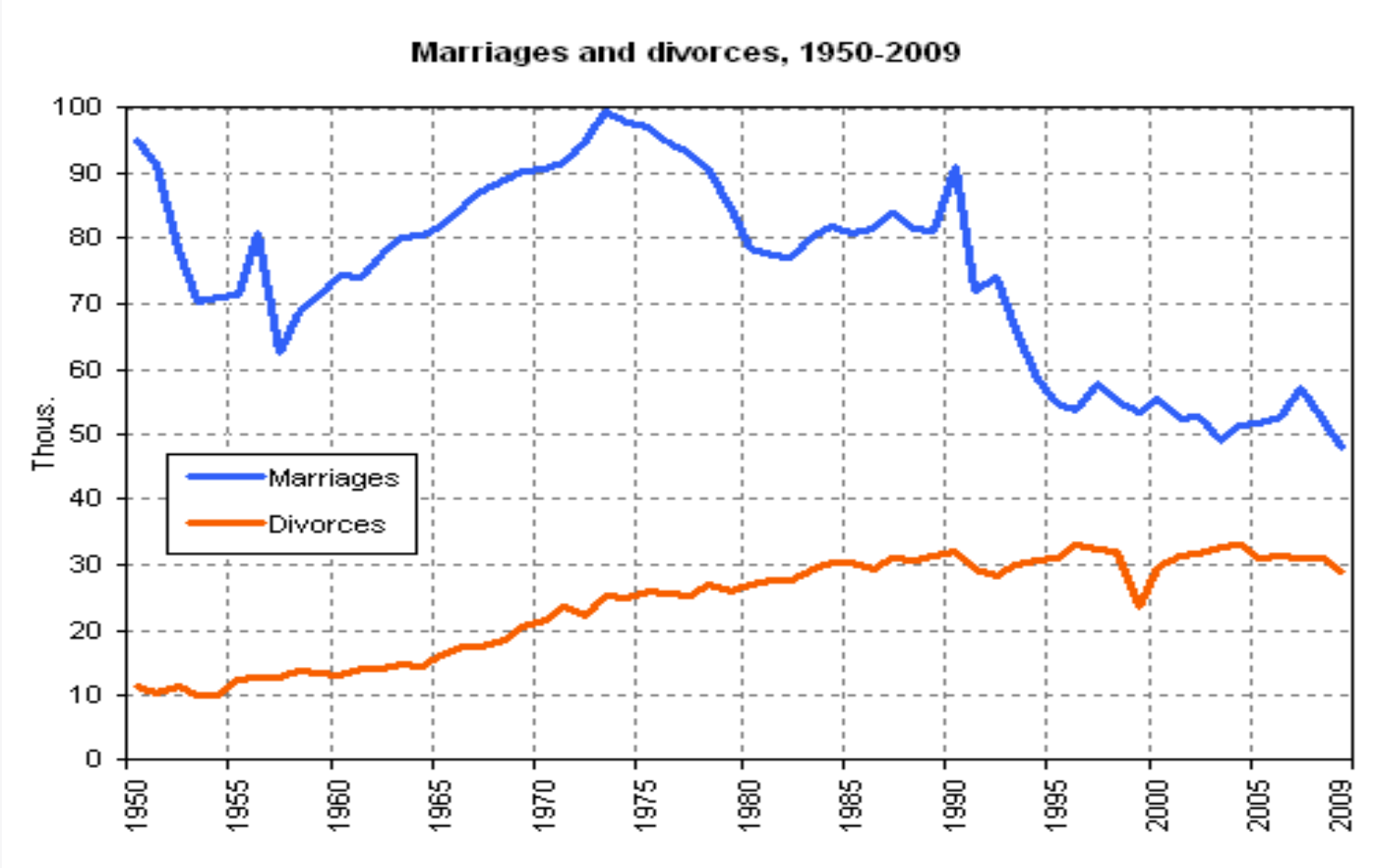


## WEAKENING MARRIAGE, PARENTAGE AND FAMILY LIFE after 1989?

- rejecting/delaying marriage
- low fertility rate: 1.2 child per woman
- marital instability: high divorce rate
- increase of quasi-marital unions: both homo- and hetero-sexual
- increase of children born out of wedlock: more than 30%
- increase of one-person households: 10%
- new problems: baby-boxes, „secret“ child births
- increase of international child abductions

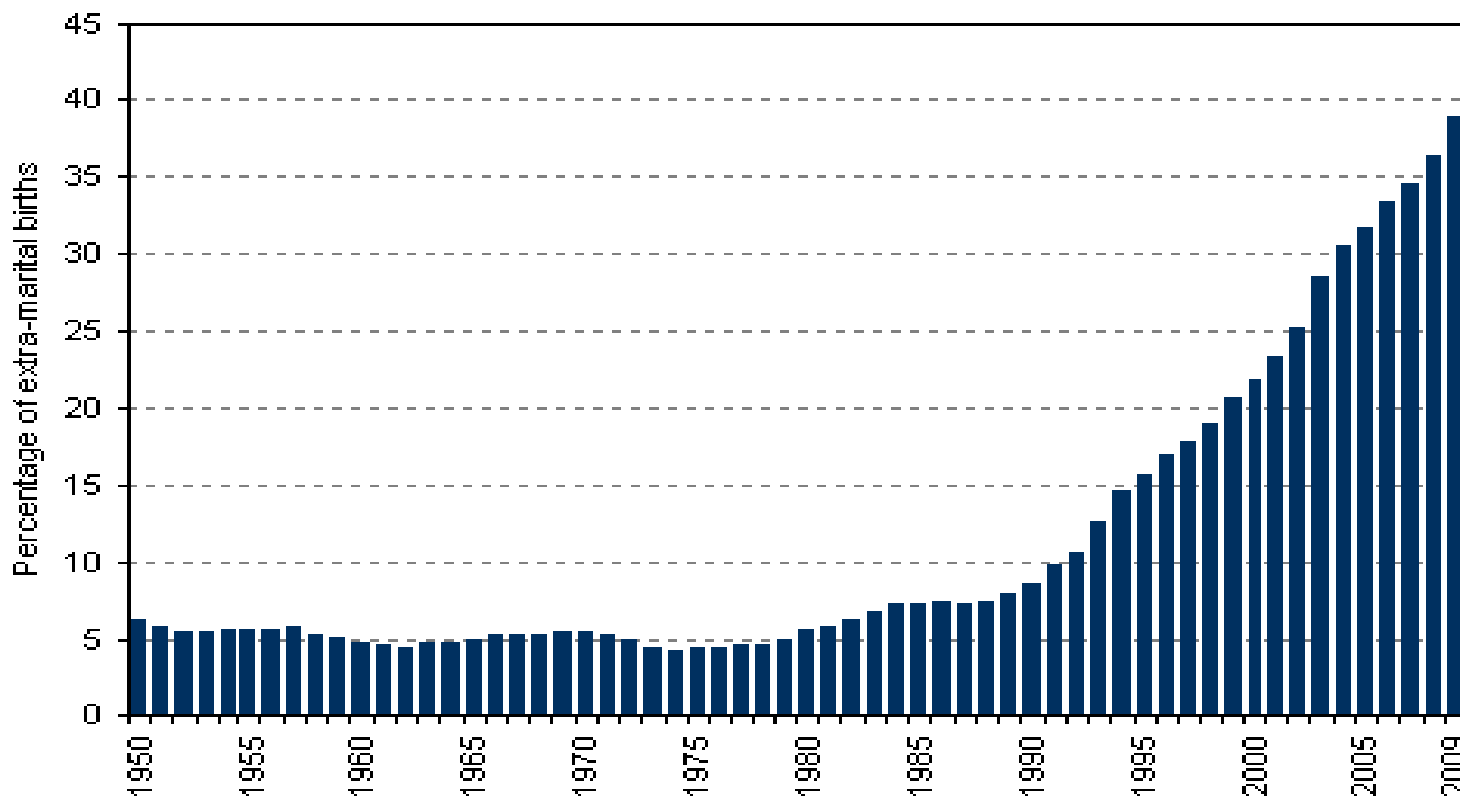
for more see [www.czso.cz](http://www.czso.cz)







Percentage of extra-marital births, 1950-2009





## THE NATURE OF MARRIAGE (CC No. 89/2012 Coll.)

- permanent cohabitation of a man and a woman
- the same sex couples are not allowed to get married  
matrimonium putativum  
since 1. 7. 2006 registered partnership



## IMPEDIMENTS TO MARRIAGE (672 - 679 CC)

- INFANCY (under 16 years: no ?, 16 - 18: permission)
- THE SAME SEX
- PRIOR MARRIAGE - REGISTERED PARTNERSHIP
- BLOOD AND ADOPTIVE RELATIONSHIP  
(siblings, ascendants - descendants)
- MENTAL ILLNESS AND INCAPACITY

## PROBLEMS:

- MATRIMONIUM NULLUM (court decision, effects: § 680 NCC)
- MATRIMONIUM PUTATIVUM (ex lege: § 677 NCC)



obligatory pre-matrimonial preparatory  
proceedings by register office documents,  
forms the aim: valid marriage

■ FOR CIVIL WEDDING

- date

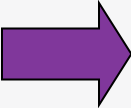
■ FOR CHURCH WEDDING

- certification



# CONCLUSION OF MARRIAGE

## mutual consent

- CIVIL WEDDING § 657 CC)
  - before municipality authorised to keep registers (some exceptions)
- CHURCH WEDDING (§ 657 CC)
  - before a church or a congregation registered by the state and with special rights (21) 
  - certificate not older than 3 months issued by register office (state) within obligatory pre-matrimonial preparatory proceedings
  - record in the state register is obligatory

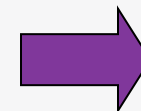


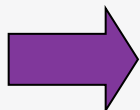


# CHURCHES AND RELIGIOUS SOCIETIES AND ASSOCIATIONS OF CHURCHES AND RELIGIOUS SOCIETIES IN THE CZECH REPUBLIC

## SPECIAL RIGHTS FOR RELIGIOUS WEDDINGS

- APOSTOLIC CHURCH
- BAPTIST UNION OF THE CZECH REPUBLIC
- SEVENTH-DAY ADVENTISTS CHURCH
- EVANGELICAL BRETHREN CHURCH
- CZECHOSLOVAK HUSSITE CHURCH
- CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS
- GREEK CATHOLIC APOSTOLIC EXARCHATE IN THE CZECH REPUBLIC
- ROMAN CATHOLIC CHURCH
- EVANGELICAL CHURCH OF THE CZECH BRETHREN
- EVANGELICAL CHURCH OF THE AUGSBURG CONFESSION IN THE CZECH REPUBLIC
- EVANGELICAL METHODIST CHURCH
- FEDERATION OF JEWISH COMMUNITIES IN THE CZECH REPUBLIC
- MORAVIAN CHURCH (UNITAS FRATRUM)
- BRETHREN ASSEMBLIES
- EVANGELICAL (LUTHERAN) CHURCH OF THE AUGSBURG CONFESSION IN THE CZECH REPUBLIC
- RELIGIOUS SOCIETY OF CZECH UNITARIANS
- RELIGIOUS SOCIETY OF JEHOVAH'S WITNESSES
- NEW APOSTOLIC CHURCH IN THE CZECH REPUBLIC
- ORTHODOX CHURCH IN THE CZECH LANDS
- SILESIA EVANGELICAL CHURCH OF THE AUGSBURG CONFESSION
- OLD CATHOLIC CHURCH IN THE CZECH REPUBLIC





## NO SPECIAL RIGHTS FOR RELIGIOUS WEDDINGS

- CHRISTIAN FELLOWSHIP CHURCH
- CZECH HINDU RELIGIOUS SOCIETY
- CHRISTIAN COMMUNITY IN THE CZECH REPUBLIC
- CENTRE OF ISLAMIC COMMUNITIES



# FAMILY SURNAMES (CC: § 660)

## ■ NAVRÁTILOVÁ

### ■ NAVRÁTILOVÁ

- no change for her,  
children: after mother or  
after father

### ■ LENDLOVÁ

- common family surname

### ■ LENDLOVÁ NAVRÁTILOVÁ

- double surname for her

## ■ LENDL

### ■ LENDL

- no change for him,  
children: after mother or  
after father

### ■ NAVRÁTIL

- common family surname

### ■ NAVRÁTIL LENDL

- double surname for him



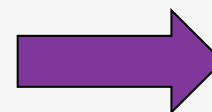
# PERSONAL RIGHTS AND DUTIES OF SPOUSES (CC: 687-689)

- **EQUALITY** (since 1920, thanks to the Constitution)
- to live together, to be faithful to each other, to mutually respect their honour and human dignity, to help each other and to represent each other and duty to create healthy living environment and background



# MARITAL PROPERTY LAW: JOINT PROPERTY OF SPOUSES (CC: § 708 et seq.)

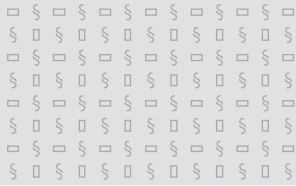
- legal scope
  - assets acquired by spouses during marriage (exceptions)
  - liabilities incurred by spouses during marriage (exceptions)





# MAINTENANCE DUTY (CC: § 697)

## THE SAME LIVING STANDARD



## DIVORCE LAW (CC: § 755 et seq.)

- ONE GROUND:

- BREAKDOWN:

- „matrimony is so deeply and permanently disturbed that re-cohabitation cannot be expected“*

- NO SPECIAL PROCEEDINGS:

- on the motion of one of spouses
  - spouse x spouse



## DIVORCE WITH MINOR CHILDREN (CC: § 755)

### DECISION ON CHILDREN:

- a) agreement between the parents approved by court or
- b) court's decision

on

**CUSTODY (INDIVIDUAL, COMMON, ALTERNATIVE)** (no: residence)

**MAINTENANCE** (no time limit, *clausula rebus sic stantibus*)

**VISITING RIGHTS**





## MAINTENANCE DUTY after divorce (CC: § 760 - 763)

### ■ ADEQUATE MAINTENANCE

- inability to provide for his/her maintenance from his/her own sources
  - Caused by marriage
- no time limits (in general)
  - *clausula rebus sic stantibus*:
    - new marriage
    - pension

### ■ THE SAME LIVING STANDARD

- not taking part in breakdown
- suffering harm due to the divorce
- 3 years limit