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FAMILY ALLOWANCE TO THE ADULT SON: REVOCATION OF MAINTENANCE TO LITTLE PROFIT'S STUDENTS

The Supreme Court of Appeal maintains its position on the question of the family allowance to the adult son not economically self-sufficient, if the failure to achieve independence is due to the low profit's child in building his/her professional profile.

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In a recent judgement, (n. 1858/2016) the Supreme Court of Appeal confirmed a guideline adopted in recent times by both the Court of merit and legitimacy, featured by a more intransigent line with adult sons, who refuse by voluntary inertia to achieve economic independence. The judges confirm what was stated in the last few years (see Cass. Civ. VI sec. ord. 2014 n1585) on the subject of child support against adult daughters and sons, if the failure to achieve independence is due to the total lack of interest by the child in becoming economically self-sufficient.

The case

The issue, recently addressed by the Supreme Court, concerned the revocation of maintenance, paid in accordance with Articles 147 and 148 and in force at the time 155 c.c., by the mother to the two children, now adults, living with their father.

With the appeal to the Court of Naples, the mother called for the change of conditions of divorce, in particular the revocation of contribution in favour of the two sons. After the rejection in the first instance, was interposed a complaint before the Court of Appeal of Naples, which provided the withdrawal of maintenance, approving the complaint. The father appealed the Supreme Court claiming, among the grounds for appeal, the Court of Appeal's failure to take into account the lack of economic viability of the two children, although adults.

The reasoning of the Supreme Court

The Supreme Court rejected the appeal, confirming the withdrawal of maintenance in appeal Court. According to the Supreme Court, in fact, **the duty to maintain the adult child ceases not only in case the parent demonstrates offspring's attainment of economic self-sufficiency, but also in case the parent is able to show/demonstrate that his/her son or daughter has not benefited from the maintenance, although in terms of reaching an economic independence**, for instance "removing themselves voluntarily to the development of an appropriate employment and corresponding to the expertise gained" (among others, Cass. number 407/2007; number 8954/2010)".

In the present case, both sons had received from parents the opportunity to obtain

appropriate training for the purposes of their professional careers, but without profit. They attended the University, but with poor results: one was enrolled in the degree course in Biological Sciences in the third year and had only passed 4 tests, while the other was behind in the course schedule for the fourth time to the degree course in Culture and Administration of Cultural Heritage and had passed less than half of the total exams.
