

Abstract

The topic of this Master thesis is Matrimonial property law, that is encoded within the Act no. 89/2012 Sb., Civil Code. The aim of this thesis is to analyze and describe current matrimonial property law regime, mainly the community property regime. The focus is on defining the legal framework of the community property regime and its modification options, such as community property contract or court decision. It also provides a look at the possibilities of protection and defense of the so called debt-free spouse. The text of the thesis is divided into seven chapters, introduction and conclusion.

The first chapter provides a definition of some basic terms, such as the matrimonial property law and community property regime.

The second chapter focuses on the legal provisions of the community property regime, meaning the general regime. It describes the scope of the community property regime, the assets and liabilities within and out of the scope of the community property. It also introduces the asset management within the community property legal framework.

The aim of the third chapter is the contractual community property, as set out by the legal provisions. The law allows for three, alternatively four types of contractual regimes, such as separate property, regime that reserves the moment of community property creation for the day of the marriage termination and a regime setting or removing limitations on the community property. Each regime is subject to its own sub-chapter. The community property contract can be concluded during the marriage duration (spouse agreement), or during engagement (pre-nuptial agreement).

The fourth chapter discusses the legally established property regime – court decision. The court can set limitations to the property of the spouses or it can cancel it based on the request of one of the spouses, if there is a serious concern.

The fifth chapter deals with the protection of third parties and the protection of the so called debt-free spouse. It describes mainly the means to protect and defend the debt-free spouse in the enforcement proceedings as well as the provision on the so called hypothetical liquidation of the community property.

The sixth chapter deals with the liquidation of the community property and the last chapter discusses the housing situation of the spouses, domestic violence prevention, and other provisions set within the legal framework of the matrimonial property law.

The focus of this Master thesis was the contractual community property and the possibility of penalizing the community property of the spouses as part of the enforcement procedure. In connection with this, spouses or fiancés may be recommended to enter into a spouse agreement or pre-nuptial agreement. Either in a regime that restricts the legal scope of the community property of spouses or in a regime of separate assets. It is more than appropriate to publish the agreement.

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