

1. Proceedings during marriage proceedings
2. Proceedings after annulment | divorce | separation

1. PROCEEDINGS DURING MARRIAGE PROCEEDINGS

If the consistorial councils did not come to a verdict on the main proceedings in the summary proceedings, but instead ordered one or both spouse(s) to provide evidence, it was necessary to find rules for the duration of the evidence proceedings. In many cases, the conditional judgment included the right to live separately for the duration of the evidence proceedings. If this right was not included, the spouse who no longer wanted to cohabit had to file for additional proceedings in which a separate place of residence could be requested. The approval of the separate place of residence was also a prerequisite for being awarded provisional maintenance during the evidence proceedings. Provisional maintenance, for yourself or any children, had to be applied for in additional proceedings. If the separated couple could not agree on which parent the children should live with, they had to apply for the provisional regulation of custody of the children either at the secular courts or at the consistory.

We therefore divided the additional proceedings, which were mainly conducted parallel to the main proceedings into four categories:

- **Separate place of residence:** The plaintiff asked to be allowed to live separately from the opponent during the trial.
- **Provisional maintenance:** The plaintiff asked to receive maintenance payments from the opponent for the duration of the trial.
- **Provisional custody of child(ren):** The plaintiff requested custody of all or certain children for the duration of the trial.
- **Miscellaneous:** We have assigned all those proceedings in which the plaintiff demanded the surrender of certain documents – usually the marriage contract – or certain items – from table linen to clothing, bed and furniture to jewelry – to this category.

2. PROCEEDINGS AFTER ANNULMENT | DIVORCE | SEPARATION

Regardless of whether the court annulled the marriage, divorced it or just granted one spouse the right to live separated from their spouse for a limited period of time, the consequences of the annulment, divorce or separation had to be regulated. If the judgment in the main proceedings did not contain any relevant decisions, these questions also had to be negotiated in additional proceedings. Based on the legal interest, we have divided these additional proceedings, which were seldom negotiated before the consistory, into four categories:

- **Award Maintenance:** The plaintiff asked to be granted the right to maintenance.
- **Determine Maintenance:** The plaintiff already had right to receiving maintenance and requested that the amount of the maintenance be determined.
- **Custody of Child(ren):** The plaintiff requested custody of all or certain children.
- **Division of Property:** The plaintiff requested a decision on the division of the marriage property.

AMENDING THE MAINTENANCE

The source sample also contains a few proceedings in which husbands asked the consistory to reduce the amount of maintenance they had to pay to wives and any children or applied for the maintenance title to be withdrawn. In order to be able to differentiate these proceedings from maintenance proceedings for the awarding of maintenance, we divided them into the following categories:

- **Alter Maintenance:** The plaintiff demanded that the amount of maintenance be redetermined.
- **Revoke Maintenance:** The plaintiff demanded that the maintenance title be revoked.

Andrea Griesebner, Juni 2020, Translation Jennifer Blaak

Last update: Andrea Griesebner, December 2020

Next sub-item: Provisional regulations

Citation: Andrea Griesebner, Method » Start » Divorce Consequences » Ecclesiastical Jurisdiction (1558-1783), in: Webportal. Marriage at Court 3.0, 2024, <http://ehenvorgericht.univie.ac.at/?lang=en&page_id=10686&pdf=10686>. [Date of access: 2024-10-18]