

Summary: Husbands and disposition with their property

The main purpose of my thesis is to analyze various aspects of Czech legislation dealing with Matrimonial Property Law. According to legal order valid in our country, after entering into marriage, a special type of property community is created between husband and his wife. This legal institute is known as Common Property of Husbands and it is designed to strengthen mutual proprietary ties of spouses, to establish economical solidarity between them and to emphasize the idea of equality in decision-making. Generally speaking the main aim is to subordinate the interests of two individuals to the interests of the family.

The thesis is composed of eight chapters. After a brief introduction in Chapter One, a short overview of historical evolution of Matrimonial Property Law in the former territory of Czechoslovakia is provided in Chapter Two.

The most extensive is Chapter Three; where we concentrate on the husbands' proprietary regime. We learn, that the object of their property community includes assets as well as debts and that we must strictly distinguish the dispositions with the property which belongs to both spouses from the dispositions with the property, which is in the exclusive ownership of one of them. A special attention is paid to the exact moments of creation and ending of the regime of Common Property. Third chapter of the thesis finishes with the explanation of general principles which govern the process of property settlement after the ending of a marriage.

Husbands are offered a possibility to modify statutory form of their property community. They can achieve this objective by concluding an agreement or (on special occasions) asking a court to do this for them. Details of modifications, which may relate the extent, time of the beginning and management of Common Property are described in Chapter Four.

Chapter Five investigates the mutual correlation between Common Property and Business enterprise. Business represents a serious threat to family assets, but in the same time it can be a precious source of gains to a family budget. The thesis describes how statute tries to balance risks and benefits of commercial activities with regard to husbands' property.

Chapter Six looks at other forms of partners' cohabitation focusing especially on property matters. The regime of Common Property of Husbands is reserved exclusively

for heterosexual couples, who decided to get married. Despite the fact that in the modern society people often prefer to live just in cohabitation, Czech legislator recognizes the existence of special property community just in cases of husbands. Even registered homosexual couples cannot benefit from the advantages of this unique property regime.

Because the government of Czech Republic is preparing a fundamental reform of Private Law, Chapter Seven deals with draft of new Civil Code and its potential impacts to legal institute of Common Property of Husbands. According to the current text of proposed Civil Code, there won't be essential changes to this institute. However, in future we will distinguish three different types of husbands' property regimes – statutory regime, conventional regime and regime created by a judgement of a court.

Conclusions are drawn in Chapter Eight. I consider Common Property of Husbands as a sophisticated and effective legal instrument to govern mutual proprietary relationships between spouses. It provides desirable certainty and protects the property of family in order to ensure its stability. The price, that husbands need to pay (i.e. the limitation of individual dispositions with common property), is compensated by benefits, which are brought to family interests.

Key-words: Husbands – Property – Disposition

Klíčová slova: Manželé – Majetek – Dispozice