

Michał Szulczewski

Civil procedure in disputes arising from civil law partnerships

SUMMARY

PhD Thesis prepared at the Department
of Civil Procedure (II)
under the supervision of
prof. dr hab. Andrzej Marciniak
in the discipline of legal sciences

-

Lodz 2025

A civil law partnership represents the historically oldest form of partnership, employed as early as within the first organized human communities. Since that time, legal systems have provided structured frameworks enabling cooperation between at least two individuals pursuing a common economic objective by means of mutual contributions, whether of a pecuniary or non-pecuniary nature.

The issue of judicial proceedings between partners in a civil law partnership arising in connection with business activities remains highly significant in the context of contemporary commercial transactions. This is particularly true given that nearly 300,000 such partnerships remain registered in Poland. The prevalence of this form of business association naturally gives rise to a wide array of disputes between partners - both those stemming from ongoing operations and mutual settlements, and those related to the division of joint assets following the dissolution of the partnership. Despite the fact that the provisions governing civil law partnerships are of considerable interest from a scholarly perspective and are frequently applied in judicial practice, they have yet to receive comprehensive treatment in the legal literature.

The analysis undertaken in this dissertation constitutes the first attempt at a systematic and holistic examination of procedural issues arising in litigation related to civil law partnerships. The study addresses the entire spectrum of civil procedural regulations applicable to the pursuit of claims derived from the partnership relationship between partners, including alternative dispute resolution methods. The research encompasses both substantive legal matters influencing procedural status in civil proceedings - such as: an in-depth analysis of the scope of disputes arising from the civil partnership, the extent of partners' liability for internal obligations, and the legal nature of common assets during the partnership's existence and following its dissolution - as well as strictly procedural aspects, including the nature and mode of proceedings, court jurisdiction, parties to the proceedings, court actions, procedural course, and types of judgments rendered.

In addition, the dissertation explores alternative dispute resolution mechanisms applicable to disputes arising from civil partnerships, in particular conciliation proceedings, mediation, and arbitration.

The principal objective of the dissertation is to provide a comprehensive and dogmatic analysis of procedural norms governing cases arising from civil law partnerships. This involves systematizing and clarifying the subjective and objective scope of such proceedings, procedural modes of adjudication, the range of actions undertaken by the court, grounds for granting claims or applications (including those in non-contentious proceedings), and the legal effects of judgments rendered. A key aim of the author is to examine civil partnership agreements from a

procedural perspective, with particular emphasis on the aims and principles of civil procedure, methods of interpretation and application of the relevant provisions, and the legislative rationale underpinning them.

Various methods of legal analysis have been employed in the dissertation. Chief among them is the formal-dogmatic method, based on the analysis of statutory texts, scholarly doctrine, and case law, and the confrontation of these sources to develop independent conclusions. To ensure a comprehensive and accurate identification and analysis of applicable legal norms, the dissertation also utilizes historical-legal, comparative, and economic approaches to law.

The dissertation is structured into four chapters, each addressing specific research questions in detail.

Chapter One discusses general issues common to all types and modes of adjudication of disputes arising from civil law partnerships. It includes a definition of disputes arising from such partnerships, their classification based on various criteria, and the applicable procedural framework within civil litigation. Due to their relevance for further detailed analysis, the chapter also addresses substantive legal matters such as the legal character of the provisions governing civil partnerships, the legal personality (or lack thereof) of the partnership, its procedural standing, and the scope of partners' liability for partnership obligations. The chapter also provides a historical overview of the relevant legal norms and a comparative analysis with legal systems in selected other jurisdictions.

Chapter Two is devoted to alternative dispute resolution mechanisms applicable to civil partnership disputes. Central to the discussion is the concept of the capacity to settle in such disputes, the extent of the partners' autonomy in resolving conflicts, and an examination of procedures for conciliation, mediation, and arbitration.

Chapter Three provides a comprehensive analysis of litigation arising from civil partnership relations under the contentious procedure. It outlines the scope and classification of such proceedings, describes and characterizes the competent courts (subject-matter, territorial, and functional jurisdiction), identifies the parties to the proceedings - including considerations regarding the standing of entities other than partners - principles of joinder of parties, joinder of claims, judicial acts, and the fundamental rules of evidence. It also examines specific procedural distinctions depending on the type of dispute and addresses the prerequisites and legal consequences of constitutive judgments dissolving the partnership.

Chapter Four addresses non-contentious proceedings concerning the division of jointly held assets following the dissolution of a civil partnership. The analysis begins with a discussion of the applicability of regulations governing co-ownership in fractional shares to the

partnership's common property post-dissolution, especially from a procedural perspective. The chapter further examines whether the division procedure should cover all elements of the joint property or may be limited to selected assets. It also discusses procedural authorities, the circle of participants, the scope of court actions undertaken ex officio, the requirement of prior debt settlement as a condition for granting the petition, methods of determining partners' shares and dividing property, principles for determining equalization payments, adjudication on accessory claims, types and legal effects of judicial decisions, and methods of appeal.