

TEKLA PAPP\*

## The Timesharing Contract in Hungary and in Europe

### 1. Regulation of timesharing contracts

The European Parliament and Council adopted Directive 94/47/EC (on the protection of purchasers in respect of certain aspects of contracts relating to the purchase of right-to-use immovable properties on a timeshare basis) on 26 October 1994 for the following reasons:

- From the aspect of timesharing contracts, the differences between the national legal systems may restrain the management of the internal market and deform competition;
- Consumers shall be protected at a high level (the right to information, providing for the right for rescission, requirement of written information, prohibition of paying deposit/advance);
- Minimum obligations shall be prescribed for marketers, and the performance thereof shall be provided;
- The minimum elements of timesharing contracts shall be determined (see: appendix of directive);
- Common provisions referring to the language of timesharing contracts are needed.

The directive's aim is not to provide for complete regulation regarding timesharing contracts. Its scope extends to the legal harmonization of the following aspects:

- information being the fundamental element of the contract,
- communication of information (time, mode),
- the consumer's due rescission.<sup>1</sup>

In the member states of the European Union, during the codification of the timesharing contract, either consumer protection became conspicuous (see: Scandinavian countries, Benelux states, United Kingdom, Germany, Austria),

\* Associate professor, University of Szeged, Faculty of Law, H-6721 Szeged, Rákóczi tér 1.

E-mail: papptekla@juris.u-szeged.hu

<sup>1</sup> Papp, T.: *Atypical contracts*. Szeged, 2007. 77.

or market commerce and the aspects of the law of taxation were taken into consideration (see: Greece, Portugal, Spain, France).<sup>2</sup> A common feature of the member states' regulations is that the realization of the objectives of Directive 94/47/EC was the primary task thereof. The member states adopted the conceptual determinations almost in the same way (see: Point 2.). The member states' implementations are identical to the directive in connection with the minimum content element (consumer data, criterion of right-to-use, payment liability of the consumer), formal requirements (simple documents) of timesharing contracts, and the determination of the written information that shall be given to the consumer [in connection with the marketer, the right-to-use, real estate, consideration to be paid by the consumer, information of the consumer's due rescission and the final clause (the written information shall be regarded as the part of the contract)]. Sharper differences appear in the subject matter of qualifying of timesharing contracts and in the time-period of the so-called 'cooling off period' (the consumer's 'calming down period': after contracting the right for rescission, with strict legal title, is due to the consumer). With regards to the letter:

- 10 day rescission (counting from the date of the contract and giving a copy to the consumer) is determined by Dutch, Finnish, Irish, Greek, Italian, Portuguese, French, Danish, Swedish and Spanish law,
- Austrian, German and English regulations give 14 days to the consumer to exercise the right of rescission,
- the Belgian and Hungarian codes give 15 days to the consumer to exercise the right of rescission.<sup>3</sup>

The Hungarian Government decree (20/1999 (II. 9) Government decree on contracts for purchasing the right-of-use of real estate on a timeshare basis) and the Directive harmonize with regard to the aspect of subject-determination, formal requirements of concluding, content elements (referring to the information being inherent to the contract), the consumer's right to rescission, prohibition of advance/deposit, applicable law. Considering the definition of timesharing contracts, the Hungarian implementing law is more detailed: it is extended to recreational use as well, and it does not determine minimum time for a repeated, definite period (the Directive does not allow establishing a right-to-use lasting less than a week).<sup>4</sup>

<sup>2</sup> [http://www.timesharingproblems.org/Timesharing\\_GB/index.html](http://www.timesharingproblems.org/Timesharing_GB/index.html)

<sup>3</sup> <http://europa.eu.int/youreurope/nav/hu/citizens/factsheets/at/consumerprotection/timeshares/de.html>

<sup>4</sup> Papp: *op. cit.* 77.

The up-to-dateness of this theme is indicated by the modification of the Directive 94/47/EC. The Commission had drafted a proposal (COM (2007) 303; about the consumer protection of the timeshare and long expiration holidayproduct regarding their specific aspects, as their resale and barter) as a reform of the Timeshare Directive leading to increased consumer protection on 7<sup>th</sup> June 2007. This proposal is a reaction of the Commission for development of timeshare-market, so it contains the following new elements:

- the extension of the effects of the directive to the movable timeshare, for example boathouse, cruiser and mobile house;
- the changing of the periods:
  - the minimum period of the timeshare won't be 1 week, it can also be shorter,
  - the shortest period of the timesharing contract will be 1 year,
  - the cooling-off period will be at least 14 days;
- the effect of the directive will be extended to the timeshare-broker, who gives advice and acts in connection with the resale and acquisition of the timeshare;
- the consumer may join the timeshare-barterpool;
- the obligation of the information chunks;
- the prohibition of the paying during the cooling-off period will also be applied for the third person;
- the contracts subordinated to the timesharing contract (for example contract for the club-membership) become void by the termination of the timesharing contract.

The Draft Common Frame of Reference and the Consumer Acquis Principles are targeted the full harmonisation of the consumer protection law, but there is a danger of inconsistencies with the reference to the changing of the Timeshare Directive. The concepts of the proposal (for example consumer, businessman, resale, contract for barter) are not sufficiently linked to the current review of the Consumer Acquis.<sup>5</sup>

## 2. Conceptual analysis of timesharing contracts

Agreement for purchasing the right-of-use of real estate on a timeshare basis is a contract under which the consumer directly or indirectly acquires the right

<sup>5</sup> Busch, C.: Der Vorschlag der EU-Kommission für eine Reform der Timeshare-Richtlinie – ein richtiger Schritt auf dem Weg zur Überarbeitung der Verbraucheracquis? *Zeitschrift für Gemeinschaftsprivatrecht/European Community Private Law Review*, 1/2008. 13–17.

for a repeated, definite period for the use of recreation or housing of one or more properties for at least a three-years period from the marketer, in return for consideration. Within the frame of the contract, the consumer acquires the right to use something of a definite purpose (recreation and housing) for a 3-year period. (This period may be longer, but it must be definite.) This includes one or more buildings (e.g. hotel) and rooms, and supplementary accessories (e.g. swimming pool, sauna, tennis or golf court). The term is a predetermined period of the year (e.g. for a week or 10 days), of an annually recurrent nature (on the same days, the same month in each year). The right-to-use is received from the owner of the real estate (this could be the marketer as well), directly or indirectly from the marketer (if he/she is not identical to the owner of the real estate), or from a resaler agency (having OTE-membership–Organisation for Timeshare in Europe–, the company dealing with secondary sale).<sup>6</sup>

From a subjective aspect, the characteristic of the timeshare-construction is that the contracting parties usually found some kind of organization, or join one, in order to enforce their interests more effectively (see: Point 4): consumers usually found an association, club, or co-operative, while the marketers form exchange companies (RCI–Resort Condominiums International, II–Interval International).<sup>7</sup>

According to the Hungarian regulation, the direct subject matter of time-sharing contracts is the transfer of the right-to-use by the marketer to the consumer.<sup>8</sup> Under German, Dutch and Austrian law the marketer obliges himself to transmit the right-to-use (Nutzungsrecht überlassen). The general clause ‘Acquiring the right-to-use’ is used in the Spanish, Italian, Portuguese, Finn and Swedish provisions. Under Irish and Greek law the direct subject matter of the timesharing contract is the transfer of ownership referring to real estate, and other rights. Under Belgian law the consumer may acquire the right of joint ownership.<sup>9</sup>

According to the Hungarian Government decree, the indirect subject matter of the agreement is the right-to-use, under which the consumer may possess, use, possibly utilize (change) and alienate the given real estate (or part of the

<sup>6</sup> Papp: *op. cit.* 63.

<sup>7</sup> Drábik L.–Fábián A.: *Travel organizing and timesharing activity in the EU and in Hungary*. Budapest, 2004. 81. <http://www.tug2.net/advice/TimeShare-101.htm#mKeyTimeshareConcepts>; <http://www.ote.hu/index.nof?o=O&k2=18&nyelvid=1&k1=3>

<sup>8</sup> Papp: *op. cit.* 66.

<sup>9</sup> <http://europa.eu.int/youreurope/nav/hu/citizens/factsheets/at/consumerprotection/timeshares/de.html>

real estate) for an annual definite period.<sup>10</sup> The Hungarian legal solution specifies at least a three-year long period and recurring acquisition of the right-to-use. The member states of the European Union regulate—according to the Directive—a minimum of 3 years and periodically recurring (usually annually) use.<sup>11</sup> The law's term of wide comprehension referring to the periodicity of timeshare was filled with 'more chiselled' content: not only by giving the possibility of annual rotation, but e.g.

- the right-to-use of a predetermined week is enforceable *biennially* and may be taken either in odd years (*odd year usage*) or in even years (*even year usage*);
- or the so-called *accelerated use*, when the right-to-use is exercised in a shorter period as acquired (if the consumer acquires holiday ownership use for 10 years, annually 1 week, then in this usage mode—depending on the free capacity of the vacationer—yearly 2 weeks vacation through 5 years, or yearly 5 weeks vacation through 2 years );
- or the annual right-to-use may be exercised at the same time, at the same resort (*fixed unit*).<sup>12</sup>

In respect of the period of annual exercise of recurring right-to-use, the member states of the Union generally adopted the determination of the minimum 1-week interval of the Directive, the exception being e.g. the Hungarian, Danish, Austrian, German, English and the Spanish regulations.<sup>13</sup>

The time-share practice may be:

- a) one week long, annually exercisable right-to-use, which
  - fits with the calendar week number (*interval*),
  - is for a fixed time (*fixed week*),
  - has a *floating-week* schedule, when only the holiday season is predetermined (high, early, late season and off season), but the number is not,
  - has a *flexible* schedule: either the consumer may choose, according to the predetermined rules, the annually utilizable time, or the right-to-use, acquired by the consumer, may be expressed in points so the

<sup>10</sup> Government decree No. 20/1999 (II. 9), Article 7, Section (1), point c and k. Papp: *op. cit.* 66.

<sup>11</sup> <http://europa.eu.int/youreurope/nav/hu/citizens/factsheets/at/consumerprotection/timeshares/de.html>

<sup>12</sup> <http://ote.hu/index.nof?o=O&k2=18&nyelvid=1&k1=3>

<sup>13</sup> <http://europa.eu.int/youreurope/nav/hu/citizens/factsheets/at/consumerprotection/timeshares/de.html>

time and period of the legal practice (usually its place as well) may be altered as demanded,

- is taken in *accrued weeks*, because the consumer has not exercised his/her right-to-use for many years (and in exchange the company ‘banked’ the weeks) and he/she would like to utilize the accumulated weeks all at once;
- b) *bonus time*, when in the term exceeding the period of recreation – depending on the free capacity of the vacationer – the consumer may exercise his/her right-to-use after an already utilized one week term (i.e. as an additional right);
- c) quarterly, as a 3 month long right-to-use (*quartershare*), that may be utilized on a rotation basis: in alternate months, each year.<sup>14</sup>

Common features of the European regulation of the timesharing are that the right-to-use, as the subject matter of the contract, is negotiable, that it may be purchased for a valuable consideration, and that it may serve housing and recreational purposes as well (the latest is the service most generally received, which is why timeshare is often identified with holiday ownership, and termed as: "*holiday ownership*").<sup>15</sup>

In connection with the special right-to-use acquired by the timesharing contract, new tendencies may be realized:

- a) on the one hand, timeshare is regarded as the part of the sphere of increased tourist services (See: verdict of the European Court of Justice, in the case of *Travel Vac*);<sup>16</sup>
- b) on the other hand the legal practice may not only focus on real estate, but on movables as well: on the basis of an American case, in the United Kingdom, shared, temporary fractional owning of luxury cars (*'I own a Ferrari/Bentley/Hummer/Rolls-Royce'*), luxury yachts and aeroplanes is possible within the framework of a Timesharing Contract, or using them in luxury hotels, connected with the holiday ownership.<sup>17</sup>

<sup>14</sup> <http://ote.hu/index.nof?o=O&k2=18&nyelvid=1&k1=3>

<sup>15</sup> <http://ote.hu/index.nof?o=O&k2=18&nyelvid=1&k1=3>

<sup>16</sup> C-423/97, *Travel Vac S. L. v M. J. A. Sanchis*.

<sup>17</sup> Luxury cars in part-ownership. Common dream. *Heti Világgazdaság*, 25 December 2004, 52–53. Nagy G.: Holiday clubs for rich. Part-time luxury. *Heti Világgazdaság*, 11 June, 2005, 34–37. Common private aeroplane is spreading. <<http://www.deluxe.hu/cikk.php?article=591&pat=14>, 15 June 2005>.

### 3. The system of timeshare

In Hungary, the most widespread form of timeshare-construction is (a) *cooperative society for building and maintenance of holiday apartments*, (b) *company of shareholders*, (c) *indirect formation*.

(a) The cooperative society for building and maintenance of holiday apartments became general at the end of the 1970s (e.g. Hegyvidéki SCH Szövetkezeti Üdülőszálloda-lánc). In the cooperative society for building and maintenance of holiday apartments, with respect to recreational buildings owned by the cooperative, members have legal right-to-use the recreational unit temporarily. Such use shall be annual for the period determined in the articles of association. This holiday ownership is hereditary, donatable and sellable.<sup>18</sup> The mentioned Hegyvidék Üdülőépítő és Fenntartó Szövetkezet, and Szövetkezeti Üdülőszálloda-lánc sell two types of recreational use, in scheduled mode: domestic, i.e. at least a 7 night long perpetual holiday ownership, and extended perpetual holiday ownership (associated with RCI club membership).<sup>19</sup>

(b) Utilization of company of shareholders ('on the basis of timeshare-shares', e.g. Abbázia Plc., Petneházy Plc.) covers a more complicated system:

ba) The owner of the real estate is the Plc., and the lessee is an Ltd. thereof. The Ltd., as lessee, has the right to sell the right-to-use—within the lease—in a scheduled way. Within the framework of a contract for recreational use, the consumer can acquire a right-to-use by purchasing shares: the consideration for the recreational right is paid by purchasing dividend preference shares. The shareholder, i.e. the consumer, shall not influence the adoption and alteration of the lease: this question is not assigned to the sphere of the member's meeting, but the Board of Directors of the Plc. shall decide thereon.<sup>20</sup> From a legal aspect, the construction is uncertain: if the dividend after the share due to the consumer—as shareholder—is the timeshare itself, than embodying real right entitlement (in a given case, the use of a recreational unit), but it isn't embodying a real membership right.<sup>21</sup> A more lawful variation is if the fund of the manager (or owner) of the real estate is produced (or completed) by a share purchase, and, besides this, simultaneously they conclude a contract for recreational use (which condition is the purchase of the share) with the consumer. The utilization of

<sup>18</sup> Papp: *op. cit.* 74. Act CXV of 2004. Article 13.

<sup>19</sup> 154/1999. VJ (Decision of the Economic Competition Bureau).

<sup>20</sup> 59/2001. VJ.

<sup>21</sup> Act CXLIV of 1997. Article 179.

timeshare takes place within the framework of the contract for recreational use, generally according to the Government decree. Legally it is problematic that the shareholders (entitled persons of the timeshare) of the Plc. have no influence on the management of the Plc. and on the adoption and alteration of the condition of the timeshare, because they can exercise only limited membership rights, because the shares are acquired 'with combination sale, under duress' (otherwise they could not become entitled to recreational use).

bb) A more simple form of the above mentioned legal solution is when the owner, maintainer and manager of the real estate (resort) is the same legal entity (company of shareholders), which directly (not inserting the 'lessee') concludes a preference lease contract (for 99 years) with those consumers, who take up shares of a definite number and value, or purchase at the end of the subscription period.<sup>22</sup>

bc) From the consumer's aspect, maybe the most suitable way of purchasing timeshare is when a partnership purchases ½ of the incorporeal property quota of the real estate (resort village) and the Plc., to be funded by it, purchases the other ½ of the incorporeal property quota from the stocks originating from the quotation of shares for the purchase price, suiting the planned subscribed capital. From a legal-technical aspect, it is a share-purchase draft contract, which takes place in connection with the contract for the use of real estate. After the completion of the deal, the Plc. terminates, and the fund is divided between the shareholders at the rate of the nominal value of their shares. Simultaneously with the division, focusing thereon, they establish common property with an agreement among themselves and they have the suite-quote registered into the register of title deeds. The partnership undertakes the profit-oriented, hotel-kind management and maintenance of the resort-property. To provide this, they establish mortgage on the property quota of the partnership in favor of the timeshare-entitled persons.<sup>23</sup>

(c) Within the framework of indirect formation, the agencies, agents—not owning the given real estate—selling timeshare, get into connection with the consumers.<sup>24</sup> For selling timeshare, we find the contract for sole commerce agent more suitable than the agent, or commission legal relationship between the real estate owner and the agent.

In 1994 the dominant Hungarian timeshare companies founded the Hungarian Timeshare Association (with 11 members), which in 2001 transformed into a

<sup>22</sup> 45/1998. VJ.

<sup>23</sup> 247/1995. VJ

<sup>24</sup> Papp: *op. cit.* 75.



union, managing for information and orientation purposes.<sup>25</sup> Within the framework of the Organisation for Timeshare in Europe, OTE, the Hungarian department started its work in autumn of 2003.<sup>26</sup>

The system of timeshare is suitable mainly for satisfying holiday demands: generally a right for a one week interval recreation may be purchased, which can be used with maximum flexibility of time and space within the exchange systems. Before entering the exchange system—in the interest of better ‘convertibility’ of exchange value—it is worth to consider: where, how big and on which service providing real estate, on what season, annually how often and how long and for how much can holiday ownership be acquired. By the 21st century already 90 countries’ 5400 vacationers participated in the exchange-system. The two largest exchange companies, the Resort Condominiums International (RCI) and the Interval International (II); at these, the consumer automatically becomes a ‘club member’ of the exchange company by purchasing timeshare.<sup>27</sup> The RCI’s residence is in London and it has 4 other regional centers in Europe. Hungary- together with Germany, Austria, Switzerland, Scandinavian countries, Finland, Russia, Czech Republic, Poland, Slovenia and Croatia—belongs to the representation of RCI Consulting in Munich.<sup>28</sup>

The consumers’ demands for bigger diversity resulted in the formation of first, an exchange-system, then the points system.<sup>29</sup> So in the timeshare-system the acquired holiday ownership could be utilized in two ways:

- by exchange (the club members exchange their holiday ownership to another resort and/or another time, sorting from the exchange-base of the given company);
- or with the points system (which is the ‘currency’ expressing the value of holiday ownership), where, by using the available points, the consumer may reserve a resort (part of the resort) in the resort and time suitable for him. Utilization of the holiday ownership has costs as well: besides the single entering fee, an annual membership fee and organizational fee shall be payed.<sup>30</sup>

The timeshare-sector – in which 4000 companies are working worldwide – went through a profile-exchange:

<sup>25</sup> Drábik–Fábián: *op. cit.* 79–80.

<sup>26</sup> <http://ote.hu/index.nof?o=O&k2=18&nyelvid=1&k1=3>

<sup>27</sup> Papp: *op. cit.* 76.

<sup>28</sup> Drábik–Fábián: *op. cit.* 81.

<sup>29</sup> <http://ote.hu/index.nof?o=O&k2=18&nyelvid=1&k1=3>

<sup>30</sup> Papp: *op. cit.* 76.

- on the one hand, among the 40 most significant timeshare companies, 6 leading public catering companies appeared (e.g. Four Seasons, Hilton, Ramada, Hyatt),<sup>31</sup>
- on the other hand, exchange companies often provide preferential travel service (insurance, air-ticket, car hire etc.) for their club members,<sup>32</sup>
- thirdly, timeshares connected to holiday-parks and bathhouses became conspicuous.

The expanding timeshare-system became one of the dominant means of tourism, it concretized the opportunity, utilized more often by consumers, because of the flexibility and accordance to the legal regulations.

#### 4. Qualification of the timesharing contract

Directive 94/47/EC does not have the purpose of regulating the legal basis of contracts of timesharing and it concludes that the legal nature of the rights, regarded as the subject matter of the contract, are very different in each member state. The Directive does not classify timesharing-agreements as lease contracts, mainly because of the transfer of right-to-use and the ways of payment.<sup>33</sup>

The international professional terminology gives three kinds of variation: (a) ownership, (b) lease right, (c) special right-to-use. (*The timeshare is somewhere between ownership and lease.*<sup>34</sup>)

(a) The point of timesharing is distinguished by the conception, identified with ownership:

aa) *deeded property* covers the negotiable (this can be inherited, sold, donated, or rented), registered in the authentic records in the country of location of the real estate,

ab) *fee simple* is a holiday ownership for the entitled person, under which he has negotiable ownership in respect of a pre-determined resort for a certain time period (it is an incorporeal property quota, which is based on common ownership not only in the sense of resort or a section of a resort, but in the sense of time as well i.e. a periodically recurrent interval);

(b) if it is impossible to originate and register timeshare as ownership, then the use of real estate is provided either by *lease, leasehold*;

<sup>31</sup> Drábik–Fábián: *op. cit.* 14.

<sup>32</sup> <http://ote.hu/index.nof?o=O&k2=18&nyelvid=1&k1=3>

<sup>33</sup> Papp: *op. cit.* 64. Preamble of Directive 94/47/EC, Point 3, 4, 5.

<sup>34</sup> [http://www.timesharingproblems.org/Timesharing\\_GB/index.html](http://www.timesharingproblems.org/Timesharing_GB/index.html)

(c) or by *special right-to-use (RTU)*; these two latter rights are also negotiable, and may be founded for a longer, but always definite time (usually 20–99 years).<sup>35</sup>

In the United Kingdom, timeshare shall not rest on ownership, even though the entirety of the group of consumers is designated deceptively from the aspect of legal judgement: Vacation Ownership, Fractional Ownership, Homeowners Association. Those having timeshare may form *Vacation, Members' or Proprietary Clubs*, and authorize a *trust* to manage and maintain the real estate.<sup>36</sup> In Spain, the so-called *escritura* system was formed (Owners Community/Club), which is based on holiday ownership (multiple ownership), however, in the agreement the word '*propiedad*' shall not be used.<sup>37</sup> In Belgium the timeshare-entitled persons are regarded as *common owners*.<sup>38</sup> German and Austrian law categorizes timeshare as *Teilzeitwohnrecht/Teilzeitnutzungsrecht* (timeshared holiday ownership/timeshared right-to-use). In both countries, this special right-to-use may appear as property law, association membership and as a company interest, as well. In the Netherlands, timeshare can be *property law* (ownership, or right-to-use) and *personal right* as well: association membership or company interest. The Irish and Greek legal definitions mention *ownership and other rights* (this latter category is not determined). In Portugal the real legal nature, timeshared right-to-use (*DRHP, direito real de habitação periódica*) and holiday ownership (*DRT, direito de habitação turística*) are distinguished. In France, the company of shareholders-construction is spread: the timeshare-entitled persons are preference shareholders in the company. For timesharing, the French often, but not appropriately, use the phrase '*Multipropriété*' (because those having timeshare are not the owners). In Sweden, Finland and in Italy, timeshare is regarded as a *special right-to-use*.<sup>39</sup>

The Hungarian Government decree, on contract for purchasing right-to-use of real estate on a timeshare basis, leaves the question of the nature of the right acquirable by contract unsettled: it may be right-to-use<sup>40</sup> or ownership.<sup>41</sup>

The Conception of the new Civil Code characterizes the contract for timesharing as a specific obligation to use, which includes real and civil law company

<sup>35</sup> <http://ote.hu/index.nof?o=O&k2=18&nyelvid=1&k1=3>

<sup>36</sup> <http://ote.hu/index.nof?o=O&k2=18&nyelvid=1&k1=3>; <http://www.tug2.net/advice/TimeShare-101.htm#KeyTimeshareConcepts>

<sup>37</sup> <http://ote.hu/index.nof?o=O&k2=18&nyelvid=1&k1=3>

<sup>38</sup> [http://www.timesharingproblems.org/Timesharing\\_GB/index.html](http://www.timesharingproblems.org/Timesharing_GB/index.html)

<sup>39</sup> <http://europa.eu.int/youreurope/nav/hu/citizens/factsheets/at/consumerprotection/timeshares/de.html>

<sup>40</sup> Government decree No. 20/1995 (II. 9). Article 2. Point a).

<sup>41</sup> Government decree No. 20/1995 (II. 9). Article 7. Point c).

elements, besides the obligatory nature. According to this, the legislator finds it either among the rules of the law of obligations, or among special rules of property law.<sup>42</sup>

From other fields of law, financial law and competition law affect the construction of timeshare:

- financial law qualifies the right-to-use, acquired by contract for time-share, as a valuable right and interest, without explaining its nature,<sup>43</sup>
- competition law tries to fit the timeshare in the civil law category: use of real estate property is divided on a timeshared basis among the joint proprietors so fractional usage is regarded as limited usage.<sup>44</sup>

In the Hungarian practice, a contract for timesharing may commence common property, usufruct, lease, company interest and cooperative, or association membership. In tourism advertisements timeshare is often called ‘timeshared lease’, ‘legal-continuous lease contract’, or as ‘long-term lease right’.<sup>45</sup>

In economic special literature, we found a classification, which regarded timeshare as real right-to-use, arguing that it promotes the satisfaction of necessities, so it is connected to the res (object), and it is not a value-right, as with ownership and mortgage.<sup>46</sup>

We agree with the opinion of Vékás Lajos, who focuses on the contractual side (according to the Directive and the Government decree): the legal relationship, covered by the contract for timesharing, is a specific obligation to use, including property law and civil law company elements.<sup>47</sup>

Our opinion:

- if the special right-to-use is based on common property or usage, then the real nature of timeshare is stronger,
- if it is based on organizational membership, then the civil law company nature is dominant, so that the contractual relationship of the parties will be more stressful.<sup>48</sup>

<sup>42</sup> Papp: *op. cit.* 64.

<sup>43</sup> 87/2001. Accounting question.

<sup>44</sup> 247/1995. VJ.; 142/2001. VJ.

<sup>45</sup> Papp: *op. cit.* 64.

<sup>46</sup> Drábik–Fábián: *op. cit.* 66.

<sup>47</sup> Papp: *op. cit.*, 64. <http://www.ajk.elte.hu/TudomanyosProfil/hallgatoktevekenysege/tdk/pjerkonyv2001/VekasLajos.html>

<sup>48</sup> Papp: *op. cit.* 64.