STUDIA Z PRAWA WYZNANIOWEGO | 2025
Vol. 28, 137–147
https://doi.org/10.31743/spw.18487
Received: Apr 8, 2025 | Accepted: Sep 18, 2025 | Published: Dec 22, 2025

A comparative analysis of religious marriage in the Czech Republic and England and Wales

Analiza porównawcza małżeństwa wyznaniowego w Republice Czeskiej oraz Anglii i Walii

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Abstract: This paper focuses on certain aspects of religious marriage that are common to the Czech Republic and England and Wales (e.g. legal impediment of age), as well as the differences between the two jurisdictions (e.g. same-sex marriage). All analyses were conducted with reference to canon law. The paper first presents an outline of the current legal framework regulating marriage and then proceeds to elaborate on how these countries distinguish between civil and ecclesiastical marriages. This is followed by a chapter on the understanding of marriage as a union between two people. In the Czech Republic, this understanding always includes only a man and a woman, while in England and Wales, "marriage" also applies to same-sex couples. The final chapter examines statutory age restrictions for marriage, noting a recent convergence in the minimum legal age considered in both jurisdictions.

Key words: religious marriage; civil marriage; same-sex couple marriage; Marriage Act, civil partnership; registered partnership; Marriage (Same Sex Couples) Act

Streszczenie: Niniejszy artykuł koncentruje się na niektórych aspektach małżeństwa wyznaniowego w Republice Czeskiej oraz Anglii i Walii. Przedmiotem rozważań są zarówno rozwiązania, które w obu systemach prawnych są podobne (np. przeszkoda wieku), jak i widoczne pomiędzy nimi różnice (np. małżeństwa osób tej samej płci). Wszystkie analizy są prowadzone z odniesieniami do prawa kanonicznego. Punkt wyjścia stanowi prezentacja przepisów prawnych, które regulują kwestie małżeństwa, po czym następuje omówienie sposobu, w jaki krajowi prawodawcy rozróżniają małżeństwa cywilne od wyznaniowych. Kolejna część dotyczy rozumienia małżeństwa jako związku dwojga ludzi. W Czechach rozumienie to zawsze obejmuje wyłącznie mężczyznę i kobietę, natomiast w Anglii i Walii pojęcie „małżeństwa" odnosi się również do związku osób tej samej płci. Przedmiotem ostatniej części artykułu są ustawowe ograniczenia możliwości zawarcia małżeństwa; zwraca się tu m.in. uwagę na niedawne decyzje, które doprowadziły do zbieżności rozwiązań dotyczących minimalnego wieku uprawniającego do zawarcia małżeństwa w obu jurysdykcjach.

Słowa kluczowe: małżeństwo wyznaniowe; małżeństwo cywilne; małżeństwa osób tej samej płci; Marriage Act, związek partnerski; zarejestrowany związek partnerski; Marriage (Same Sex Couples) Act

Introduction

Although the Anglo-Saxon and Continental legal systems differ significantly, many aspects of matrimonial law are highly similar in both systems. This is because, in both cases, matters related to marriage historically fell under the jurisdiction of the Roman Catholic Church. The norms governing matrimonial law derive from canon law, and this foundation remained intact even after the Reformation and the establishment of the

The article was written as part of the project SGS-2023-012 'State and Law in the Course of Time 4' being carried out at the Department of Legal History of the Faculty of Law of the University of West Bohemia in Pilsen.

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ISSN 2081-8882 eISSN 2544-3003

Church of England in the 16th-century.[1] Subsequent secularisation and societal changes from the 18th to the 20th centuries across Europe were also reflected in the issues of marriage and its legal regulations. However, the most significant divergence between legislations in the Czech Republic and in the United Kingdom of Great Britain and Northern Ireland (hereinafter: the UK), particularly in connection with the gradual legalisation of the possibility of entering into marriage for same-sex couples in the UK, occurred only in the last decade.

Legal regulations in the UK are complex and are based on the administrative division of the state into the individual countries of England, Wales, Scotland and Northern Ireland. Thus, the UK operates under three distinct legal systems that cover England and Wales, Scotland and Northern Ireland, respectively. This thesis mainly focuses on the legal systems of England and Wales, with occasional references to those of Scotland and Northern Ireland, and the Czech Republic, which, in comparison, does not have a similar historical division into regions with separate legal frameworks as in the UK.

1. Current legal frameworks and definitions of "marriage"

At present, the legal regulation of marriage in the Czech legal system is contained in Act No. 89/2012 Coll., Civil Code (hereinafter: the Civil Code).[2] This legislation forms part of a recodification of private law, which repealed Act No. 94/1963 Coll., on the Family, where marriage was previously regulated under its first part.

In contrast, in the UK, marriage-related concerns are contained in separate legislations and are not part of a uniform codification of private law. For example, in England and Wales, the Marriage Act 1949 (hereinafter: the Marriage Act) applies. This Act, effective from 1 January 1950, has been amended by subsequent legislations, often in an *ad hoc* manner, addressing specific areas rather than reflecting broader societal realities. Consequently, marriage law in the UK remains complex and, in many respects, incomprehensible, thereby necessitating comprehensive reform – a call echoed by legal experts, practitioners and the general public alike.

However, the Marriage Act does not define the concept of marriage *per se*. In the Czech legal system, "marriage" is defined as a permanent union between a man and a woman, the primary purposes of which are establishing a family, raising children and providing mutual support and assistance. This definition is rooted in the Christian tradition and is highly similar to the introductory provision on marriage in the Code of Canon Law from 1983 (hereinafter: CIC), although the CIC does not contain a legal definition of "marriage."[3] The opening provision reads, "The matrimonial covenant, by which a man and a woman establish between themselves a partnership of the whole of life and which is ordered by its nature to the good of the spouses and the procreation and education of offspring, has been raised by Christ the Lord to the dignity of a sacrament between the

1 Sandberg 2021, 13.
2 Marriage is regulated in Part Two, Chapter I, §§ 655–770 of the Civil Code.
3 Přibyl 2021, 9.

baptized."[4] The Church of England, similar to the Roman Catholic Church, considers marriage one of the most important moments in the life of a Christian. Although the Church of England adopted legal regulations and other principles regarding marriage from the Catholic Church, a key distinction exists: while the Catholic Church regards marriage as one of the Seven Holy Sacraments, the Church of England does not.[5] Instead, the latter considers marriage one of the lesser sacraments. Consequently, for Roman Catholics, it is an obligation to enter into a marriage in canonical form, and a civil marriage alone is insufficient. In comparison, this requirement does not apply to members of the Church of England.

2. Civil and religious marriages

Both legal arrangements, as outlined above, are based on Christian history when a marriage originally took place in a church or a similar space in front of a church representative, thereby allowing the betrothed to enter into a religious marriage. However, in the Czech Republic, this option was unavailable during decades of communist rule. The equal recognition of both forms of marriage in the country was only reintroduced by an amendment to the Family Act in 1992.[6] However, the legal regulation of the possibility – or even the obligation – to enter into a religious marriage is specified in a completely different way.

The Civil Code of the Czech Republic distinguishes between civil and religious marriages in § 657. In particular, civil marriages are officiated by a public authority in the presence of a registrar, while according to § 657, paragraph 2 of the Civil Code, religious marriages are concluded before the body of a church or religious society, which are authorised to do so in accordance with another legal regulation. Furthermore, according to § 7 paragraph 1 letter a) of Act No. 3/2002 Coll. on churches and religious societies, religious marriage ceremonies may be performed by registered churches and religious organisations. As such, 21 registered religious organisations in the Czech Republic currently have the right to solemnise ecclesiastical marriages, although not all of them exercise this right.[7]

In England and Wales, the Marriage Act also differentiates between the two basic types of marriage, although both are solemnised in accordance with the rites of the

4 Can. 1055 § 1 CIC.
5 Přibyl 2021, 11.
6 Šínová, Šmíd 2014, 88.
7 Specifically, they are the following churches and religious organisations: Apostolic Church, Brethren Unity of Baptists, Seventh-day Adventist Church, Church of the Brethren, Czechoslovak Hussite Church, Church of Jesus Christ of Latter-Day Saints, Greek Catholic Church, Roman Catholic Church, Czech Brethren Evangelical Church, Evangelical Church of the Augsburg Confession in Czech Republic, Evangelical Methodist Church, Federation of Jewish Communities in the Czech Republic, Unity of the Brethren, Christian Congregations, Lutheran Evangelical Church a.c. in the Czech Republic, the Religious Society of Czech Unitarians, the Religious Society of Jehovah's Witnesses, the New Apostolic Church in the Czech Republic, the Orthodox Church in the Czech Lands, the Silesian Evangelical Church of the Augsburg Confession and the Old Catholic Church in the Czech Republic.

Church of England (Church of Wales[8]). At the same time, other types of marriages are solemnised in different ways. Marriages solemnised in other ways include civil marriages solemnised at the registry office or in approved premises, marriages "according to the usages of the Society of Friends" (commonly called "Quakers"), marriages "between a man and a woman professing the Jewish religion according to the usages of the Jews" and marriages in any place of worship registered under the Places of Worship Registration Act 1855 and Section 41 of the Marriage Act.[9] The last category of marriages thus includes all other religions,[10] except those explicitly mentioned, the Church of England, Society of Friends and Jews. In this respect, the influence of the Church of England and partial indirect discrimination against other religions, for which the requirement to register the place where the wedding ceremony is to take place as a place of worship, have been significantly manifested. As such, the difference between the approaches to individual religions is rather the result of historical peculiarities and not the solutions of fundamental questions.

Both legal systems are based on a certain principle of registration, but in the Czech Republic, registration applies to the entire church or religious group, not to a specific place of marriage. Hence, it might seem that, even in this country, some religions experience discrimination when they are not registered. However, in the Czech Republic, registration and the subsequent granting of the exercise of special rights, including the right to perform church marriage ceremonies, are based on history and, at present, on the support and number of members or believers of a given religion. Hence, the provisions on religious marriage apply to registered churches and religious societies without distinction. In comparison, the Marriage Act discriminates between religions by setting distinct rules for different churches and religious groups.

Throughout the world, it is common practice for believers of different religions to enter into civil marriages and – before or after them – complete religious ceremonies that no longer have legal effects for the state. In neighbouring Germany, for example, everyone was obliged for a long time to first enter into a civil marriage, and there was no option to choose between a civil or church marriage.[11] Therefore, German Catholics had to undergo two ceremonies – a civil one and a church one. In this respect, the Czech and English legal systems are more lenient for Catholics, respectively Anglicans, as they only have to enter into a religious marriage, under which the state already considers them to be married. However, in both countries, couples can still enter into civil and religious marriages. In the Czech Republic, there are specific rules for this. On the one hand, according to § 670 of the Civil Code, if the engaged couple enters into a civil marriage, the subsequent religious ceremonies no longer have legal consequences. On the other hand, it is expressly forbidden to enter into a religious marriage first and then into a civil marriage.

8 Under the Welsh Church Act 1914, the Church of England in Wales was abolished in 1920. However, it was also ensured that this would not affect marriage law and that, in relation to marriage law, the term "Church of England" would continue to be understood as including reference to the Church of Wales.

9 Section 26 of the Marriage Act.

10 The Roman Catholic Church is among them.

11 Robbers 2019, 123.

The Marriage Act, in comparison, does not explicitly state that it would be possible to enter into a civil marriage followed by a religious ceremony. However, the Church of England itself allows for this variant.[12]

3. Marriage of two people

Both the Czech Republic and England and Wales maintain the principle of monogamy. Polygamy in any form is not permitted in either legal system. In the Czech legal system, the existence of a continuing marriage, registered partnership or other similar union concluded abroad is expressly listed among the legal obstacles to marriage.[13] Although the Marriage Act also considers an existing marriage or registered partnership as an impediment to entering into a new marriage, the former is not explicitly specified as an impediment. This provision merely states that in the notice of marriage, each person seeking to be married must state whether he or she has previously entered into a marriage or civil partnership and how that marriage or civil partnership ended.[14] Thus, it goes without saying that the existence of a previous marriage is also considered an obstacle to marriage under canon law,[15] which cannot be dispensed with. If these previous status unions cease to exist or are annulled, both ecclesiastical[16] and civil remarriages can be validated with *ex nunc* effects. However, convalidation does not have any effect on the criminal liability of the spouse who enters the marriage, even if that spouse is prevented from doing so by a marital impediment.[17]

As stated above, marriage concerns only two people. However, the fundamental difference between the two countries is the distinction between who these people are supposed to be. In the Czech Republic, marriage is possible only between a man and a woman. Since 1 July 2006, same-sex couples can enter into a so-called registered partnership,[18] which is also a status legal relationship,[19] but on the basis of which registered partners do not have the same rights and obligations as spouses. Therefore, a registered partnership is often considered a less significant bond than a civil marriage. Based on the provisions of § 2 paragraph 2 of the Act on Registered Partnerships, a registered partnership may only be concluded before the registry office; therefore, it is also analogous to a civil marriage.

Effective from 1 January 2025, an amendment to the Civil Code, Act No. 123/2024 Coll., was adopted, based on which same-sex couples can enter into a new type of union (i.e. a partnership). This institution of partnership is much closer to marriage, and as

12 Church of England priests perform special ceremonies after a civil marriage, https://www.churchofengland.org/prayer-and-worship/worship-texts-and-resources/common-worship/marriage#mm107 [accessed: 30 January 2024].
13 § 674 of the Civil Code.
14 Section 27 subsection (3) and Section 28B subsection (2) of the Marriage Act.
15 Can. 1085 § 1 CIC.
16 Hrdina 2002, 309.
17 Polišenská, Feberová, Stuchlík 2017, 171.
18 Act No. 115/2006 Coll., on Registered Partnership (hereinafter: Act on Registered Partnerships).
19 Králíčková, Hrušáková, Westphalová 2022, 50.

such, partners have most of the rights and obligations of spouses.[20] However, the institution of registered partnerships has not ceased to exist. Although a registered partnership can no longer be entered into, a previously concluded registered partnership remains valid if the registered partners do not enter into a partnership under the Civil Code, due to which their registered partnership will thereby cease to exist.

The UK is more modern in this respect, although even there, the evolution towards same-sex marriage has not been straightforward and has had its limitations. In 1971, the Nullity of Marriage Act was passed, prohibiting same-sex marriage in England and Wales. In 2004, the Civil Partnerships Act was adopted effective December 2005, according to which civil partners had almost the same rights and obligations as spouses. This Act also allowed for same-sex civil partnerships but not same-sex marriages. Therefore, a civil partnership is the equivalent of what the Czech legal system calls a "registered partnership." At the same time, the term "civil partnership" copied the pattern of civil marriage and lived up to its name in that it was a civil partnership and not a church partnership. As such, a civil partnership could not be concluded on religious premises, and a religious service could not be used.[21] This distinction managed to remove the opposition of some traditional Christian churches.[22] Thus, in both Czech and English legal systems, there was a distinction between marriage, which could be contracted in either a religious or civil manner, and registered (civil) partnerships, which could only be contracted in a civil manner.

However, some religious organisations have expressed interest in concluding civil partnerships. This led to the introduction of an amendment to Section 202 of the Equality Act 2010,[23] which changed Section 6 of the Civil Partnership Act 2004 and removed the ban on partnerships on church premises. A new provision was also inserted into the law, stating that religious organisations would no longer be obliged to conclude civil partnerships if they did not wish to do so.

A major change came on 17 July 2013, when Queen Elizabeth II gave Royal Assent to the Marriage (Same Sex Couples) Act in England and Wales – an Act that was agreed upon by both Houses of Parliament on 16 July 2014, thereby amending the Marriage Act 1949. Under this amendment, same-sex couples have been able to marry since 29 March 2014. Like the Marriage Act itself, this amendment only applied to England and Wales.

The same-sex marriage bill has sparked protests from several religious organisations in England. The most vocal opponents were, understandably, the Catholic Church and the Church of England. These were followed by the Muslim Council of Great Britain and the highest representatives of the Jewish community, which also opposed the law. Some religious organisations feared that they would even be forced to marry same-sex couples in the wake of the same-sex marriage bill. In contrast to the Civil Partnership Act, the draft law included the possibility of marrying same-sex couples at a religious ceremony without any restrictions.

20 Šínová, Westphalová 2024, 13.
21 Section 6 of the Civil Partnership Act 2004.
22 Cretney 2006, 25.
23 Cranmer 2015, 67.

The government also accepted the argument that religious organisations should not be forced to marry same-sex couples unless they wish to do so themselves. Thus, the inviolability of the protection of religion was incorporated into the discussion of the draft law using the so-called four-step lock. There were actually four provisions with similar meanings. The first "lock" consisted of an explicit declaration that it was inadmissible to compel any religious organisation or individual clergy to marry same-sex couples or to allow such a ceremony to take place within their premises. Under the second "lock," each religious organisation would be entitled to decide for itself whether to integrate same-sex marriage into its regulations. To marry same-sex couples, religious organisations would have to explicitly opt in, but even so, it would not be possible to force the clergy to marry these couples if they did not agree, despite the statements of their respective religious organisations. The third "lock" would be an amendment to the Equality Act 2010, which would make it impossible to discriminate in any way against religious organisations or individual clergy for refusing to marry a same-sex couple or not providing their premises for such ceremonies. The fourth "lock" would apply only to the Church of England, thereby recognising its unique status as an established church whose understanding of marriage cannot be interfered with by the government through its legislation. Furthermore, this lock states that the legislation cannot break the canonical precepts of the Church of England and that it would be illegal for the Church to marry same-sex couples until the canonical precepts are changed. All these locks have been adopted by the government, but illogically across legislation and not just in the Marriage (Same Sex Couples) Act 2013.[24]

Although the Marriage (Same Sex Couples) Act 2013 established that the marriage of same-sex couples is legal and that, in English law,[25] such marriage has the same effects as that of an opposite-sex couple,[26] it introduced an opt-in system for religious same-sex marriages.[27] This system could not be used by a couple intending to marry, but by any religious organisation, except the Church of England, which was subject to other provisions under the fourth lock.[28] The first lock was enshrined in Section 2 subsections (1) and (2) of the Marriage (Same Sex Couples) Act 2013, according to which no person or religious organisation may be compelled to engage in opt-in activities or conduct, consent to, be present at, perform or otherwise participate in the marriage of persons of the same sex/gender, if the reason for not doing so is the fact that the marriage in question concerns a same-sex couple. The amendment to the Equality Act 2010, and thus the third lock, can be found in Section 2 subsections (5) and (6) of the Marriage (Same Sex Couples) Act 2013 and amended its Section 110 provision, which states that an employee remains personally liable for wrongful acts committed in the course of employment if the employer is also responsible. Therefore, it does not apply in relation to the refusal to enter into a marriage of persons of the same sex, agree to it, be present at it, perform it or otherwise participate in it, if the reason for the refusal to enter into the marriage is the

24 Sandberg 2021, 24.
25 Section 1 subsection (1) of the Marriage (Same Sex Couples) Act 2013.
26 Section 11 of the Marriage (Same Sex Couples) Act 2013.
27 Section 4 and 5 of the Marriage (Same Sex Couples) Act 2013.
28 Section 1 subsection (3), (4) and (5) of the Marriage (Same Sex Couples) Act 2013.

fact that it is a same-sex marriage. The Act further added a new Part 6A to Schedule 3, which states that it is not considered discrimination in relation to goods and services if a person does not conduct, consent, be present at, perform or otherwise participate in a same-sex marriage if the reason for the refusal is that the marriage in question concerns a same-sex couple.

Most religious organisations, particularly the largest ones and not only Christian ones, do not allow such marriages, even after the adoption of the same-sex marriage law. Nevertheless, there are some relatively smaller Christian churches that allow same-sex marriages. Among these, the most prominent religious organisations allowing such marriages are the Quakers and Unitarians, the Dutch Church in London, Liberal Judaists and Reform Judaism, Oasis Church Waterloo in London, Episcopal Church of Scotland and the United Reformed Church.

Other countries in the UK and individual dependencies gradually joined in legalising marriage for same-sex couples. Among these, Scotland followed England the fastest, as the Scottish Parliament passed the Bill on 4 February 2014 and the Queen signed it on 12 March 2014 under the title Marriage and Civil Partnerships (Scotland) Act 2014. Effective December 2014, this act amended the Marriage Act for Scotland in 1977. In the Isle of Man, the Marriage and Civil Partnership Act was passed in 2016, becoming effective on 22 July 2016. This Act was based on the same framework as that used in England and allowed marriage to be concluded in a civil or church ceremony. In the States of Guernsey, a law on same-sex marriage was adopted in 2016, coming into force on 2 May 2017.[29] In Jersey, the relevant law legalising the marriage of same-sex couples was adopted in 2018, amending the Law on Marriage and Civil Status from 2001. The most complicated situation occurred in Northern Ireland in which marriage equality proposals were voted on several times in parliament, but the proposals were not approved until 2015. However, the approved proposal was vetoed by the Democratic Unionist Party. It was not until the Northern Ireland Act 2019, passed by the UK Parliament in 2019, that Northern Ireland was ordered to legalise marriage for same-sex couples and to end the criminalisation of abortion by 13 January 2020 at the latest. However, the Parliament of Northern Ireland was unable to pass a quorum and was unable to challenge the said law. On this basis, marriage equality for all was introduced on 13 January 2020.

4. Legal impediment of age

One of the basic legal impediments, already based on canon law, is the impediment of lack of age. This impediment is conceived of as setting the lowest possible age limit for entering into marriage. Normally, the age limit is set at 18 or 21 years. In the Czech Republic and England and Wales, the same age limit of 18 years is currently set, but it used to be different for a long time. Moreover, in neither jurisdiction does the age limit apply absolutely.

[29] However, the law did not apply to the islands of Alderney and Sark.

The Civil Code does not explicitly specify an age limit for marriage in the provisions relating to marriage. In particular, § 672 paragraph 1 stipulates that a minor who is not fully capable of legal capacity cannot enter into marriage. According to § 30, paragraph 1 of the Civil Code, the age of majority is acquired upon reaching the age of 18 years. However, this age limit is not unbreakable. In exceptional cases, the court may allow a minor who has reached the age of 16 to enter into marriage if there are important reasons for this.[30] One important reason for allowing such a marriage is a partner's pregnancy.[31] However, in the event that a person over the age of 16 entered into a marriage without the permission of the court, such a marriage would be established, but may be declared invalid if there had been no convalidation. At the same time, if a person under the age of 16 were to enter into marriage, it would not take place at all; rather, it would be seen as a putative marriage.[32] However, the reduced age limit does not apply to registered partnerships because it is clearly stated that a registered partnership cannot be entered into by a person who has not reached the age of 18.[33] No exception is allowed.

Legal impediments to entering marriage are addressed right at the beginning of the Marriage Act. Analogous to that, it is also addressed by the Civil Partnership Act. In England and Wales, it was possible until 2022 for individuals from the age of 16 to marry if they secured parental consent, and this applied to couples of different and same sexes without distinction. This situation was reformed in 2022, when the Marriage and Civil Partnership (Minimum Age) Act of 2022 was enforced. It amended not only the Marriage Act but also the Civil Partnership Act,[34] according to which it was also possible to enter a civil partnership from the age of 16. The age limit for marriage and civil partnership has thus increased to 18 years.[35] The law also made it impossible to conduct so-called wedding tourism to Scotland or Northern Ireland, where the age limit was 16 years, parental consent was not required to enter into a marriage and the presence of two witnesses was sufficient.[36]

Canon law establishes the obstacle of lack of age in a different way and with a distinction between the sexes of the betrothed. Specifically, men are required to be 16 years of age, and women are required to be only 14 years old.[37] At the same time, can. 1083 § 2 CIC enabled bishops' conferences to set a higher age limit for legal marriage. In general, the recommendation is that bishops should respect state legislation and raise the age of the betrothed based on civil legislation. In fact, the so-called lame marriages could be concluded, which are deemed valid in church but not legally valid under civil law. In a legal system in which the state recognises the civil effects of religious marriages, there should be no collisions.[38]

30 § 672 paragraph 2 of the Civil Code.
31 Šínová, Šmíd 2014, 107.
32 Králíčková, Hrušáková, Westphalová 2022, 53.
33 § 4 paragraph 4 letter c) of the Act on Registered Partnerships.
34 Section 1 and 3 of the Marriage and Civil Partnership (Minimum Age) Act 2022.
35 Section 2 of the Marriage Act a section 3 of the Civil Partnership Act.
36 Section 6 subsection (2) of the Marriage and Civil Partnership (Minimum Age) Act 2022.
37 Can. 1083 § 1 CIC.
38 Přibyl 2021, 67.

Conclusion

As noted in the introduction, although the legal regulation of religious marriage represents an elaborate system due to its centuries of development, the exclusive position of the church in concluding marriages and the Czech and English legal systems being initially based on canon law, the development of society is increasingly moving towards a different understanding of marriage. In particular, the modern stance considerably widens the gap between the traditional understanding of marriage in the Church as a permanent union between a man and a woman. At the same time, the state issuing a completely new piece of legislation, which only cosmetically changes the existing legislation, as in the Czech Republic, is not to be considered a sign of modern lawmaking. Although the Civil Code has modified the entire matter regarding marriage, it does not follow the trend that appears in other states regarding marriage. While England has a relatively old law on marriage in force, it can amend it in accordance with the opinions of the population, thereby reflecting current social realities. Yet, it would be more advisable to adopt a completely new and clear law on marriage.

The established model of allowing religious marriages in both states benefits society and the population, even if the numbers of believers and religious marriages are gradually decreasing. One can also agree with the situation in England, wherein religious organisations are not forced to recognise and/or officiate same-sex marriages or registered partnerships if they do not want to. Nevertheless, it would be appropriate to eliminate – in some respects – the differences between the rights of religious organisations in marriage, especially in England.

Both the Czech Republic and England Wales are strictly secular when it comes to annulment. Although the parties may choose a religious ceremony at the time of marriage, the dissolution of marriage is fully at the discretion of the courts of the respective state, and religious organisations cannot interfere. Here, it is completely understandable that the state does not leave this authority to the churches, especially when the Catholic Church understands marriage as an indissoluble bond. As such, the possibility of dissolution of a religious marriage would be considerably limited. The most common option for terminating a church marriage is to annul a marriage or declare it invalid from the very beginning. The actual annulment of a marriage is possible in the case of a marriage that has not been consummated or on the basis of the privilege of faith (*privilegium fidei*). With respect to civil legislation, the practice is that one or both spouses can request a decision on an annulment from a church court but only with a divorce judgement from a civil court.

References

Cranmer, Frank. 2015. "Quakers and the Campaign for Same Sex Marriage." In: *Religion and Legal Pluralism*, ed. Russell Sandberg, 64–86. Farnham: Ashgate Publishing.

Cretney, Stephen. 2006. *Same Sex Relationships: From Odious Crime to "Gay Marriage."* Oxford: Oxford University Press.

Hrdina, Antonín. 2002. *Kanonické právo*. Praha: Eurolex Bohemia.

Králíčková, Zdeňka, Milana Hrušáková, Lenka Westphalová et al. 2022. *Rodinné právo*. Praha: C.H. Beck.

Polišenská, Petra, Radka Feberová, Zdeněk Stuchlík. 2017. *Musíš znát… Rodinné právo. Manželství*. Praha: Wolters Kluwer ČR.

Přibyl, Stanislav. 2021. *Kanonické manželské právo*. Nová Ves pod Pleší: Hesperion.

Robbers, Gerhard. 2019. "State and Church in Germany." In: *State and Church in the European Union*, ed. Gerhard Robbers, 109–124. Baden-Baden: Nomos.

Sandberg, Russell. 2021. *Religion and Marriage Law. The Need for Reform*. Bristol: Bristol University Press.

Šínová, Renata, Ondřej Šmíd et al. 2014. *Manželství*. Praha: Leges.

Šínová, Renata, Lenka Westphalová. 2024. "Partnerství, registrované partnerství, manželství – aneb proč to dělat jednoduše, když to jde složitě?" *Bulletin advokacie* 6: 13–18.