CONSIDERATIONS CONCERNING THE DISSOLUTION OF COMPANIES

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Abstract

The dissolution ends the existence of the company, representing the first stage of this process. Once dissolved, the company survives only for the needs of its liquidation, and upon completion of these liquidation operations, its existence ceases permanently. Similar to its setting-up, the termination of the existence of the company is a process that lasts in time, having a variable duration, in order to carry out operations that are indispensable in order to put an end to the existence of the entity created by the company contract. The dissolution, followed generally by liquidation, does not apply only in relation to the termination of the existence of companies having legal personality. On the contrary, the cessation of companies without legal personality implies the same process. Therefore, the dissolution is not necessarily related to the legal personality of the company. Moreover, even in the case of companies having legal personality, the dissolution does not, by itself, lead to the end of the legal person, because this one survives, but in another, more restricted form, limited to the performance of the liquidation operations. The present paper does not intend to analyze, in an exhaustive manner, the matter of the dissolution of companies, but only to emphasize some aspects which may be relevant both for theoreticians of law, but also for practitioners. This analysis is particularly useful in the context in which a certain conceptual and terminological inconsistency can be noticed between the regulation contained in the Civil Code and the one provided by the special laws on companies.

Keywords: *company, dissolution, termination, grounds of dissolution, effects.*

JEL Classification: K22

1. Introduction

The dissolution ends the existence of the company, representing the first stage of this process. Basically, as a principle, once dissolved, the company survives only for the needs of its liquidation, and upon completion of these liquidation operations, its existence ceases permanently. Similar to its setting-up, the termination of the existence of the company is a process that lasts in time, having a variable duration, in order to carry out operations that are indispensable in order to put an end to the entity created by the company contract. This process is initiated by the dissolution of the company.

First of all, it should be mentioned that the dissolution, followed generally by liquidation, does not apply only in relation to the termination of the existence of companies having legal personality. On the contrary, taking into account the provisions of art. 1930-1948 Civil Code, the cessation of companies without legal personality implies the same process. Therefore, the dissolution is not necessarily related to the legal personality of the company. Moreover, even in the case of companies having legal personality, the dissolution does not, by itself, lead to the end of the legal person, because this one survives, but in another, more restricted form, limited to the performance of the liquidation operations.

Concerning the dissolution of companies, we emphasize, as mentioned above, that the new Civil Code[2] establishes an express regulation for this institution. However, with reference to the dissolution of the companies regulated by Law no. 31/1990 republished[3], the special regulation contained in art. 227 – 237[1] of this normative act also subsists. In addition, the dissolution of the cooperative companies is accomplished under the conditions provided by art. 82-84 of Law no. 1/2005 regarding the organization and functioning of the cooperation[4]. The new Civil Code also contains, in art. 245-249, an express regulation for the dissolution of the legal person, and these legal provisions may have vocation to apply in the silence of the special law regulating the companies with legal personality.

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[2] Law no. 287/2009, republished in the Official Gazette of Romania, Part I, no. 505/15.07.2011.

[3] Republished in the Official Gazette of Romania, Part I, no. 1066/17.11.2004.

[4] Republished in the Official Gazette of Romania, Part I, no. 368/20.05.2014.

In this context, taking into account that there is a certain terminological and conceptual inconsistency between these regulations, we consider that an analysis of the legal provisions in the matter appears to be particularly useful both theoretically and practically. However, the present paper does not intend to analyze, in an exhaustive manner, the matter of the dissolution of companies, but only to emphasize some aspects which may be relevant both for theoreticians of law, but also for practitioners. Moreover, even though, generally, the main effect of the dissolution is the beginning of the liquidation operations, the present paper does not include an analysis of the liquidation of the companies, as stage in the process of ceasing their existence.

2. General considerations on the dissolution of companies

As mentioned above, the dissolution phase marks irreversibly the beginning of the process of terminating the existence of the company, whether it has legal personality or not. Therefore, as a principle the company does not cease permanently at the time of its dissolution, but only after this whole process has been completed and the liquidation operations have been accomplished. This conclusion is far more evident in the case of companies with legal personality, since the legislator expressly provides in this situation the continuation of the legal personality during the liquidation and until its completion, in order to carry out all the necessary operations in this regard[5]. The same conclusion must be reached in case of companies without legal personality, taking into account the provisions of art. 1930 para. 2 Civil Code, according to which "the company that enters dissolution is liquidated". Moreover, in the matter of the simple company, within art. 1931 Civil Code the legislator expressly provides the possibility of its tacit extension, despite the intervention of a ground of dissolution that operates by law (the expiration of its duration), by simply reaching the deadline, which obviously would not be possible if the company would have definitively ceased its existence.

We must emphasize that the legislator does not define the dissolution, neither in the Civil Code nor in the special legislation, but only provides the cases in which it intervenes, as well as the effects that it produces. Therefore, we consider, along with other authors[6], that the dissolution represents a first stage in the process of ceasing the existence of the company, a stage that is, as a principle, irreversible, in the sense that once the dissolution has intervened, was decided or pronounced, the company can no longer continue the normal course of its existence[7]. In this respect, we emphasize that the process of setting-up a company also involves a duration in time, as well as the completion of several stages, and it is not limited to the mere conclusion of the company contract. Therefore, taking into account the principle of legal symmetry, the cessation of the existence of the company is a process that lasts in time, initiated at the moment of the dissolution of the company, and which involves in reverse the stages and operations aimed at forming the registered capital and the patrimony of the company, as well as the formality of incorporation in the Register of Trade, in case of companies for which the law connects the obtaining of the legal personality of this registration.

In this context, we emphasize a regrettable terminological and conceptual inconsistency of the legislator in the regulation of dissolution, because there is no correlation between the legal provisions concerning the dissolution of the simple company, contained in the Civil Code, those

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[5] Article 248 para. 2 of the Civil Code, as well as art. 233 para. 4 of Law no. 31/1990 republished.

[6] St. D. Cărpenaru, *Tratat de drept comercial român*, 6th edition, Universul Juridic Publishing House, Bucharest, 2019, p. 255-256; I. Adam, C. N. Savu, *Legea societăților comerciale. Comentarii și explicații,* C.H. Beck Publishing House, Bucharest, 2010, p. 822; M. Șcheaua, *Legea societăților comerciale nr. 31/1990 comentată și adnotată*, 2nd edition, Rosetti Publishing House, Bucharest, 2002, p. 284-285; in another opinion, which we do not embrace, it was shown that the dissolution "represents a stage in the process of ceasing the legal personality" of companies – see S. Angheni, *Drept comercial. Tratat*, C.H. Beck Publishing House, Bucharest, 2019, p. 321.

[7] For the purposes of art. 233 para. 2 of Law no. 31/1990 republished, since the moment of dissolution, the company can no longer undertake new operations. However, as it has been shown in the French juridical literature and jurisprudence, in the presence of similar prohibitions, even after the moment of its dissolution, the company can continue, for a limited period of time, the current activity, insofar as this continuation of the activity facilitates the liquidation operations; see, in this regard, G. Ripert, R. Roblot (under the direction of M. Germain) *Traité de droit commercial*, volume 1 - volume 2, *Les sociétés commerciales*, LGDJ, Paris, 2002, p. 92.

regarding the dissolution of companies with legal personality provided by the special legislation and the provisions of the Civil Code on the dissolution of the legal person[8].

In this regard, in relation to the simple company, art. 1930 para. 1 of the Civil Code states: "... the contract terminates and the company is dissolved ...". From a first point of view, it is incomprehensible why the legislator introduces this dissociation between the company contract and the company form created following its conclusion, especially since the simple company, without legal personality, is primarily a contract. Moreover, this wording of the text of law may lead to the inaccurate conclusion that, from a conceptual point of view, the legal institution of the dissolution of the company is different from its termination, since the "contract terminates" and "the company is dissolved". Moreover, the legislator persists in this inaccurate distinction, since only art. 1930 Civil Code makes express reference to the grounds of dissolution, while other hypotheses that traditionally lead to the dissolution of the *intuituu personae* companies[9] are regulated as representing "other cases of termination" of the company (art. 1938 Civil Code). On the contrary, these cases are stipulated separately in the Law no. 31/1990 republished as grounds of dissolution applicable only in the matter of companies of persons, limited liability companies, as well as limited partnerships by shares[10] (art. 229). It is true that, in the case of companies with legal personality, these grounds lead to the dissolution of the company only insofar as the number of associates has been reduced to one, a condition that is not imposed by the text of art. 1938 Civil Code. However, taking into account the legal framework existing in other European systems of law[11], as well as the entire regulation regarding the dissolution of the company, we consider that the analyzed causes also determine the dissolution of the simple company, initiating the liquidation operations.

As far as the legal person is concerned, the dissolution is conceived as one of its termination modalities, together with nullity, merger, transformation, etc. (art. 244 Civil Code). From this perspective, the regulation of the dissolution of the legal person contains several regrettable contradictions. Thus, from a first point of view, art. 244 Civil Code stipulates "The legal person ceases, as the case may be, by ... dissolution ...", and later, in a contradictory manner, the traditional principle of continuity of legal personality is provided, as far as the operations necessary for the liquidation are concerned, until its completion (art. 248 paragraph 2 Civil Code). Equally, for incomprehensible reasons, putting into question the coherence of the regulation of different legal institutions, in the matter of legal persons the nullity is not a ground for their dissolution, but it is treated separately, as a way of terminating the legal person distinct from the dissolution. On the other hand, in the matter of companies, the nullity is expressly provided among the causes of dissolution (art. 1930 of the Civil Code and art. 227 paragraph 1 letter c of the Law no. 31/1990 republished). This is particularly true since the nullity of the legal person is regulated in a similar way to that of the companies regulated by Law no. 31/1990 republished, and the effect of the declaration of nullity is the same as that of the dissolution, respectively the beginning of the process of ceasing the existence of the respective entity and the initiation of the liquidation operations. From this perspective, we cannot agree with some opinions expressed in the juridical literature, which considers this option of the legislator as justified and explicable, even if it is provided only in the

[8] From this perspective, within French law the dissolution of companies is regulated in a general manner in the Civil Code, art. 1844-7 and 1844-8 of French Civil Code, legal provisions that are equally applicable to civil or commercial companies, with or without legal personality. Nevertheless, the grounds of dissolution that are specific to a certain legal form of commercial company are regulated by the Commercial Code, in the section referring to the respective company form. Probably, in a future regulation it would be necessary for the Romanian legislator to adopt this modality of regulation, especially as now our system of law provides the unity of private law.

[9] Such as the death or cessation of the existence of an associate, in the absence of a clause of continuation of the company with its successors.

[10] If these cases refer to the only active or sleeping partner.

[11] Within French legislation, for example, the law does not impose the condition that these grounds of dissolution related to the person of the associates lead to the reduction of their number to only one - see in this regard G. Ripert, R. Roblot (under the direction of M. Germain) *Traité de droit commercial*, volume 1 - volume 2, *Les sociétés commerciales*, LGDJ, Paris, 2002, p. 82-83. From this perspective, the reasons for dissolution appear as having a different basis: within French law, the dissolution is determined by erosion of the *intuituu personae* element, while in the regulation provided by art. 229 of Law no. 31/1990 republished, the dissolution is a consequence of the absence of a defining element for the company, namely the reduction of the number of associates below the minimum provided by law.

matter of the legal person, on the consideration that "Although, in general, the effects of nullity are similar with the effects of dissolution (neither nullity nor dissolution have retroactive effects; nullity and dissolution have the effect of entering the legal entity into liquidation), however, the nullity entails other effects, its punitive character taking priority over the accessory effect of the termination of the legal personality"[12].

On the other hand, in the matter of companies with legal personality, the regulation of the dissolution focuses in particular on the grounds of dissolution, much more numerous and detailed than in the case of the simple company or the legal person, as well as on the effects that it produces, and especially the initiation of liquidation operations, without particular mention aimed at defining the content of this notion.

3. Some aspects regarding the grounds of dissolution of the companies

The legal regulation is also disparate regarding the grounds of dissolution.

Thus, firstly, although there are generally applicable grounds of dissolution, both in the matter of companies with or without legal personality, and with reference to the legal person, such as the expiry of the duration for which they were set up, the achievement of the purpose or the impossibility of achieving it, the decision of the members or associates, these grounds are stipulated in the Civil Code, in the context of the dissolution of the simple company (art. 1930 Civil Code), but also of the legal person (art. 245 Civil Code), as well as in the Law no. 31/1990 republished (art. 227) or in Law no. 1/2005 republished (art. 82). This modality of regulation does nothing to contribute to the coherence of the analyzed legal institution, giving rise to regrettable contradictions, such as the nullity hypothesis as a ground for dissolution, discussed above, namely situations where, for identity of reasons, the legislator should have chosen the same legislative option.

On the other hand, regarding the dissolution of companies with legal personality, the regulation of its grounds is mainly provided by Law no. 31/1990 republished, respectively Title VI, Chapter I - Dissolution of companies, art. 227-237[1]. However, the legislator has not succeeded in concentrating all the grounds that lead to the dissolution of the company in the same place, because there are other cases, disparately regulated, such as the one provided in art. 14 paragraph 3 of the same normative act, namely the judicial dissolution of the limited liability company with sole associate, for the non-observance of the prohibition of holding the quality of sole associate in a single limited liability company, as well as of the prohibition according to which a limited liability company cannot have as sole associate another limited liability company with sole associate. In addition, over time, the legislator had also provided other grounds of dissolution applicable to the companies regulated by Law no. 31/1990 republished, mainly as a sanction for failure to comply with certain obligations imposed by law, and these cases are regulated in other normative acts. This is the case, for example, of the non-observance of the obligation to change the registration certificate and the tax registration certificate, which leads to the dissolution, in the power of the law, of the company with legal personality, according to art. 30 of Law no. 359/2004 regarding the simplification of formalities concerning the registration in the Register of trade of natural persons, family associations and legal persons, their fiscal registration, as well as the authorization of the functioning of legal persons[13].

At the same time, considering the regulation of the criminal liability of the legal person, within the meaning of art. 135 et seq. from the Criminal Code, for the crimes committed in the accomplishment of the object of activity or in the interest or on behalf of the legal person, it can be ordered, as a complementary sanction, the dissolution of the legal person, insofar as the application of this sanction is required by law or must be considered, taking into account the nature and gravity

[12] F.-A. Baias, E. Chelaru, R. Constantinovici, I. Macovei (coord.), *Noul Cod civil. Comentariu pe articole*, C.H. Beck Publishing House, Bucharest, 2012, p. 190.
[13] Published in the Official Gazette of Romania, Part I no. 839/13.09.2004.

of the crimes established in its charge or the concrete circumstances of the case (art. 138 Criminal Code)[14].

Beyond the disparate method of regulation used by the legislator, the dissolution grounds can be divided into general causes, namely cases of dissolution common to all companies, with or without legal personality[15], as well as special causes, concerning only certain legal forms of company[16]. Equally, depending on the way in which they operate, in the juridical literature and in the jurisprudence[17] the grounds of dissolution are included into three categories, namely grounds of dissolution by law, operating in the power of the law, grounds of voluntary dissolution, determined by the will of the associates and grounds of judicial dissolution, when the dissolution occurs as a result of the ruling of a court of law, because the legislator has expressly provided for the jurisdiction of the court in this regard.

However, regardless of the way they operate, and even in relation to the grounds of dissolution by law, the legislator has shown a constant concern to mitigate the effects of the incidence of these circumstances, so that most of the times the dissolution does not intervene automatically. On the contrary, the respective cause can be eliminated or its application diminished to some extent, and eventually the dissolution will be avoided, ensuring the continuity of the company and the activity carried out through it. Moreover, in certain situations, and especially in cases where the dissolution intervenes as a sanction for non-compliance with some legal obligations, the legislator itself provides for the possibility of regularizing the company, within a certain period of time, and thus removing the reason that would lead to the initiation of the process to terminate the existence of the company[18].

Thus, for example, in the case of the dissolution by law of the company with legal personality for the expiry of its duration, this can be avoided if the associations decide to extend the duration of the company, under the conditions provided in art. 227 para. 2 of Law no. 31/1990 republished[19]. Moreover, in the case of the simple company, the law provides, in such a situation, the possibility of the tacit extension of the company, for successive periods of one year, insofar as it continues to carry on its activity after the expiry of the duration, and the associates continue to assume this quality (art. 1931 Civil Code). In the case of this ground of dissolution by law, one may raise the question of the relation that exists between the regulation contained in Law no. 31/1990

[14] For example, in the case of corruption crimes, the defendants natural persons have used, for committing them, two companies under their absolute control - see Vaslui Tribunal, Criminal Section, criminal sentence no. 149/03.07.2013, published on the website of the courts of law www.portal.just.ro (http://portal.just.ro/89/Lists/Jurisprudenta/DispForm.aspx?ID=360) within the Jurisprudence section. Also, in the case of tax evasion crimes, the court ordered the dissolution of the company, as a complementary sanction, finding that the legal person was set up for the purpose of committing crimes - Buftea Court, Criminal Section, criminal sentence no. 450/18.12.2014, published on the website of the courts of law www.portal.just.ro (http://portal.just.ro/94/Lists/Jurisprudenta/DispForm.aspx?ID=118) within the Jurisprudence section.

[15] Such as the expiry of the duration for which they were set up.

[16] For example, the dissolution of the company by shares or the limited liability company in case of diminishing the net assets to less than half of the value of the subscribed capital - art. 228 para. 1, letter a, and para. 2 in conjunction with art. 153^{24} of Law no. 31/1990 republished.

[17] Oradea Court of Appeal, 2nd Civil Section, of administrative and fiscal litigation, decision no. 88/12.04.2018, published on the website of the courts of law www.portal.just.ro (http://portal.just.ro/35/Lists/Jurisprudenta/DispForm.aspx?ID=1392) within the Jurisprudence section. In the judgment it was held that the dissolution is judicial when the legislator has expressly provided that, in relation to a certain ground of dissolution, it must only be ordered by the court. In cases where the intervention of the court of law is not required, the dissolution occurs as a result of the decision of the associates, being therefore voluntary.

[18] This is the case, for instance, of the dissolution for not changing the registration certificate, hypothesis in which the legislator expressly provides a period for the regularization of the company, in order to fulfill the legal obligation - article 30 in conjunction with article 26 of Law no. 359/2004. In the same sense, there are the provisions of art. 228 para. 1 letter b of Law no. 31/1990 republished, according to which the company by shares has a period of 9 months for the purpose of regularization, in order to reunite the minimum number of shareholders. Only at the expiry of this period, if the minimum number of shareholders stipulated by the law has not been reached, any interested person can request, in front of the court of law, the dissolution of the company. Moreover, according to art. 10 para. 3 of Law no. 31/1990 republished (to which the text of law referred to above refers), the dissolution will be avoided, even in the judicial stage, if the company will reach its minimum number of shareholders until the decision of the court of law becomes definitive.

[19] Thus, in order to avoid the automatic dissolution of the company at the expiry of the term for which it was set up, the law expressly stipulates the obligation of the management body of the company to initiate the consultation of the associates, at least three months before the expiry of the duration of the company, in order to agree a possible extension of it and such a decision must be taken with the quorum and the majority required for the amendment of the constitutive act of the company.

republished and the one provided by the Civil Code, respectively to what extent such a tacit extension could operate in the case of companies with legal personality. In this respect, taking also into account the regulation of this ground of dissolution in the Law no. 31/1990 republished[20], we consider, along with other authors, that the extension of the duration of the company can only be made in an express manner, by the decision of the associates, adopted under the conditions of quorum and majority necessary for the amendment of the constitutive act, and this decision must be taken before the expiry of the duration initially agreed and mentioned in the constitutive act. To the extent that no such express extension occurs, the dissolution of the company is produced automatically and irreversibly[21], at the expiration of its duration, without the need to make any mention in the Register of Trade. However, as emphasized in the juridical literature, it is possible that, in practice, even after the intervention of the dissolution by law for the expiration of its duration, the activity of the company will be carried on, and the associates will continue to behave as having this quality. We consider, along with other authors[22], that in such a situation, the tacit extension of the company with legal personality cannot operate, but, eventually, after the dissolution by law, if the partnership still exists in fact, it will constitute a company of fact, within the meaning of art. 1893 Civil Code, having the legal regime of the simple company.

In view of the above analysis, dedicated to the ground of dissolution of the company for the expiry of its duration, we emphasize that it is also regulated, in a similar form, in the matter of cooperative companies, respectively in art. 82 paragraph 1 letter a of Law no. 1/2005 republished. In this respect, as mentioned, the traditional approach of this ground of dissolution, in relation to the companies regulated by Law no. 31/1990 republished, is in the sense that it operates by law, automatically, through the power of the law, by the simple expiry of the duration of the company stipulated in the constitutive act, without the need to register the dissolution in the Register of Trade and to publish it in the Official Gazette, because the limited duration of the company was known by third parties from the time of its setting up, by the publication of the constitutive act[23]. This solution seems to be contradicted by the regulation of the same ground of dissolution in the matter of the cooperative company, because art. 83 of Law no. 1/2005 republished stipulates, without any distinction, that the dissolution of the company must be communicated to the Office of the Register of Trade, within 15 days from the moment it occurred, in order to be registered and published in the Official Gazette of Romania. However, for identity of reasons, we appreciate that all the above considerations, analyzed in the matter of the dissolution of the companies provided by Law no. 31/1990 republished at the expiry of the duration for which they were set up are also applicable in the case of the cooperative company, in relation to its dissolution in the presented hypothesis.

Also, in the case of voluntary dissolution, by the will of the associates, the legislator allows its avoidance, insofar as the associates change the decision taken, provided that the assets have not yet been distributed (art. 231 of Law no. 31/1990 republished). The new decision, which decides the continuation of the common activity and, respectively, of the existence of the company, must be adopted under the quorum and majority conditions provided by law for the amendment of the constitutive act, registered in the Register of Trade and published in the Official Gazette.

Finally, the same concern of saving the company and avoiding the cessation of its existence, as far as it is possible and justified, also emerges from the legal regulation of the grounds of judicial dissolution. Thus, for example, in the case of dissolution by a court judgment for justified reasons, the judge has a wide discretion regarding the soundness and the reality of the reasons invoked, as well as the extent to which they impede the normal functioning of the company. In this respect, in the jurisprudence it was emphasized that the court of law is obliged to determine in concrete terms,

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[20] Respectively the obligation to consult the associates, before the expiry of the duration of the company, corroborated with the possibility, recognized by law to any interested person or to the Office of the Register of Trade, to request, in front of the judge, the declaration of the dissolution of the company at the expiration of its duration (art. 227 para. 2 and 3 of Law no. 31/1990 republished).

[21] I. Adam, C. N. Savu, *Legea societăților comerciale. Comentarii și explicații,* C.H. Beck Publishing House, Bucharest, 2010, p. 826-827 and the jurisprudence cited there.

[22] St. D. Cărpenaru, *Tratat de drept comercial român*, 6th edition, Universul Juridic Publishing House, Bucharest, 2019, p. 261.

[23] See I. Adam, C. N. Savu, *Legea societăților comerciale. Comentarii și explicații,* C.H. Beck Publishing House, Bucharest, 2010, p. 846 and the authors cited there.

depending on the circumstances of the case, the content of the justified reasons that may lead to the decision of dissolution of the company, taking into account both the interest of the associate and the social interest, under the conditions of maintaining a balance between these categories of interests[24]. Equally, it has been held in the jurisprudence that the dissolution of the company cannot be ordered for the existence of misunderstandings between associates if the reasons invoked are not of such a nature as to impede the functioning of the company, and there are other legal remedies and procedural means to apply, all the more so as the other associates oppose the request of an associate to dissolve the company, expressing their will unequivocally in the sense of continuing its existence[25].

In this context, we consider that it should be emphasized that, in relation to certain grounds of dissolution, the law offers the associates the possibility to remove their incidence, from the very moment of setting up the company. Thus, for example, in the constitutive act of the company, an indefinite duration can be included[26], or the associates may agree on the insertion of a clause of continuation of the company with the successors, in case of the death of one of the associates.

4. Conclusions

As we have already emphasized, the present approach does not propose an exhaustive analysis of the legal regulations applicable to the dissolution of companies, but it only highlights some significant aspects that define this legal institution. This approach is particularly useful considering the disparate way of regulating the dissolution, which has given rise, quite frequently, to regrettable errors or inconsistencies.

However, regardless of the ground of dissolution that may be applicable and the way it operates, the concern of the legislator is constantly directed towards saving the company, and implicitly the activity carried on through it, to the extent that it is possible and viable. From this perspective, as a principle the dissolution does not operate automatically and usually the associates have the possibility of removing the incidence of the ground of dissolution.

In conclusion, the dissolution initiates the process of ceasing the existence of the company, its main effect being the beginning of the liquidation operations. However, within the meaning of the law, the dissolution occurs without liquidation in the hypotheses in which the activity of the company continues, but in another company form.

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4. M. Scheaua, *Legea societăților comerciale nr. 31/1990 comentată şi adnotată*, 2nd edition, Rosetti Publishing House, Bucharest, 2002.

[24] Cluj Court of Appeal, 2nd Civil Section, decision no. 866/17.10.2016, in the Bulletin of the Jurisprudence of the Cluj Court of Appeal for 2016, Universul Juridic Publishing House, p. 285-286. In this case it was held that there are serious misunderstandings between associates - former spouses, which could impede the functioning of the company, since the marriage between the parties was terminated by divorce, and after this moment the administration of the company by the two former spouses - administrators and associates in equal proportions, had become impossible, even if the company had good economic and financial results.

[25] Oradea Court of Appeal, 2nd Civil Section, of administrative and fiscal litigation, decision no. 402/21.06.2013, published on the website of the courts of law www.portal.just.ro (http://portal.just.ro/35/Lists/Jurisprudenta/DispForm.aspx?ID=721) in the Jurisprudence section.

[26] The Romanian law allows the setting up of companies with an indefinite duration, unlike French law, according to which the companies can be set up only for a determined period, the maximum duration provided by the law in this regard being 99 years. However, even within French law, it is obvious that this maximum duration can rarely be reached, especially in the case of companies of persons, because their existence depends directly on the person of the associates – see G. Ripert, R. Roblot (sous la direction de M. Germain) *Traité de droit commercial*, tome 1 – volume 2, Les sociétés commerciales, LGDJ, Paris, 2002, p. 80.

5. S. Angheni, *Drept comercial. Tratat*, C.H. Beck Publishing House, Bucharest, 2019.
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