



Company Law Aspects of Matrimonial Property Litigations

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Abstract. A number of studies in the Hungarian legal literature have explained the challenges raised by the ‘division’ of common property contributed to a company. The aim of this paper is to explore the current corporate law aspects of matrimonial property litigations as a result of the entry into force and joint application of the Hungarian Civil Code and the Code of Civil Procedure. In order to achieve this goal, firstly, the author focuses on a critical analysis of the existing procedural law governing matrimonial property lawsuits, with a special emphasis on the intersection of litigious and related non-litigious proceedings. The second part of the research project examines matrimonial property law provisions applicable to the various company forms that may constitute matrimonial common property according to the set of rules governing legal persons in the new Civil Code.

Keywords: non-litigious procedure, Hungary, matrimonial property litigation, matrimonial action, common property, limited liability companies

1. Introduction

The codification of both substantive and procedural civil law has played an unquestionable role in the modernization of matrimonial property law over the last almost one decade. This is fully in line with the legislator’s basic position, which did not only redefine the substantive and procedural rules of Hungarian private law but also undertook to incorporate the substantive rules of the field of private law, previously contained in separate legal acts, into a single code.

The biggest innovation in this process, apart from the adoption of the monistic concept of company law, is undoubtedly the incorporation of the normative system of family law into the Civil Code. Following the order and logic of the former Draft Code of Private Law submitted during the early 20th century, the reformed Code of Private Law incorporated not only the civil law regulation of

the most fundamental personal and property relations but also the substantive law material of company law and family law. Accordingly, the assessment of certain legal institutions is a much more complex task for both practitioners and litigants, which is a particularly relevant starting point in spheres of life such as family life and its economic interdependencies or family and business issues at the intersection of family law and economic law and, as a particular element therein, the challenges of matrimonial property law.

On the basis of the above, the legislator opened up new horizons with the new Civil Code by regulating the institutionalized legal status of partnership shares in matrimonial property law while simultaneously aiming to eliminate the difficulties of interpretation and case law that surfaced repeatedly in judicial practice.¹ The legislator acted in a similar way when codifying the new Code of Civil Procedure, which, by placing the professional economic approach of civil law in the focus and essentially in line with its new vision of society, created a professional approach and foundations in the field of civil procedural law. Consequently, in the new Code of Civil Procedure, matrimonial property lawsuits, as separate from matrimonial dissolution actions (divorce), were intended, on the one hand, to promote the efficiency of property law litigations by drawing a clear distinction between matrimonial actions and matrimonial property lawsuits,² while, on the other hand, to provide the appropriate procedural background, as a kind of toolkit, in line with the changes in substantive law. Substantive and procedural law do not only ‘go hand in hand’ at these levels, but complex substantive law interpretations as starting points, which not only presuppose but expressly require the joint application of the books of the Civil Code, are more strongly enforced in such actions. Given the fact that in a company, asset contributions are an essential and inherently irrecoverable condition of the company’s legal personality as separate from its members, their possible division raises both company substantive law and family law issues. Since these assets are not recoverable from the company, their distribution requires particular care, taking into account the interests of the company; at the same time, it also presupposes that the interests of the company are also taken into account by the parties themselves and are duly reflected alongside their own interests in their mutual accounting relationship.

A number of studies in Hungarian legal literature have explained the challenges raised by the ‘division’ of common property contributed to a company. In line with the above starting points, the aim of this paper is to explore the current corporate law aspects of matrimonial property litigations as a result of the entry into force and joint application of the new Civil Code and the new Code of Civil Procedure. In order to achieve this goal, firstly, the author focuses on a critical

1 Kőrös 2022.

2 See *T/11900. számú törvényjavaslat a polgári perrendtartásról* [Bill No. T/11900 on the Code of Civil Procedure]. § 455.

analysis of the existing procedural law governing matrimonial property lawsuits, with a special emphasis on the intersection of litigious and related non-litigious proceedings. The second part of the research examines matrimonial property law provisions applicable to the various company forms that may constitute matrimonial common property according to the set of rules governing legal persons in the new Civil Code. In addition to a comparison of the existing civil substantive law and civil procedural law, the main focus of both sections of the study is on the relevant case law of the judiciary supplemented by a discussion of the various legal literature.

2. The Function of Matrimonial Property Actions in Current Procedural Law

The new regulatory principle inserted in § 462 of the new Code of Civil Procedure, the prohibition of combining matrimonial actions and matrimonial property actions, may presumably settle the real, substantive separation/demarcation of matrimonial actions for marriage dissolution and matrimonial property actions. Even though the new Code of Civil Procedure still lacks a definition of matrimonial property actions, it is clear from this principle that matrimonial property actions can now be undoubtedly included in the category of property actions.

It is important to stress, however, that matrimonial property actions are not only litigations brought on grounds outlined under Title VI of Book IV of the Civil Code, entitled ‘Matrimonial Property Law’, but also those relating to other property consequences of the marriage, so, for example, claims for the recovery of maintenance or gifts, actions for declaring a matrimonial property contract null (invalid) and determining its legal consequences, as well as the company law, securities law, copyright and property law aspects of the division of property.³

Instigating a matrimonial property action does not require the filing of a petition for dissolution or a judgement dissolving the marriage. According to *László Károly Simon*’s approach, the commencement of matrimonial property actions is subject to primarily substantive law conditions, the most important of which is the termination of the matrimonial community of property.⁴ However, there is a non-negligible scope of cases where the division of matrimonial property is justified by a reason, in particular, but not exclusively, the intention of the parties to transition from the previous property regime, but such a cause may be, for example, the bearing of the risk of a commercial enterprise by only one spouse, tax optimization, or the occurrence of circumstances arising from the complexity of life – circumstances which justify such a step. Naturally, in the majority of such

3 Simon 2021. 11; Csűri 2017. 1–8.

4 Simon 2021. 11–12.

cases, we cannot talk of a legal dispute because there is consensus among the parties, although it may not be excluded entirely. As a result, the position held in commentary literature saying ‘The division of common property is not the same as the termination of the community of property.’⁵ is correct; what is more, neither is such division identical to the termination of the community of life.

In a combined reading of § 4:53. of the Civil Code and the case law of the courts, Simon identifies three cases of terminating the community of property: (i) by terminating the matrimonial community of life, (ii) by the exclusion of the statutory property regime contained in the matrimonial property contract, (iii) by applying for the termination of the community of property in a non-litigious proceeding.⁶ I think it is necessary to point out here that if the spouses decide to terminate the community of property by excluding the statutory property regime contained in the matrimonial property contract and the court subsequently rules on a claim not settled in the matrimonial property contract in a matrimonial property action, the content of both the matrimonial property contract and the judgment must comply with the statutory conditions of the division of property.⁷

In my view, today, the primary issue to be clarified when examining the justifiability of a matrimonial property action, divorced from a matrimonial dissolution action, is, as a preliminary question, the existence of consensus between the spouses. If there is an agreement between the spouses on the division of the common property, they can only seek the court’s approval in a non-litigious proceeding. If only one of the spouses requests the division of the common property, or if there is no agreement between them on the matter, civil litigation proceedings are available.

Prior to 1 January 2018, non-litigious actions determining people’s personal status and family relations were regulated independently in legislation on various levels (acts, decrees). The need to summarize in one norm the non-litigious procedures falling under the jurisdiction of courts affecting personal status rose concurrently with the creation of the new Code of Civil Procedure, and Act CXVIII of 2017 on the rules applicable in non-contentious civil court procedures and on other non-contentious court procedures (hereinafter referred to as the Act on Non-contentious Civil Court Procedures) was promulgated on 12 October 2017.

Besides non-litigious procedures defining personal status, personal integrity (declaration of death, procedure for establishing the fact of death, declaration of a missing person, overturning the presumption of paternity), non-litigious procedures of a property nature related to personal status, such as the jointly requested termination and recovery of matrimonial community of property during

5 Varga 2018. Translation by the author. Unless otherwise specified in the footnotes, all translations from non-English sources are by the author.

6 Simon 2021. 12.

7 Kőrös–Makai–Szeibert 2013. 277.

the marital community of life, were inserted in the Act on Non-contentious Civil Court Procedures.

Pursuant to the provision inserted in § 19 of the Act on Non-contentious Civil Court Procedures, the application for the termination of a matrimonial community of property may only be submitted jointly by the parties in a judicial non-contentious procedure. Such applications falling under the competence of district courts may not be connected to other applications. The Act on Non-contentious Civil Court Procedures specifically refers to the reasons leading to the termination of the matrimonial property regime and also refers to §§ 4:54 (1) a), b), and c) of the Civil Code,⁸ but while in the case of the existence of these grounds the civil litigious procedure may be initiated based on an application of either party, in non-litigious procedures the joint request of the parties is a condition for the institution of proceedings. In a non-litigious action, the court may hear the applicant parties. If any of the applicants fail to appear at the hearing, the court shall terminate the procedure *ex officio* [§ 21(1) of the Act on Non-contentious Civil Court Procedures]. An order for termination does not rule out the subsequent enforcement of the claim in a civil litigation. The order terminating the community of property must be delivered to the creditors of the spouses and in guardianship cases to the guardianship authority.

During the almost five years since the application of the new Code of Civil Procedure, during the ‘separation’ of actions for marriage dissolution and matrimonial property law actions, in practice, the question of determining the duration of the community of life has generated legal interpretation issues. From the relevant resolutions of the National Conference of the Heads of Civil Law Colleges (a national assembly of the representatives of civil court judges), the following may provide professional guidance. If litigation regarding marriage is pending pursuant to the Code of Civil Procedure of 1952 or was previously closed with a final decision in accordance with that Code, the court does not

8 ‘§ 4:54 [Termination of community of property regime by the court]

(1) The court, at the request of either spouse, may terminate, if justified, the community of property regime during the marital community of life. Justified cases shall especially include cases where:

a) a spouse accumulated, through a contract concluded without the consent of the other spouse or by causing extra-contractual damage, a debt of such a volume that might jeopardize his share of the common property;

b) the spouse engaged in private entrepreneur activities was subject to enforcement procedure, or the individual firm, cooperative, company in which the other spouse is a member with unlimited liability is subject to an enforcement or liquidation proceedings, and that procedure might jeopardize the spouse's share of the common property; or

c) the other spouse is placed under custodianship limiting capacity to act in full or partially, regarding financial matters, and the appointed custodian is other than the spouse.

(2) Unless otherwise ordered by the court, the community of property regime shall be terminated on the last day of the month following the month when the decision on its termination becomes final and binding.’

have to establish the duration of the community of life in the operative part of the judgment in the matrimonial property litigation. § 463(2) of the Code of Civil Procedure specifically sets out that if the procedure for marriage dissolution is already underway (even if pursuant to the Code of Civil Procedure of 1952) the duration of the matrimonial community of life should be established by the court of the matrimonial litigation and not that of the matrimonial property action.⁹ If the parties are concurrently involved in a matrimonial and a matrimonial property action and the duration of the community of life is debatable, the court shall suspend the matrimonial property action until the final decision of the ongoing matrimonial action is adopted.

There is no obligation to suspend the procedure in this case either; it is decided at the discretion of the court, and, as stated by law, the option is available if the duration of the community of life is debated. There is therefore no justification for staying proceedings if the duration of the cohabitation relationship, which is identical in property law to the matrimonial community of life, is disputed.¹⁰

Pursuant to § 459(2) of the Code of Civil Procedure, the court shall establish the duration of the matrimonial community of life in the operative part of the judgement, dissolving the marriage if it had not been previously established in the substantial final decision or an interim ruling by the court of the matrimonial property action. In such cases, it constitutes a necessary substantive element of the judgment dissolving the marriage, and there is no room for settlement.¹¹

3. Company Shares in Matrimonial Common Property

Shares in a company may be considered part of matrimonial common property. This chapter aims to describe and analyse the company law provisions of the new Civil Code which, in addition to the provisions governing legal persons, are part of matrimonial property law and as a result are primarily applicable to the spouses in matrimonial property law actions (in certain non-litigious actions).

The substantive law provisions applicable to shares in companies forming part of the matrimonial common property are governed by the rules of the Civil Code on common property and its distribution (§§ 4:58–4:61 of the Civil Code) and by the provisions of the Civil Code on shares which are securities [§ 5:14 (2) of the Civil Code], but also, and especially, by the provisions applicable to individual company forms.

Somewhat similarly to the institution of marriage, the establishment and operation of a company is a long-term commitment, a focal point of which is

9 CKOT 2017.11.20:54.

10 CKOT 2017.07.07:24.

11 CKOT 2017.07.07:26.

precisely represented in contributing assets to the company, thus providing grounds for determining the time of establishment for a property law purpose. If the company was founded before the commencement of the community of life, the assets previously contributed to the company are essentially considered separate property. However, the establishment of a company during the matrimonial community of life renders the assessment of such property a complex challenge: if it was separate property, it may retain its separate status, if it was common property, it must be assessed as such.

Accordingly, the freedom of association may be exercised not only by one spouse but also by the spouses jointly; what is more, they may even establish companies separately, and these circumstances all raise issues to be addressed and are further complicated by the specific conditions of the given company forms, even the diversity of qualification requirements. Consequently, exercising the freedom of association rightfully raises issues of adjudicating not only individual but also matrimonial property issues, and their property law assessment may result in numerous cases of conflict.

4. Matrimonial Common Property in General and Limited Partnerships

According to the traditional structure of company law dogmatics, general and limited partnerships are company forms establishing a partnership of parties. By the conclusion of a contract for the establishment of a general partnership, the parties undertake the commitment of contributing assets for the economic activity of the company and assume unlimited and joint liability for the company's debts not covered by the asset contributions. If any or all of the members are in a matrimonial community of life, this obligation of liability makes virtually all the property subject to business risk. By emphasizing the partnership aspect, the legal concept highlights cooperation among the members, enhanced trust, a special professional relationship between the members and the given economic activity, which, in addition to its organizational characteristics, also gives rise to the special nature of the issue of property. It follows from the liability to pay the company's debts that, although the incorporation of the company does not contain a specific capital requirement, the contribution of the assets deemed necessary by the members to start the company's operations must, of course, be made available to the company and, as mentioned above, it is equivalent to putting the entire family property at risk. As explained in detail below, a separate legal provision deals with the issue of matrimonial property with regard to general partnerships; nevertheless, it is also necessary to mention the fact that a member who joins the partnership, in this case the spouse, is liable for the obligations of

the partnership incurred before joining in the same way as the other members are, and any agreement to the contrary between the members against third parties is null and void. It should be added that the Civil Code also addresses the issues arising from the other private law relationships of the member, i.e. the spouse, due to the partnership nature of the general partnership, in view of the fact that the member shall assume liability for the partnership's debts with his/her entire property, which obligation necessarily impacts on the member's ability to perform in the light of his/her other legal relationships. In such a case, i.e. when the member's property, even the separate property of a spouse, is also used to satisfy a claim against the member under another legal relationship, the solution necessarily leads to the inverse application of the member's liability as a member. Private creditors of a member cannot satisfy their claim directly from the assets of the company, but they are covered by the share of the assets of the general partnership to which the member is entitled in the event of the termination of his/her membership. If the creditor also executes on such share of assets, it may exercise the right of terminating the member's membership in place of the member, resulting in the termination of the membership and thus satisfying its claim from the share released to the member as a result of the settlement of accounts between the company and the member. To sum up, the assets of a member contributed to a general partnership cannot give rise to concealing assets and an exemption from execution, but neither can they result in direct satisfaction from the partnership assets since that would be incompatible with the legal personality of a general partnership, and therefore the assets contributed to the general partnership can be indirectly used to satisfy the claim of the member's private creditor.

Only one paragraph from the substantive law rules on general partnerships contains a property law provision pertaining to spouses. § 3:141 of the Civil Code titled *Partnership Share Acquired through Matrimonial Community of Property* declares that the spouse of a member may become a member in the partnership, on the grounds of either matrimonial community of property or division of matrimonial common property, only by the amendment of the memorandum of association. From a membership viewpoint, this can create two kinds of situations: the previous member spouse's membership is maintained, and the spouse who was not a member prior to the division of common property becomes a member of the company without an asset contribution. In other cases, the former member spouse remains a member, independently, by acquiring the full company share.¹²

In the former case, the memorandum of association may be amended by the unanimous resolution of all the members. Due to its partnership nature, 'in this case, the [...] company cannot be forced either to take the spouse who was formerly not a member'.¹³ In the absence of a unanimous decision, the

12 Ujváriné Antal 2016. 148.

13 Ujváriné Antal 2016. 148.

member's spouse may only raise a claim for settlement against the company.¹⁴ As regards the interpretation of this rule, in the volume entitled *Társasági jogi perek* [Company Law Actions], Gál, Juhász, and Mika deduce from the principle of the freedom of association that company members cannot be obliged to give a declaration of consent. In this regard, no action for the provision of a juridical act may be brought against a member of a general partnership.¹⁵

By deduction from § 3:90 of the Civil Code, Éva Csűri points out that when establishing a general partnership on the grounds of matrimonial community of property, a general partnership may not be founded by two spouses as sole members, but both spouses may be members in two separate general partnerships.¹⁶

Limited partnerships are company forms based on the partnership of parties who assume various degrees of liability for the company's debts. By concluding a memorandum of association for the establishment of a limited partnership, the members of the partnership shall undertake to make monetary or in-kind contributions to the partnership for its economic activities, and at least one of the partners, the general partner, shall assume joint liability together with the other general partners for the obligations of the partnership not covered by the assets of the partnership, while there shall be at least one other partner, the limited partner, who is not liable for the obligations of the partnership unless otherwise provided in the Civil Code. It can be deduced from the legal definition that the liability of the general partner is identical to that of a member of a general partnership, whereas the liability of the limited partner is essentially limited.

The new Civil Code does not contain specific provisions for spouses and the matrimonial common property under the § pertaining to partnerships. Given that § 3:155 renders the provisions of general partnerships applicable to limited partnerships, § 3:141 shall be considered governing for limited partnerships as well. From among these differences, the two membership statuses bear relevance from a matrimonial property law point of view, meaning that the issue of the potential changes of membership status has to be settled. This is because changing a general partner to a limited partner would empty the obligation of liability for the company's debts; therefore, a former general partner turned limited partner shall still be liable for the previously generated liabilities of the company for 5 years after the status change. In case of a status change in the opposite direction, such regulation is obviously not required.

With regard to partnerships involving two spouses as members, the reasoning of the division of company shares contained in Decision No. Pf. 20040/2015/11 of the Regional Court of Appeal of Debrecen is noteworthy.

14 Mányoki 2019. 54.

15 Gál–Juhász–Mika 2018. 215.

16 Csűri 2017. 7.

Thus, § 3:146 of the Civil Code provides for the possibility for a member of a limited partnership not to transfer the company share to an external third party but to another member of the partnership, which is an option available for two-member, i.e. spousal companies too, and it is also irrelevant what position the member wishing to transfer a company share occupies in the partnership (general or limited partner). Therefore, the division of shares in general or limited partnerships belonging to the community of property may be carried out in a way either resulting in a membership change from an external legal relationship or not, irrespective of whether the general or limited partnership is a two- or a multi-member partnership, whether only one or both of the spouses are members and whether the spouses have the same or different membership status (positions) in the limited partnership of which both spouses are a member of. (Supreme Court [...]). This is why there was no obstacle to a plaintiff and a defendant transferring their shares owned in a limited partnerships constituting their matrimonial common property as limited partners to the other spouse, who was also a member, by way of a division of the matrimonial common property, which constituted a transfer of the partnership interest outside the contract of sale. In this case, the memorandum of association must be amended not before the transfer of the company share but in relation to it because of the termination of the membership of the limited partner. Pursuant to § 3:148 of the Civil Code, the contract of transfer shall become effective subject to the amendment of the memorandum of association in accordance with the transfer. This also means that as the transfer of the partnership share is carried out based on the judgement of the court adjudicating the matrimonial property action, the amendment of the memorandum of association for both companies required for the ensuing data change shall be done by the parties.

5. Business Share as the Subject of Matrimonial Common Property Division – Common Property in Limited Liability Companies

Before explaining the special rules pertaining to limited liability companies, I find it important to note as a starting point that ‘although a business share may not be acquired ownership from a civil law perspective, and thus it may not be the subject of property law in a civil law sense, as “a theoretical object” [...] it can be transferred just like other objects.’¹⁷ A business share may not be considered a security either, ‘[...] but it represents the entirety of the legal relationship between

¹⁷ Barta 2009. 289.

the limited liability company and its members, which sums up the members' status (legal status) in the company'.¹⁸

When settling a business share in matrimonial property, it bears no significance whether the spouse (ex-spouse) is a member of the company at hand or not, whether or not they take part in the activity of the company and exercise and perform their rights and obligations as owners.¹⁹ Firstly, when acting on the principle of unified settlement of claims arising from a community of property (§ 4:58), the court must apply the rules of the new Civil Code on the termination of common property [§ 5:83-5:84] for the division of business shares forming part of the matrimonial common property, with the difference that no physical division may take place if objected to by either spouse on reasonable grounds [§ 4:60 (2)]. Secondly, pursuant to § 4:61. (3) of the Civil Code, a business share may be allocated to a non-member spouse – upon his/her request, and only then – if a share of the common property cannot be allocated in any other way.²⁰

The Civil Code settles the legal fate of business shares in actions brought for the division of matrimonial common property under § 3:172. Departing from the previous rules of the Act of Business Associations,²¹ the new Civil Code provides primarily for the application of the provisions of the articles of association for the transfer of business shares; in the absence of such articles, the provisions of the act on share transfer shall be governing. Ádám Mányoki highlights the mandatory rules of the Civil Code, which stipulate the consent of the members' meeting as a prerequisite for the division of business shares.²² If the articles of association exclude the transfer of business shares, this shall apply to transfers carried out on family law grounds as well.²³

In a matrimonial property action aimed at dividing common property, the legal fate of a business share may be any of the following: (i) a business share owned by one of the spouses becomes a co-owned share (by a court judgement); the court (ii) may order the non-member spouse to redeem the business share or any of the member spouses to incorporate the other party's business share or part of a business share into their own; (iii) the court may order the business share to be sold at auction and divide the sales price between the parties.²⁴

As Judit Barta also points out, 'the division of common property does not only mean dividing existing property between the parties but also the settlement of reimbursement claims'.²⁵

18 Veress 2019. 119.

19 Kőrös 2022.

20 Kőrös 2022. § 3:172.

21 Gadó-Németh-Sáriné Simkó 2013.

22 Mányoki 2019. 55.

23 Barta 2016. 171.

24 Witzl 2019. 6.

25 Barta 2009. 290.

The theoretical context of the latest precedent-setting resolution of the Curia under No. Pfv. 20054/2022/7. outlines the following with regard to settling reimbursement claims:

If the spouses have individual shares in the company and a legal dispute arises from the contract for the transfer of only one of the spouses' shares, this spouse may independently enforce a civil law claim arising from the obligation to transfer the business share. Just as the share of the business belonging to the spouses' community of property under the special rules of company law, which have priority of application, the purchase price replacing it may also be set off between the spouses when the community of property ceases to exist, in accordance with the rules of family law governing the property relations between spouses.²⁶

Matrimonial property law contains a peculiar conflict of interest between the partnership and the 'joint stock' nature of companies, which is resolved by the Civil Code, so the rules on business share transfer are applicable to a spouse wishing to become a member based on a matrimonial property law claim, which means in this case that the spouse is considered a quasi-independent external person and not a member, with the difference that other members may not exercise a priority right for the business share divided up based on a community of property claim, and the requirement of a capital contribution does not have to be applied either. The reason for the difference is that, based on the rules of matrimonial property law, the spouse may already be fundamentally entitled to the business share, so his/her status as an external person must be further detailed. The rules on business share division must be properly applied for a spouse's acquisition of a business share, that is, if the company does not approve of the division of the business share, the spouse may not acquire an individual business share, but he or she may only become entitled to a part of a business share, as a result of which a co-owned business share is created. If, based on the above, the founding document prescribes the right of consent in relation to the acquisition of a business share, the spouse may acquire a business share or part of a business share only with the company's approval. If the spouse is not allowed to become a member, then, according to the matrimonial property law rules, the member spouse is obliged to settle the value of the business share with the spouse who is not to become a member, fulfilling any obligations from his or her other property.

26 A Decision by the *Kúria* (the supreme court of Hungary) no. Pfv.20054/2022/7, as a judicial precedent in the matter of contracts of sale [on § 36 of the Code of Civil Procedure] – justices: Judit Anna Csesznok, Ottília Kocsis, Péter Puskás.

6. Shares in the Matrimonial Common Property

The new Civil Code does not contain rules for matrimonial common property and their division under the special rules pertaining to companies limited by shares. Accordingly, from the legal institutions reviewed in the research assignment, first the provisions pertaining to co-owned shares must be deemed applicable. The co-owners of the co-owned shares must be considered a single member of the company; therefore, their rights may be exercised jointly, through a joint representative, and they shall assume joint liability.

As the different types and classes of shares do not have individual features from a property law point of view, employee shares, which can only be acquired by employees employed – or, based on a provision of the articles of associations, formerly employed – by the company limited by shares, can be taken as an example from a matrimonial property law aspect. The Civil Code defines the rate of employee shares as up to no more than 15% of the share capital. Employee shares can also be linked to other types of shares, such as dividend preference rights, which can be granted in absolute terms. The principle of employee shares does not allow them to be acquired by persons other than those defined above, so the transfer or division of matrimonial property is conditional on the employee or, where applicable, former employee status of the acquiring party. In the case of inheritance, if the heir's employment was terminated, and in the former employment he/she could not acquire employee shares on the same principles, he/she is obliged to sell the employee shares in the estate to the person who meets the personal conditions. The starting date of the period for sale is the date of termination of employment, the date of the death of the testator in the case of succession if no probate proceedings have been initiated, the date of the entry into force of the probate order transferring the estate in full in the case of other probate proceedings, the date of the entry into force of the court judgment in the case of succession proceedings, and the last day of the period is the date of the first general meeting following the expiry of six months after the starting date. In the case of an unsuccessful sale, the company limited by shares may decide, at the general meeting closing the deadline, to cancel the employee share or to sell the employee share by converting it into another type of share, in which case the former employee or his/her heir shall be entitled to the nominal value of the share, which shall be paid within thirty days of the cancellation or transfer of the share. Irrespective of employee shares, employees may acquire any other shares in the company, but the shares so acquired retain their original characteristics.

7. Summary

Having reviewed the above rules, it can be concluded that the system of rules for individual company forms in the new Civil Code created the substantive law basis for an effective enforcement mechanism by incorporating the case law and the economic and social expectations of today. From the point of view of the status of the parties, the separation of matrimonial property litigations and matrimonial dissolution proceedings allows, on the one hand, the early resolution of the legal status of the former spouses and, on the other hand, the enforcement of their property claims, in line with the dynamics of economic life, separately from their personal status.

References

- BARTA, J. 2009. A házassági vagyonjog egyes társasági jogi kérdései [Certain Company Law Aspects of Matrimonial Property Law]. *Acta Conventus de Iure Civili* (10): 289.
2016. Korlátolt felelősségű társaság [Limited Liability Company]. In: Barta, J.–Harsányi, Gy.–Majoros, T.–Ujváriné Antal, E., *Gazdasági társaságok a Polgári Törvénykönyvben*. Budapest: 171.
- CSÜRI, É. 2017. A házastársi vagyonközösséghez tartozó társasági részesedések megosztásának módja [Method of Dividing Shares in a Community of Property Belonging to a Spouse]. *Családi Jog* (3): 1–8.
- GADÓ, G.–NÉMETH, A.–SÁRINÉ SIMKÓ, Á. 2013. *Ptk. Fordítókulcs* [Civil Code Translation Key]. Budapest.
- GÁL, J.–JUHÁSZ, L.–MIKA, Á. 2018. *Társasági jogi perek* [Company Law Litigation]. Budapest.
- KŐRÖS, A. 2022. Házassági vagyonjog [Matrimonial Property]. In: Wellmann, Gy. (ed.), *Polgári Jog I–IV. – Új Ptk. – Kommentár a gyakorlat számára*. Budapest.
- KŐRÖS, A.–MAKAI, K.–SZEIBERT, O. 2013. A házastársi közös vagyon megosztása [Partition of Matrimonial Common Property]. In: Vékás, L. (ed.), *A Polgári Törvénykönyv magyarázatokkal*. Budapest: 277.
- MÁNYOKI, Á. 2019. Társasági jogi elemek a családi jogban [Company Law Elements in Family Law]. *Közjegyzők Közlönye* (2): 54.
- SIMON, K. L. 2021. A házassági vagyonjogi per helye az új polgári perrendtartásban [The Place of Matrimonial Property Regimes in the New Code of Civil Procedure]. *Családi Jog* (1): 11.
- UJVÁRINÉ ANTAL, E. 2016. Közkereseti társaság, betéti társaság [Public Limited Company, Limited Partnership]. In: Barta, J.–Harsányi, Gy.–Majoros,

- T.–Ujváriné Antal, E., *Gazdasági társaságok a Polgári Törvénykönyvben*. Budapest: 148.
- VARGA, I. (ed.) 2018. *A polgári perrendtartás és a kapcsolódó jogszabályok kommentárja I–II/III* [Commentary on the Code of Civil Procedure and Related Legislation I–II/III]. Budapest.
- VERESS, E. 2019. Megjegyzések a korlátolt felelősségű társaságok üzletrészenek forgalmáról [Notes on the Turnover of Shares in Limited Liability Companies]. *Jogtudományi Közlöny* (3): 119.
- WITZL, P. 2019. A társasági részesedés sorsa a házastársi közös vagyon megosztása során [The Fate of Company Shares in the Division of Matrimonial Property]. *Céghírnök* (8): 6.
- *** *T/11900. számú törvényjavaslat a polgári perrendtartásról* [Bill No. T/11900 on the Code of Civil Procedure]. <https://www.parlament.hu/irom40/11900/11900.pdf> (accessed: 2023.09.17).