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Interim evaluation, evaluation framework, baseline and interim measurement

Evaluation of the Dutch Spousal Maintenance Reform Act

Management Summary

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MANAGEMENT SUMMARY

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0 Management summary

0.1 Background

On 1 January 2020, the Dutch Spousal Maintenance Reform Act (*Wet herziening partneralimentatie*, below: the Act) came into force. The most important reform resulting from the Act concerns the duration of spousal maintenance: the maximum term of twelve years has been reduced to a maximum of five years, or equal to half the duration of the marriage (in case of a marriage/registered partnership[1] that lasted less than ten years). The Act provides for an evaluation within a period of eight years, which must take place in 2027. The present study is an interim evaluation, which serves as preparation for the final evaluation.

To this end, we first developed an evaluation framework and in the second phase of the study we carried out a baseline measurement (in retrospect). We also investigated the provisional effects of the Act on specific points that were promised to the Senate, namely: economic independence, the financial consequences, the situation of people entitled to maintenance with young children, the use of the hardship clause and borderline cases in the exception clauses:

The central research question of this study is:
What is the aim of the Spousal Maintenance Reform Act and what assumptions are made about how these objectives will be achieved (effective mechanisms)? Which indicators can be distinguished on the basis of the policy logic and what was the baseline position[2] of these indicators at the time the Act was introduced? What initial results can already be observed?

The corresponding research questions are divided into questions about the reconstruction of the policy logic, the development of indicators, the performance of a baseline measurement and specific questions for the interim evaluation, as promised to the Senate:

***Part A:** reconstruction of the policy logic: What is the aim of the Spousal Maintenance Reform Act and what assumptions are made about how these objectives will be achieved (effective mechanisms)?*

This part of the study focused on developing an evaluation framework for the final evaluation scheduled for 2027. The following sub-questions were central:
1. What objectives did the legislator intend to achieve with the Spousal Maintenance Reform Act?
2. What implicit and explicit assumptions underlay these objectives?
3. What are the assumed effective mechanisms by which the intended objectives would be achieved?
4. What positive or negative side effects could occur?
5. What contextual factors could influence the extent to which the objectives can be achieved?

***Part B: indicators and baseline measurement:** Which indicators can be distinguished based on the policy logic, and what was the baseline position for these indicators when the Act was introduced?*

This part of the study involved translating the policy logic into measurable indicators and conducting a baseline measurement based on data available at the time the Act was introduced (reference year 2019). This will enable a reliable impact assessment to be carried out in 2027.
1. Which indicators can be distinguished based on the policy logic?
2. From which data sources could these indicators be measured in a valid and reliable manner?
3. What was the baseline position for these indicators at the time the Act was introduced (baseline measurement for reference year 2019)?

***Part C**: interim evaluation: What initial results can already be observed?*

In this part of the study the preliminary effects of the Act were identified. In addition, differences in outcomes were examined between individuals under the new situation compared to those under the old situation (cohort study). Given the short period of time that has elapsed since the Act came into force, the questions can only be answered indicatively on the basis of initial data.

[1] For the sake of readability, the summary and report will refer exclusively to 'marriages'.
[2] The baseline position refers to the results of the baseline measurement.

1. Economic independence: Is the shortened maintenance period sufficient for people entitled to maintenance to become economically independent? Economic independence means that the maintenance recipient finds work that enables them to support themselves.
    a) To what extent has there been an increase in female labour participation in general since the introduction of the Act? What role do contextual factors such as the economic climate and the COVID 19 crisis play in this? To what extent are these developments in line with the trend in the years prior to the introduction of the Act?
    b) Since the introduction of the Act, to what extent have people entitled to maintenance succeeded in becoming economically independent during the maintenance period? To what extent do maintenance recipients claim benefits after the maintenance period has ended?
    c) To what extent are maintenance recipients with young children able to find work during the maintenance period?
    d) To what extent are maintenance recipients aged 50 and over able to find work during the maintenance period? What can be said about the seven-year period that applies to the temporary exception for people aged 50 and over?
    e) Are there any indications that specific groups (e.g. based on educational attainment) experience difficulties in finding work?
2. Financial consequences: what can be said about the financial consequences for the State of the shortened maintenance period?
    a) Are there any indications that the shorter maintenance period will result in higher costs, for example because of increased reliance on benefits and allowances?
    b) Are there any indications of additional revenues, for example from work due to increased labour participation or additional revenues because less spousal maintenance can be deducted for tax purposes?
3. Hardship clause: to what extent is the hardship clause effective in preventing distressing situations?
    a) How often and in what situations is the hardship clause invoked?
    b) How often and in what situations is the invoked hardship clause granted?
4. Borderline cases:
    a) Are there any indications that the fifteen-year limit concerning marriage/registered partnership for exceptional cases is too broad or too narrow, given that the average length of marriage is fifteen years?
    b) With regard to the exception for marriages with young children: are there any indications that the age limit of twelve years for children is too broad or too narrow?
5. Comparison divorce cohorts: What differences can be observed based on the relevant indicators when comparing the 2019 divorce cohort with the 2020 divorce cohort?

0.2 Methods

The study consisted of three interrelated phases:

- *Phase 1: Developing an evaluation framework.* In the first phase of the study, an evaluation framework was developed, consisting of a reconstruction of the policy logic (the expected effects of the legislative amendment and the underlying mechanisms) and a set of measurable indicators to assess these effects. This framework is based on:
    - a desk study of the legislative history and relevant literature;
    - one-on-one interviews with stakeholders from policy and practice.
- *Phase 2: Baseline and interim measurement.* In the second phase of the study, the baseline measurement and interim measurement were carried out. The following research activities were performed:
    - based on CBS Microdata, differences in the expected effects (indicators) were identified between divorce cohorts before and after the legislative change (2017–2019 versus 2020–2022);
    - public data sources, as well as additional data from the LBIO and the judiciary, were used to further interpret contextual factors and relevant developments;
    - court rulings on the application of the hardship clause were analysed;
    - interviews were conducted with professionals[3] to gain a better understanding of how the law works in practice.
- *Phase 3: Analysis and reporting.* Finally, all findings were analysed in conjunction with each other and then integrated into a final report.

[3] The appendix contains an overview of the professionals we spoke with.

0.3 Conclusions

Based on the study, the following conclusions can be drawn for each sub-question:

Conclusions with regard to research questions Part A:

Answers to sub-questions A1, A2, and A3

With the Spousal Maintenance Reform Act, the legislator aimed to achieve three objectives through three separate mechanisms:

1) Faster (increased) labour participation through financial incentives: the explicit assumption behind this is that a long maintenance period does not encourage maintenance recipients to work (more). By shortening the maximum spousal maintenance period, those entitled to it need to provide for their own income quicker. This would encourage them to work (more) in order to generate their own income again.
2) A shorter maintenance period will enable maintenance payers to rebuild their lives more quickly: the explicit assumption behind this is that a long-term financial responsibility on the part of maintenance payers towards their ex-partners acts as a barrier if they wish to move on with their lives after the divorce. After all, they have less money left to make choices that will enable them to build a new life. A shorter maximum spousal maintenance period should ensure that the disposable income of those obliged to pay maintenance increases in the shorter term, enabling them to rebuild their lives more quickly after the divorce. The initiators regarded this as fairer and more balanced at a time of greater emancipation in the labour market.
3) Fairer obligations will lead to shorter divorce proceedings and less complex divorces: The explicit assumption behind this is that long-term spousal maintenance (of a maximum of 12 years) was increasingly perceived as unfair (from a social perspective), which fuelled conflict and discontent between ex-partners. According to the legislator, the shorter maximum maintenance period of 5 years would help both ex-partners to agree more easily on financial arrangements after a divorce, which would facilitate a smoother divorce process.

To prevent the Act from leading to distressing situations[4], several exceptions apply:

- In the case of a long marriage (longer than 15 years) where the maintenance recipient will be entitled to the Old Age Pension within 10 years: the maintenance period continues until the recipient is entitled to the Old Age Pension.
- In the case of a long marriage where the maintenance recipient will not be entitled to the Old Age Pension within 10 years and was born on or before 1 January 1970: the maintenance period is ten years. Because of the link to the date of 1 January 1970, this provision will lapse seven years after the Act takes effect.[5]
- In the case of people caring for young children (under 12 years old): the maintenance period continues until the youngest child reaches the age of 12.

All these exceptions are intended to act as a longer financial bridge for these three groups, since the risk of distressing situations without such a bridge was considered too high by the legislator. In 'unreasonable situations' that are not covered by these exceptions, maintenance recipients may request an extension of the period from the court, on the basis of the hardship clause[6] in the Act. The main objective of both the exceptions and the hardship clause is to prevent distressing situations from occurring.

Answers to sub-question A4

Stakeholders (some of whom were involved in the consultation phase of the law) have pointed out that the new law could have a number of side effects:

- Positive: *Fewer court cases about the amount of maintenance:* the idea behind this is that a person entitled to maintenance will be less likely to initiate legal proceedings if the period during which they receive spousal maintenance is relatively short. The costs (and possible stress) of legal proceedings will then outweigh the benefits of a higher maintenance amount.
- Negative: *After a divorce, maintenance recipients will be more likely to take jobs for which they are overqualified.* After all, recipients will need to find work more quickly in order to support themselves and will therefore be more inclined to take a job that does not match their level of education.

[4] 'Distressing situations' refers to recipients who no longer receive spousal maintenance, while they cannot yet reasonably be expected to provide for their own income.

[5] This extension is intended by the legislator to give this group, for whom the threshold for re-entering the labour market is higher due to their age, time to prepare for the legislative amendment. The assumption is that after seven years, the legislative amendment will be sufficiently well known, rendering this exemption provision unnecessary.

[6] Maintenance recipients may invoke the hardship clause if, according to standards of reasonableness and fairness, the termination of spousal maintenance cannot be required of them. The hardship clause is intended to prevent distressing situations for maintenance recipients who do not fall within the exception groups.

- Negative: *An increase in the number of applications for extension of spousal maintenance may occur*. Maintenance recipients will need to be able to support themselves more quickly, but it is expected that they will not always succeed in this within five years. In such cases, people are likely to submit requests for the extension of spousal maintenance in order to be provided for.
- Negative: *Increased reliance on social security benefits:* It is likely that some of the (former) maintenance recipients will not immediately (re)enter the labour market and will therefore not be able to earn their own income in time. As a result, they will be more likely to rely on social security benefits.

Answers to sub-question A5

The following contextual factors may have an influence on the effectiveness of the law, either according to the legislator (in the build-up to the amendment) or according to the stakeholders (who were interviewed for this study):

- Assumption of independence and equal opportunities: the law assumes that men and women have equal opportunities in the labour market. Based on this view of the labour market, it is considered realistic that people entitled to maintenance will be able to (re)enter the labour market within a reasonable period of time and thus be able to provide for themselves again after five years.
- Emancipation, female participation in the labour market and the division of work and care tasks between partners: in addition to equal opportunities, it is also important to consider how partners deal with the division of roles in the household. If partners' views on this division of roles are emancipated, it can be expected that the labour participation of men and women will be (virtually) equal and that work and care tasks will be divided evenly, which will promote the intended effect of the law. In practice, traditional views on the division of work and care tasks are still widespread, and women on average still work fewer hours in paid employment than men.
- Financial independence: The financial independence of men and women influences the extent to which maintenance recipients are able to provide for themselves after the spousal maintenance period. Women's financial independence has continued to increase in the years prior to the legislative change. However, men are still more likely to be financially independent than women.
- Economic context: The economic context can influence both the number of divorces and the (financial) consequences of a divorce. Economic developments that are relevant in this context include the COVID-19 crisis, the labour market shortage, inflation and the housing shortage.
- Related policy: The Act is part of a broader trend in government policy and legislation aimed at further promoting women's participation in the labour market. This includes, among other things, adjustments/extensions to maternity leave and parental leave and policy on childcare. The implementation of this policy will also influence the implementation of the Spousal Maintenance Reform Act.
- Developments in trends concerning forms of cohabitation: this contextual factor is influential because forms of cohabitation that do not involve marriage or registered partnership fall outside the scope of the law. In the build-up to the legislative amendment, there was a downward trend in the number of marriages, while at the same time there was an upward trend in the number of registered partnerships.

Conclusions with regard to research questions Part B:

Answers to sub-question B1

Based on the policy logic, indicators can be distinguished at the levels of ‘input’, ‘mechanisms’, ‘output’, ‘outcome’ and ‘context’. The table below provides a complete overview of indicators per level, including the corresponding data sources that can be used to measure the indicators.

Level	Indicator	Source
Input	Number of people entitled to spousal maintenance, by target group	CBS Microdata
	Number of people receiving spousal maintenance, by target group	CBS Microdata
	Number of people paying spousal maintenance, by target group	CBS Microdata
	Amount of spousal maintenance received, by target group	CBS Microdata
	Amount of spousal maintenance paid, by target group	CBS Microdata
	Legitimate duration of the maintenance period, by target group	CBS Microdata
Mechanisms	Sources of income during the maintenance period, by target group	CBS Microdata
	Employment status and number of hours in paid employment during the maintenance period, by target group	CBS Microdata
Output	Duration of spousal maintenance period, by target group	CBS Microdata
	Employment status and number of hours in paid employment after the maintenance period, by target group	CBS Microdata
	Sources of income and income level after the maintenance period, by target group	CBS Microdata
	Number of legal proceedings and provisional measures[7]	Literature
Outcome	Increased financial independence	CBS Microdata
	Increased labour participation of women	CBS Microdata
	Increased purchasing power of ex-partners	CBS Microdata
	Smoother divorce procedures	Legal analysis, literature and interviews
Context	Social developments/trends: labour participation, emancipation, division of work and care tasks, number of marriages, number of divorces, opportunities on the labour market, education and training opportunities	Literature
	Economic developments/trends: labour market shortages, inflation, housing shortages	Literature
	COVID-19 crisis	Literature
	Related policy (including parental leave arrangements, childcare policy)	Literature
	Development of the state pension age	Literature

Answers to sub-question B2

The following can be said about the data sources with regard to the basis they provide for a valid and reliable measurement:

- CBS Microdata: In order to accurately measure the effectiveness of the policy logic, it is important that links can be made between certain indicators. This concerns links between indicators on spousal maintenance as a legal instrument (such as the amount and duration of spousal maintenance under 'input'), their impact (sources of income, employment situation and number of hours in paid employment during the maintenance period under 'mechanisms') and certain outcome measures (such as employment situation, income level, labour participation and purchasing power after the maintenance period under 'output' and 'outcome'). Since Statistics Netherlands (CBS) has access to personal-level administrative data for all these indicators, with CBS Microdata it is possible to directly link measurements of these indicators. By comparing different cohorts from both before and after the legislative amendment and weighing the results in conjunction with the relevant contextual factors, CBS Microdata are an ideal source for measuring the effects of the Act.
- Legal analysis: In order to properly assess how the law is applied in practice, particularly in exceptional cases and requests for extension based on the hardship clause, both public judgments on Rechtspraak.nl and non-public files of the Council for the Judiciary (RvdR) can be consulted. These documents not only contain the judgments, but also the grounds on which former partners invoke legal provisions and the considerations that family court judges take into account in their decisions. These documents, therefore, provide essential information about the reasons why the law is applied in certain ways. It should be noted, however, that not all judgments are digitally archived[8], and that a comprehensive analysis would therefore require requesting physical files from the various courts.
- Literature: In order to measure the effects of policy logic in a valid and reliable manner, it is also important to compare measurements of possible effects with developments in relevant contextual factors. This makes it easier to explain why certain effects do or do not occur as intended, and to what extent this is due to developments in certain contextual factors. Various public sources are available that enable these contextual factors to be measured/monitored. These include:

[7] Provisional measures are temporary decisions that judges can make in divorce cases if partners cannot agree on certain matters.
[8] The recent file research we conducted as part of the evaluation of the Act on the right to contact or access after partner homicide (2023) showed that only half of the court rulings that had to be examined had been made available digitally by the Council for the Judiciary (Rvdr).

- Statistics Netherlands publishes annual public statistics via CBS Statline on indicators such as the number of marriages/registered partnerships, the number of divorces, labour participation of men and women, and economic developments. Periodic publications can also be used, such as the Emancipation Monitor, in which Statistics Netherlands compiles and analyses research data on specific themes.
- (Public) figures from other agencies that deal with divorce, such as the LBIO, the Council for the Judiciary and the Legal Aid Board. For example, the Knowledge Centre of the Legal Aid Board provides public data on its website on, e.g., the number of additions in divorce cases and who requests these additions (social lawyers or mediators).
- Other (periodic) reports from bodies such as the Netherlands Institute for Social Research (SCP) and the Netherlands Bureau for Economic Policy Analysis (CPB).

- Interviews (with professionals in the field): Another way to gain better insight into how the law is being applied and how its effects are being experienced is to interview those who deal with it in practice. An important group in this regard are professionals in various roles who deal with divorce. It should be noted, however, that different agencies each only see part of the impact of the law and have little or no insight into other aspects. Interviews are also a more subjective source than the sources mentioned above. This makes interviews an ideal source for identifying experiences and reflections that are not included in factual sources, but it also requires critical reflection when interpreting and comparing the findings.

Answers to sub-question B3

In this study, the above-mentioned data sources were used to perform both a baseline and interim measurement. Based on the public data, the following can be said about the baseline position of the relevant context factors in the reference year 2019 (baseline measurement):

- Financial independence: in 2019, 54 percent of women were financially independent. This percentage was significantly lower than for men (76 percent).
- Female labour participation: in 2019, there had been an upward trend in the net labour participation of women for a number of years: that year, it stood at 66 percent. This meant that net labour participation was still slightly lower than that of men (74 percent in 2019). In 2019, women worked an average of 0.42 FTE and men 0.61 FTE.

Conclusions with regard to research questions Part C:

Answers to sub-questions C1 and C5

a. General labour participation since the Act (2020). The upward trend in female labour participation was already visible before the legislative change and continued after 2020:

- Between 2014 and 2024, the proportion of women in employment rose by eight percentage points; in the period after the Act came into force (2020-2024), the proportion of women in employment rose by 3.4 percentage points.
- Within the group of people entitled to spousal maintenance, labour participation is around 70 percent in the year of divorce and then rises only marginally in the years following the divorce; in 2023, it even declined slightly. On balance, the trend since 2020 is largely in line with the existing social trend.

The shortening of the maintenance period has not (yet) had a demonstrable additional impact on the labour participation of women or maintenance recipients.

b. Financial independence and benefits. Maintenance recipients gradually become more financially independent in the years after their divorce:

- There is no clear link between the year of separation (before or after the introduction of the legislative amendment) and the extent to which financial independence increases. Of those entitled to maintenance who were not financially independent at the time of the separation, approximately one third achieve independence within two years.
- It is important to note that formal financial independence is already achieved with an annual income of approximately €20,600. This is below the poverty line for a single person and therefore says little about actual livelihood security.
- Benefit use remains low (in the years after divorce under survey): 3-4 percent receive social assistance or other social benefits as their primary source of income, and this percentage declines mainly in the first year after divorce, after which it stabilises. The shortening of the maintenance period has not had a visible effect on this (as yet).

c. Maintenance recipients with young children (< 12 years). The labour participation of those entitled to maintenance with young children (<12 years) is high and stable:

- On average, 75 percent of this group is employed, rising to around 80 percent in the youngest cohorts (2021-2022). The number of hours worked in paid employment by this group is also increasing.
- In the pre-amendment cohorts and in the 2020 cohort, the proportion of people working 25 hours per week or more rose from 30 percent to approximately 40 percent within three years. The growth is less pronounced in the cohorts

after 2021, but they do start with a larger employment contract (more hours) (immediately after the separation, more than a third work at least 25 hours).

d. Maintenance recipients of 50 and over. The labour participation of the group of people aged 50 and older who fall under the temporary exception (> 15 years of marriage, > 10 years before Old Age Pension (AOW), birth before 1970) in the post-amendment cohort is higher than in the cohorts of 2017-2019. However, in all cohorts, the proportion of people in employment in this group falls by around 2 percentage points after approximately two years and then stabilises. The labour participation of women in older age groups is increasing, which lowers the risk of distressing situations after the seven year period of the temporary exception has ended.

e. Bottlenecks for specific groups. There is no clear (significant) difference in the increase in labour participation among people entitled to maintenance according to educational level. However, highly educated people do have a higher labour participation rate, and their labour participation is growing slightly faster in the years after their divorce (+ 2 percentage points three years after divorce compared to a stable picture among people with low and medium educational levels). Age shows more variation: younger groups show the largest increase, while those aged 50 and over stabilise again after a brief increase in labour participation. In the interviews, professionals mainly identify obstacles for low-educated and older recipients in finding sustainable work, but the quantitative data do not (yet) provide a hard confirmation of this.

Answers to sub-question C2

a. Higher costs for the State. For the time being, there are no clear indications that shortening the maintenance period has led to higher public expenditure on benefits or allowances. It should be noted, however, that the maintenance period is still ongoing for most recent cohorts (2020 and later), which means that there is no clear view of the structural effects in the longer term. However, the study shows the following for the time being:

- The proportion of people entitled to spousal maintenance who receive unemployment benefits or social assistance remains stable at between 3 and 4 percent.
- The proportion of people entitled to spousal maintenance who become economically self-sufficient or financially independent within two years after the divorce has also increased compared to previous cohorts.

b. Additional revenue for the State. The analysis indicates slight increases in financial independence and number of hours in paid employment, but there has been no demonstrable acceleration since the introduction of the law. Although those entitled to spousal maintenance are working more hours on average and the proportion of people working 25 hours or more has increased, this is largely a continuation of existing trends. Therefore, there are some indications of additional tax revenues from employment, but these are currently limited and cannot be attributed unequivocally to the legislative amendment. A possible structural source of additional revenues for the State is the reduction in the deductibility of spousal maintenance.

Answers to sub-question C3

a. Invoking the hardship clause. To date, the number of known rulings is very limited: only eight rulings have been found in the legal databases Rechtspraak.nl and the E-Archives (E-archief). Four cases concerned requests for extension in advance (before the end of the maintenance period), and four cases concerned requests in view of the end of the period. The situations in which the clause was invoked vary:

- Older entitled people, including people who are already entitles to the Old Age Pension (AOW).
- People with a long marriage (longer than 15 years).
- Entitled people with a limited socio-economic position, such as homeless people or people in education.
- Entitled people with a (chronic) illness.

The number of cases is low, partly because the first maintenance arrangements based on the new law will not expire until 2025. The number of requests is expected to *increase* in the coming years.

b. Application of the hardship clause. In all eight rulings found, the request for extension was *rejected*. Even in cases involving illness or limited economic prospects, the courts ruled that the strict requirements for extension had not been met. Moreover, in some cases, the old, stricter assessment framework was applied, which seems to be contrary to the intention of the new law (namely a more flexible regime via Section 7 of the Civil Code). The case law therefore shows great restraint. The person entitled to maintenance bears the obligation to furnish the facts and the burden of proof and must provide very convincing arguments. In practice, this proves difficult, especially in advance (i.e. before the expiry of the maintenance period), when the future situation is difficult to assess. The interviews with professionals underscore the picture of a predominantly strict interpretation of the assessment framework and reluctance to apply the hardship clause.

Answers to sub-question C4

a. Fifteen-year limit concerning marriage/registered partnership for exceptional cases too broad or too narrow. For the time being, *no* concrete indications have been found in the literature or case law that the fifteen-year limit is too broad or too narrow. This limit is around the average length of marriage and can therefore be considered appropriate in many cases, according to the literature and professionals consulted.

The real tension seems to lie in *borderline cases*: in cases of marriages of nearly fifteen years people are currently not eligible for an exception. In such situations, the hardship clause should in theory provide for a tailor-made solution, but given the strict assessment framework and the low probability of approval, this role appears to be limited in practice.

b. The age limit for children of twelve years for exceptional cases is too broad or too narrow. Based on the literature, it can be argued that the age limit of twelve years may be too low, as caring for older children (such as adolescents) can also be intensive. There are no indications that the limit is too broad. Here too, borderline cases (where the youngest child is just over twelve) could invoke the hardship clause, but even in such cases there is no case law in which an extension has been granted on those grounds.

0.4 Overall conclusion

Effects of shortening the maintenance period

In summary, the current analysis of microdata, public sources on developments in contextual factors and interviews with professionals indicates that shortening the maintenance period has not, to date, led to a separate, demonstrable *acceleration* in labour participation, number of hours worked in paid employment or financial independence among those entitled to spousal maintenance. Nor are there any clear indications that maintenance payers experience financial relief more quickly and are thus able to rebuild their lives more easily.

However, it is still too early to draw final conclusions about the effect of the legislative amendment. For most maintenance arrangements that started after 2020, the legally shortened maximum duration of five years has not yet expired. In addition, to identify the income of maintenance creditors and debtors, we had to rely on income data which is lagging behind (up to and including 2022). As a result, it is not yet clear to what extent these arrangements actually end earlier than before, nor what the socio-economic situation of the target group is after the maintenance period has ended. It is precisely this phase (after the maximum duration has been reached) that will be important in determining whether the law leads to sustainably *higher* labour participation and financial independence among those entitled to maintenance and greater financial leeway among maintenance payers. Further monitoring and analysis in the coming years is therefore necessary in order to gain a clear picture of the structural effects of the legislative amendment.

Hardship clause and borderline cases

At present, the hardship clause does not appear to be effective in alleviating distressing situations. The main reasons for this are:

- In all known cases, requests for extension have been rejected, even in cases of illness or limited financial security.
- Judges apply the assessment framework strictly, whereas the legislator intended to make it more flexible.
- There may be some ambiguity or inconsistency in the application of the assessment framework.
- For people on low or middle incomes, the costs of litigation are a barrier, which limits access to the clause.

The number of requests for extension is still low due to the recent introduction of the law. Although it is too early for a final assessment, the current picture suggests that the hardship clause is hardly functioning as a safety net in practice. Further monitoring, more case law and clear guidelines on its application are needed to assess whether the clause will be able to fulfil its protective role in the long term.

0.5 Recommendations for the future

Based on the study, the following recommendations can be made for the final evaluation:

1. For the evaluation, it is important to be able to look at the entire maintenance period. This means that the maximum term for the first cohorts after the amendment came into effect needs to be over. Add two years to that before the income is officially recorded. In order to be able to properly assess the entire five-year period of spousal maintenance, plus the year after the maximum term has expired, we recommend that the final evaluation be carried out in 2029 at the earliest, rather than in 2027.
2. It is also interesting to survey ex-partners in the final evaluation. This can be done by partially repeating the 2020 Kantar survey, which will allow for comparison. Interviews are also useful to gain insight into how mechanisms work or do not work.

3. This study examined financial independence, a concept that is more relevant to the questions posed by the Senate than the concept of economic independence. It must be noted, however, that the current threshold values for financial independence do not exclude that people fall below the poverty line. The final evaluation must consider how this concept relates to the poverty line.
4. In the final evaluation of the Act, the effectiveness of the hardship clause must be re-examined so that cases in which the maximum maintenance period of five years has expired can also be taken into account.
5. The final evaluation must examine the effectiveness of the hardship clause specifically for borderline cases. Borderline cases are situations in which an entitled person loses their entitlement to spousal maintenance because one of the conditions for the exception periods is not quite met. Attention should be paid to the group of maintenance recipients who are already entitled to the Old Age Pension (AOW) and have been married for a long time.

In the final evaluation attention should be paid to how the assessment framework is applied by the courts. Strict application of this framework may render the hardship clause ineffective in preventing distressing cases. Attention must also be paid to access to justice for the group of people entitled to maintenance whose income is too high to qualify for legal aid, but for whom the costs of legal proceedings nevertheless constitute a barrier. If this group has insufficient access to justice, this could significantly reduce the effectiveness of the hardship clause.

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