A valid matrimonial contract cannot exist between the baptized without it being that fact a sacrament. The Church has taught since Council of Trent about indissolubility sacramental dignity and contract in the marriage of baptized couple. Baptism imprints on a character. It means that after receiving the baptism there is no another way for baptized couple for getting marriage like sacramental. This unique choice does not depend on the will of baptized. For any baptized couple to contract marriage the Church demands the faith. If two catholics excluded sacramental dignity of marriage, they would contract it invalidly.

Current canon law does not know the term “catholic no believer”. For the legislator the only important thing is the ontological status of person. The moral relation of the catholic to faith (including abandon of faith) does not come into consideration at all, does not change ontological condition. The Code lays down about possibility contracting marriage between catholics; catholic and baptized no catholic; catholic and no baptized. Each possibility is conditioned of fulfillment various prescriptions of law.

On the other hand for the catholics who formally abandoned their faith current canon law creates another possibility of getting marriage. They are not subordinated the law in the sphere of disparity of worship and canonical form. The exception is not applicable to marriages contracting with catholics, they describe theirselves believers.

The solution the legislator has taken seems to be strange. On the one hand it strays from the teaching about result of baptism. For doctrinal point of view it seems to be not important if catholic declares himself or herself to be no believer by formal act or just remains by fact. On the other hand it is not clear how to applicate the attitude of catholic no believer towards the guaranties included in can. 1125 and kind of ceremony of marriage has to be used.