

RIGHTS AND DUTIES OF MEMBERS OF A LIMITED LIABILITY COMPANY

The limited liability company is the most popular form of business organizations. The popularity can be found especially in the simplicity of its foundation and in the following not too formalized management of the company (main advantages when compared with the joint stock company). The regulation of rights and duties of members in the Commercial Code is only a partial regulation in the relation towards the regulation of the whole limited liability company. Nevertheless, this regulation, and this is absolutely logical, merges with the regulation of other institutions for the most part and without the knowledge of the other parts it may not be comprehended in the correct way. And so the particular right or duty will usually tell us nothing about the particular position of the member in the company. That is why it is necessary to comprehend all rights and duties in mutual relations. In my work I concentrated on the analysis of the position of the member of a limited liability company which is mostly created by particular rights and duties. Obviously, I focused more on the most basic rights (the right to share the profit, the right to participate in managing the company) and the most basic duties (the duty to pay off the contribution to the registered capital of the company, the duty to be liable for the obligations of the company).

The legal regulation of the limited liability company is sometimes criticized for being too formal and complicated. It may be true in some cases but on the other hand it is necessary to point out that at present the legal regulation fulfils its purpose.

I personally was surprised at a number of interpreting problems in particular regulations. Very often at first sight clear wording covers up more questions than answers and the existence of a double interpretation is not a rare exception. Of course this condition is not desirable, it arises out of a great number of amendments which, understandably, react to the needs of the company, on the other hand they arise out of the demands coming from the European Union. The possibility of different interpretation and the existence of gaps in law emphasize the role of judges who have to cope with that. Courts have expressed their opinion on a number of questions, judicial decisions especially of the Supreme Court play an irreplaceable part in uniting the practice of law.

At present the proposal of the new Commercial Code, which should be the codex of modern era, is being prepared. The construction of rights and duties of members of limited liability

companies is basically preserved. I personally would suppose suitable to regulate the duty of loyalty, not enacted yet, at least in general principles. This way the legal certainty would be strengthen in this direction.