

Abstract

The community of property stands out as a key institution of matrimonial property law, but at the same time it is a very specific type of common property; it is the community of property that gives the marriage an indispensable property basis after all. The establishment and subsequent building of a family background simply cannot be done without property.

The civil law tries to strengthen the security of the spouses in the area of property in every possible way, in particular by the broadness of the concept of community of property. In the name of marriage, all assets acquired by one or both spouses during the marriage fall within the scope of the community of property, with the exceptions expressly provided for by law.

However, during the marriage, the spouses do not only acquire assets but also enter into obligations which give rise to debts. Whether the debts are debts common to both spouses or only of one spouse, they can often be satisfied by means of the marital property. The attachment of the spouses' community property means a more or less substantial interference with the matrimonial property base. The legislation therefore seeks to respond adequately to this phenomenon, and therefore differentiates between the various debts in order to protect the community property or the non-debtor spouse, bearing in mind the interests of the individual creditor.

The author identified problematic areas of legal regulation based mainly on his own empirical experience. However, in order to be able to touch upon these selected problems of the seizure attachment of joint property, it was first necessary to deal with the general issues. The community of property as a specific type of community of property is approached relatively broadly in Czech law, so it was necessary to deal with its content and scope; as for seizure attachment, the author paid special attention to debts as an important component of the community of property. This paper presents the different variants of how spouses may be obliged and therefore also liable, including the definition of when both common and exclusive property may be sanctioned.

The present paper describes the legislation in all its complexity, trying to highlight its problematic areas and to offer possible solutions. However, it is an undeniable fact that the complex and highly differentiated issue of the sanction of community property can hardly offer a solution that ideally balances the interests of all stakeholders.