

Gambling Addiction and Declaration of Nullity of Marriage at the Church Interdiocesan Tribunal in Split (2000 – 2020)

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Abstract - This research paper is based on the investigation of over 1000 lawsuits for the declaration of nullity of marriage initiated at the Church Interdiocesan Tribunal in Split between 2000 and 2020. The main aim of this research paper was to focus on the lawsuits connected with the canon 1095, n. 3, especially on the problems of gambling addiction. The materials were analysed synthetically, and data were collected on a number of lawsuits conducted under this canon and on specific reasons for filing a lawsuit. Data on annulment of matrimony were also collected. The data are presented in an anonymous and aggregated manner. Descriptive and inferential statistical methods were used. The paper consists of a theoretical part and methodology, which includes the motive of the paper, the description of the sample used and the criteria of inclusion, materials, methods and procedures of paper, and the presentation of the results, together with the discussion of the results.

Key words: marriage; church tribunal; behaviour, addictive; gambling; nullity

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Introduction

Gambling addiction has been on the increase recently, affecting negatively not only the addict, but also the family, friends and a wider community. Moreover, problem gambling affects also marriages, i.e. the prospect of a successful and harmonious relationship between spouses, as well as the prospect of establishing a marriage between people affected by this problem. The society as a whole, as well as the Church itself face the consequences of this addiction, mostly through strained relationship of addicts with their environment, or

legal and existential issues of a certain number of not validly established marriages due to gambling addiction of at least one spouse. Since no survey on gambling addiction and declaration of marriage nullity has been conducted so far, this paper aims to publish data collected at the Church Interdiocesan Tribunal in Split for the period of 20 years (from 2000 to 2020). The data will be used for initial analysis of actual situation and for preventive-therapeutic treatment of marriages and families of affected persons.

The aim of this paper is to reveal data pertaining to the number of lawsuits conducted on the grounds of this addiction, the percentage of marriages declared nulled, and anagraphic data of persons involved in lawsuits, particularly of addicted persons' sex. Descrip-

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tive statistics methods were applied. Statistical data will be described, as well as tables and figure.

The paper consists of theoretical and methodological part. After a brief description of the legal basis for declaring a marriage nulled on the grounds of gaming addiction, there is a description of the phenomenon itself, its symptomatology, followed by research methodology, along with the results and discussion.

Dr. Josip Delić, President of the Catholic Inter-Diocesan Tribunal and Judicial Vicar has approved the required consents and ethical aspects of using lawsuits for the purpose of this research. All individuals involved in the proceedings for marriage nullity have given their consent to the Tribunal for retention and use of data pertaining to the case, as well as personal and family data required for handling the procedure properly and establishing potential reasons for marriage annulment. All this data, with Tribunal's consent, is presented in this research paper in an exclusively anonymous manner. The research participants were sworn to secrecy, anonymity and confidentiality in protecting personal data of all subjects in the analysed lawsuits. Moreover, anonymity of individuals is furthermore guaranteed by collective presentation of results and non-disclosure of personal data.

Gambling Addiction and Causes for Marriage Declared Nulled

Gambling addiction like any other addiction to psychoactive drugs can affect a person's eligibility for marriage, which baptized people consider a sacrament (cf. Can. 1055 § 2). It should be noted that The Code of Canon Law does not list addiction as a single legal ground for marriage nullity and that Church court practice does not hold addiction per se as a legal ground for declaring a marriage invalid. Considering the impact of any addiction (gambling addiction, too) on personality structure, its manifestation and the ability of authentic commitment and education of offspring, gambling addiction can be identified

as a reason for marriage incapability, i.e. its invalidity according to Can. 1095, i.e. the most commonly nr. 3 of the Canon [1]. In the process of proving marriage invalid, in which one spouse claims that the cause of troubled marriage and family relationship, as well as termination of marriage lies in problem gambling, various aspects should be taken into consideration and be juxtaposed. Since incapability must be present at the moment of giving consent, and given the fact that this should be genuine incapability and not just a difficulty, a very important although not decisive role is played by expert witnesses in diagnosing the addiction, assessment of its intensity and the influence on person's wellbeing and functioning [2]. They express their expert opinion in line with the rules of their field or discipline, and in line with the principle of Christian anthropology, providing an answer to the questions posed by the judge. In cases of incapacity due to lack of sufficient use of reason, the expert witness is asked „whether the anomaly seriously disturbed the use of reason at the time of the celebration of the marriage; and with what intensity and by what symptoms it manifested itself“ [3]. In cases of lack of discretionary judgement an expert is invited to answer the question what the effect of the anomaly was on the critical and elective faculty for making serious decisions, particularly in freely choosing a state in life and marriage [3]. In cases of incapacity to assume the essential obligations of marriage, the expert is asked „what was the nature and gravity of the psychic cause on account of which the party would labour not only under a serious difficulty but even the impossibility of sustaining the actions inherent in the obligations of marriage“ [3]. Critical faculty implies practical understanding of matrimonial rights and duties, as well as the person's capacity to decide independently to sustain the actions inherent in the obligations of marriage, to choose freely the marriage, by adhering to marriage contract in itself, its motives and impact on your own life. Incapacity of assuming essential obligations of marriage, although present in time of con-

tracting a marriage, refers to the period afterwards, i.e. to marriage „*in facto esse*“. It is the incapacity of accepting a minimum required for 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 (cf. Can. 1055). Bearing in mind the aforementioned consequences of addiction on mental health, behaviour and relationships of a person, it is clear that this kind of addiction is increasingly part of church lawsuits on marriage nullity.

Gambling Addiction - a Rising Phenomenon

Various kinds of casinos and betting shops have almost inconspicuously permeated our society. Automat clubs, casinos and sport betting shops have become part of our everyday life, just like any other social facility (e.g. shops, newsstands, cinemas, schools). Besides that, they take up ever more space in the advertising sections of different media, where for example sports betting shops are regularly being advertised half-time of sports matches. The latest example in Croatia is a sports betting shop becoming the title sponsor of highest rank in Croatian football, which will since next season officially carry the name of this sports betting shop [4]. This should come as no surprise if sports betting leads some people to gambling addiction, while for others it poses a potential threat for developing serious addiction. The term *sports betting* actually links betting and gambling phenomenon to sports; likewise gambling in automat clubs or casinos is linked to entertainment and pastime [5]. No matter how these phenomena are perceived, they have undoubtedly become part of our everyday life, to which we have adjusted without asking any questions, while on the other side these seemingly harmless games often conceal serious addiction, which in turn causes suffering in personal and family life.

Consequences on the Family

The consequences of gambling addiction on families can be classified into four main

characteristics: a “concerning” increase in your own gambling activities or of others, false expectations, family discord and dysfunction, as well as financial difficulties. As some family members become increasingly involved in gambling activities, other family members follow in their footsteps. That leads to unrealistic expectations, which ultimately causes stress, tension and strained relationships. It all results in dysfunctional family relationships, with bitter arguments and broken relationships, along with financial difficulties and further deterioration of relationships [6].

A family with a gambling addict is seriously compromised and hurt and both, so both the addict and the family members need help, regardless of the fact whether they are involved in gambling themselves or not. A good therapist must work with them, so as to prepare them for further potential problems. The family must financially separate themselves from the gambling addict – no matter how difficult it is, and break away completely from them [7]. Families with a pathological gambler are often laden with mental diseases, due to which they are regarded as chaotic and dysfunctional. Studies with spouses confirm serious family issues, which include psychological difficulties, emotional or physical violence and inadequate relationships. In such families the number of divorces is much higher. The reason for that might lie in mood swings and various substance abuse. On the other side a hypothesis might be suggested that a pathological gambler in the family enhances the onset of psychological issues with other family members. It is probably due to a combination of genetic predisposition and corresponding behaviour patterns of pathological gamblers [7].

Results

This research paper deals with matrimonial process for the declaration of nullity based on Canon 1095 § 3. It refers to incapacity for marriage due to anomalies pertaining to mental issues. Among these reasons are also gambling addiction. Out of 957 lawsuits for marriage

Table 1. Marriage declared null according to Canon 1095, n. 3

	Frequency	Percent
Not applicable	672	70.2
Marriage declared null	62	6.5
Marriage not declared null	223	23.3
Total	957	100.0

Table 2. Psychiatric diagnoses and nullity of marriage

	Frequency	Percent
Other	154	56.2
Gambling	22	8.0
PTSD	18	6.6
Psychoactive agents	80	29.2
Total	274	100.0

annulment, which have been dealt and completed at the Church Interdiocesan Tribunal in Split, 672 were not conducted according to this Canon (70.2 %). 285 (29.8 %) lawsuits were handled according to this Canon, out of which 223 (23.3 % of the overall number) were declared null, whereas 62 (6.5 % of the overall number) were not declared null (which does not imply that they were absolutely valid, but only that they were not declared null) (Table 1). Since Canon 1095, n. 3 is complex in its nature, in this paper it has been divided according to reasons which led to marriage nullity. This research paper builds up on another paper in which the results of this division according to categories have already been published [8]. The aim of this paper was to

analyse further the phenomenon of gambling addiction and its role in processes for marriage nullity. The results of the previous paper are considered an introduction and a factor for better understanding our results in relation to gambling. Examining the criteria within Canon 1095, n. 3, following results are obtained: "...most persons had issues with diminished mental capacity due to substance abuse (80), while a smaller number of persons had issues with games of chance (22), or suffered from post-traumatic stress disorder (PTSD) (18). In other lawsuits (154) other reason of mental illnesses are stated" (Table 2) [8].

Games of chance are listed in only 8 % of marriages declared null according to Canon 1095, n. 3 (Table 3, Figure 1), and if all the lawsuits handled at the Tribunal from 2000-2020 were taken into account, this percentage would be 2.38 %, since it is known that Canon 1095, n. 3. is stated in 29.8 % of all lawsuits handled in this period (it should be noted that some marriages were declared null based on more than one legal ground).

This paper focuses particularly on the relationship between sexes in relation to gambling issues. The results show that in all lawsuits based on this legal ground, petitioners were women. Thus, in the period of 20 years all cases with such issues were initiated by female petitioners (legally speaking, the parties do not sue each other, but rather legally challenge the validity of marriage, and in that sense the term petitioner is more appropriate, although in le-

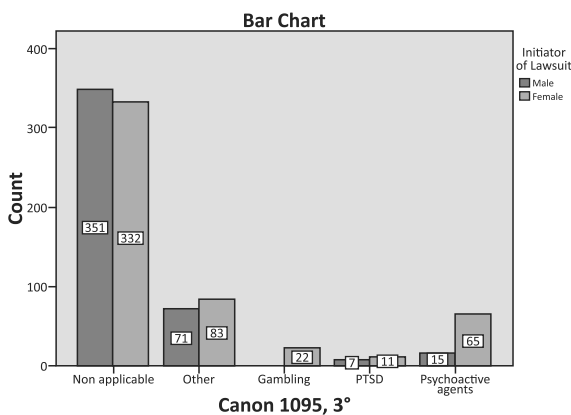
**Figure 1.** Lawsuit initiator.

Table 3. Distribution of marriages declared nulled and those not declared as such.

	Declaration of Nullity		Total
	Not declared nulled	Declared nulled	
Not applicable	108	575	683
Other	30	124	154
Canon 1095, 3°			
Gambling	0	22	22
PTSD	0	18	18
Psychoactive agents	1	79	80
Total	139	818	957

gal practice the term plaintiff is more common, so the other party is considered automatically a respondent).

The results also show that absolutely all cases at the Tribunal under this legal ground ultimately resulted in marriage being declared nulled (Table 3). Of the overall 22 cases, all marriages were declared nulled.

Discussion

Gambling issue is not just a problem of the affected individual in question, but also of the whole family and the society. This research paper focuses in particular on the relationship between pathological gambling and the sacrament of marriage, i.e. the effect of this disorder on validity of marriage. The widespread availability of games of and a sharp increase in general public affects not only the individual, but also the family and the society, thus seriously challenging important relationships. Primarily affected are spouses and children, who often suffer psychological and physical abuse, which they unwillingly reveal, due to their close relationship with the pathological gambler [9]. In dealing with the phenomenon of pathological gambling the emphasis has so far been more on the mechanisms which led to development of this disorder, as troubled parental relationships, financial difficulties in the family, age, sex, academic success and education of the father whereas the consequences

of this disorder on families and marriages has not been in the focus of research [10-12]. According to clinical experience symptoms of depression, substance use, impulsivity and anti-social behaviour are present with gambling addicts. However, the role and consequences of the mentioned variables in development of this disorder varies from case to case [13]. Researches show that gambling addicts exhibit predominantly mood swings, especially anxiety and/or depression. Members of Gamblers Anonymous show higher levels of depression than a control group, while women score higher than men. Anxiety and dissociation prove to be the best predictor for men, while gloomy mood and use of stimulants might be symptoms of pathological gambling among females [13]. Neuroticism as a risk factor can nurture development of gambling addiction, but can also be the consequence of gambling or gambling related problems, such as financial difficulties, family issues, sense of guilt and fierce anger [14].

As regards validity of the sacrament of marriage, it is important to establish when the addiction began: whether it was present before entering the marriage and whether the other spouse was familiar with this issue, or whether it began after the sacrament of marriage has been established. In case this disorder was evident before entering the marriage, whereby the other spouse was not aware of the disorder, according to can. 1098 this spouse was

deceived by malice and was concealed an important information about the partner, which automatically makes the marriage invalid. If the addiction appeared after marriage was validly established, then the validity of marriage itself is not compromised; however, it is questionable whether the married couple would continue to live together, as well as their children, which is by all means a grave consequence for the family. Furthermore, in order to better understand this phenomenon it is worth noting that among addicts the number of males is significantly higher than the number of females, which is particularly evident in the fact highlighted by this research that all cases have been initiated by women due to their husband's gambling addiction [15]. This points to the need of delving deeper into this problem, although not within this research, because the circumstances of the beginning of addiction among predominantly male population should be further researched. In our opinion it is vital to research not only family relationships, but also the effect of sociological factors, as well as pastoral preparation for the sacrament of marriage, which in this case proved inadequate in identifying and preventing invalidly established marriages. Early intervention with couples and including other family members in treatment of addicts have proved to be of use [16].

The percentage of marriages declared invalid due to gambling seems low in relation to the overall number of cases, but keeping in mind how severe his issue is, it is free to say that the trend is concerning and that it should be tackled very seriously, whether during marriage counselling, or as prevention during marriage preparation for engaged couples. The results of this research have been obtained by analysing cases for marriage nullity at the Church Tribunal, which indicates gambling as

a serious family and social problem significantly harming individual's capacity to bond and fulfil conjugal obligations, as well as take responsibility for their potential offspring. The fact that almost all cases on grounds of gambling were declared invalid, proves how detrimental this addiction can be to individual's mental health. It also indicates that sex differences are a valuable predictor for developing pathological gambling, especially in cases of gambling which developed after stressful events [17].

The results of this research correspond with the set goals. They are of vital importance primarily to canonical lawyers with the view of further researching this phenomenon, as well as to pastoral care workers and family and marriage counsellors, whose focus is on prevention and supporting healthy family and marital relationships. Future research into this topic should delve into psycho-social causes of this phenomenon and identify the factors which contribute to the emergence of this addiction, as well as establish which factors contribute to its development, especially in the context in which this research has been carried out. Finally, it would be of great use to research the circumstances which had led to the resolution to terminate a marriage, thereby living with the stigma of a divorced person in a predominantly religious society.

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Conflict of interest

None to declare.

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