

## **UNLAWFUL DECISIONS OF THE SHAREHOLDERS ASSEMBLY AND LEGAL OPPORTUNITIES FOR THEIR REFUTATION**

### **Abstract**

The Shareholders Assembly is a body of the shareholders company that includes and incorporates all the shareholders, with the aim of exercising their rights in the work of the company.

The decisions of the Shareholders Assembly, since its institutionalization, and during its operations, are legal acts (legal work). Just like any other legal action, the decisions of the Shareholders Assembly must be in accordance with the Constitution, the laws and good business practices. However, the decisions of the Assembly are not always in accordance with legal norms, or they may be illegal from a legal and substantive perspective. In such cases, the decisions of the Shareholders Assembly shall be invalid (entirely or partially), because the conditions for their validity, in accordance with legal norms and the statutes of the company, have not been met.

The main objective of this paper is to assist in determining the types of unlawful decisions, and their clarification, to clarify the manner of exercising judicial protection against unlawful adopted decisions, to specify the types of lawsuits challenging unlawful decisions, and to indicate the legal consequences from court decisions.

**Key words:** Shareholders Assembly, unlawfulness, decisions, nullifying.

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<sup>1</sup> Assistant Professor at the School of Law, University American College, Skopje, Republic of Macedonia.

## Introduction

The shareholders assembly is a body of the shareholders company that includes and incorporates all the shareholders, with the aim of exercising their rights in the work of the company. The Assembly is a mandatory body in the corporation where the will of the corporation is created. The will of the shareholders is created through passing decisions that can be brought by the Assembly, i.e. a statute and decisions.

The decision of the Assembly is a multi-faceted legal matter (not a contract) by which the corporation expresses its will. The will is created by the voting of the shareholders. They can accept or reject the proposal put to vote. In both cases it is a decision, positive or negative, in relation to the submitted proposal for voting. Like any legal work, the decisions of the Shareholders Assembly shall be in accordance with the Constitution, the laws and good business practices, as well as the company statute, because the statute is a basic constitutional act of the corporation, containing rules on which the corporation will base its operations.<sup>2</sup>

The purpose of passing a decision is changes to the organization and changes within the life of the corporation. The decisions of the Shareholders Assembly are not legal matters of a civil nature. The decision is a corporate act by which the shareholders shape the will of the corporation.<sup>3</sup>

As a legal action, the decision of the Shareholders Assembly is presumed valid, and in accordance with the law and the statute, in procedural and in material sense, respectively possible and allowed. If these conditions are not met, the decision will be considered legally invalid, respectively a defective decision. The consequences of breaking the formal and substantive rules when making the decision are a reason why the decision of the Shareholders Assembly can be considered to be flawed, making it eligible for refutation.

### 1. Types of Shareholders Assembly deficient decisions

Having in mind the type of deficiency, the decision of the Shareholders Assembly can be ostensible, without legal effect, voided or refutable. This classification is not about decision types, but the deficiencies contained within the decision. For these reasons, the decision can have deficiencies that make it void, refutable and without legal effect. The consequences are the same no matter what, and the difference is manifested in the mode (manner) related to how the deficiency occurs.<sup>4</sup>

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<sup>2</sup> Dr. Jaksa Barbic, *Pravo društava*, book II, IV edition, Organizator Zagreb, 2007, pg 807

<sup>3</sup> Prof. Dr Milan Nedkov, Prof. Dr Tito Belicanec, *Pravo na društva*, book II, 2008, pg 130

<sup>4</sup> Dr Jaksa Barbic, *Pravo društava*, book II, IV edition, Organizator Zagreb, 2007, pg 807 and 808

### 1.1 Ostensible decisions

According to theoretical viewpoints, an ostensible decision is a decision containing disadvantages of procedural nature that create an illusion that the decision was made, although the decision does not actually exist. This happens when there are clear errors during the procedure, because of which it is established that the decision was made, although that has not happened<sup>5</sup>. Such cases occur when the Chairman of the meeting of the Shareholders Assembly declares that a decision has been made, although it is not made as result of mistakes made in the Shareholders Assembly in the counting of votes<sup>6</sup>, due to errors in counting the votes of the shares entitled to vote represented in the Assembly<sup>7</sup>, while taking into account the votes of shareholders who are not entitled to vote, and when the Assembly votes for exemption from personal liability for a monetary claim that the company has to a shareholder<sup>8</sup>, when the owner of preferred shares without the right to vote is allowed to vote<sup>9</sup>, when the quorum for holding the Assembly meeting is not properly set<sup>10</sup>, when the minutes of the assembly state that a decision was made despite the fact that the minutes were taken by a notary<sup>11</sup>. The decision of the Assembly can be challenged with a lawsuit as ostensible.

An interesting case occurs when in fact no decision was made as content in the minutes of the Shareholders Assembly, but a decision contrary to the content that is proclaimed. In such cases, the filed complaint on ostensibility of the adopted decision should contain two claims: one, which is disputed (requires determining of ostensibility) the declared decision, and the second one, requiring to determine exactly what type of decision was made by the Shareholders Assembly. Acting on this complaint, the court will examine the voting process, and will determine the facts regarding the valid votes cast for and against the proposal being voted for, will compare it with the majority under statute, or required by law for the adoption of contested decision, and if it finds that the result is the opposite of the one proclaimed by the Chairman of the Shareholders Assembly, will declare the decision ostensible, and will determine the one that is actually made. If the Court finds that there has been a mistake in counting the votes, but that did not affect the proclaimed result, the Court will reject both claims.

### 1.2 Decisions without legal effect (pendent decisions)

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<sup>5</sup> Ibid, page 808

<sup>6</sup> Law on Trade Companies ("Official Gazette of RM" no. 28/2004, 84/2005, 25/2007, 87/2008, 42/2010, 48/2010, 24/2011, 166/12012 и 70/2013), Article 395,

<sup>7</sup> Ibid, Article 394,

<sup>8</sup> Ibid, Article 399 paragraph (1),

<sup>9</sup> Ibid, Article 404,

<sup>10</sup> Ibid, Article 393 paragraph (1),

<sup>11</sup> Ibid, Article 407 paragraph (1) item 7 and paragraph (5),

Decisions without legal effect, as stated within legal theory, are those decisions that do not contain any deficiency regarding them being made, the result of the vote is fairly determined and declared and the minutes are correctly inserted. The basic essence is that these decisions are not flawed. For the decision have legal effect, an additional requirement must be met i.e. an additional assumption must be met. There are different assumptions that need to be met for the decision to encompass legal effect. For example, for a decision to become valid it is required that it be agreed upon on by all the shareholders, if the company statute anticipates such obligation.<sup>12</sup>

The Law on Trade Companies of the Republic of Macedonia prescribes when by a decision of the Assembly, or the decision to amend the statute change or limit any right related to any class of shares, the decision is considered valid if the shareholders who represent the appropriate branch stock consent in deciding with the majority provided by law and the statute of the company<sup>13</sup>. If the prescribed consent is not approved, the decision will be considered to not have a legal effect. A decision without legal effect is a decision that lowers the principal, if this decision is not entered in the commercial register within eight days of the performed reduction<sup>14</sup>.

According to Article 91 paragraph 1 of the Law on Trade Companies all entities that set out mandatory registration in the trade register shall, within 15 days from the date of acquisition of the requirements for filing an application for registration in the commercial register, submit an application for registration, unless otherwise prescribed by the Law on Trade Companies or other law. After the expiration of three months (objective time) from the date of acquisition of the requirements for submission of the applications for admission, the Central Registry will not record the data and will reject the application, unless otherwise prescribed by the Law on Trade Companies<sup>15</sup>. This legal formulation means that the decision of the Shareholders Assembly will not be inscribed by the Central Registry because this decision has no legal effect and it becomes null and void under the law.

### 1.3 Void Decisions

Void decisions of the Shareholders Assembly occupy a special place among the decisions that are perceived as decisions with legal flaws. These decisions include such serious legal deficiencies, of a formal or material nature, because of which the legal system does not recognize them, and it is considered that these decisions are not made, or that they do not exist.

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<sup>12</sup> Dr Jaksa Barbic, *Pravo drustava*, book II, fourth edition, Organizator Zagreb, 2007, page 809

<sup>13</sup> Law on Trade Companies, Article 403, paragraph (1),

<sup>14</sup> *Ibid*, Article 451 paragraph (1) и (3),

<sup>15</sup> *Ibid*, Article 91 paragraph (1) и (2),

The nullity of the decision occurs based on the law, and at the time of its adoption<sup>16</sup>. The Law on Trade Companies of the Republic of Macedonia prescribes the reasons for nullity of the decisions of the Shareholders Assembly according to the “*numerus clausus*” principle. On the other hand, if there is a violation of law or statute for which it is not prescribed that it leads to its annulment, such injury or flaw of the decision can be pursued by other legal means, i.e., it can be disputed<sup>17</sup>.

The Law on Trade Companies<sup>18</sup> lists the injuries that lead to the annulment of the decisions of the Shareholders Assembly. Thus the Law on Trade Companies provides that the decision of the Assembly is null and void if:

- 1) The decision was made during an Assembly meeting that is not convened in accordance with the law and statute, unless the Assembly is attended by all shareholders;
- 2) The Assembly did not make the decision in a manner and form determined by this law and statute;
- 3) Is contrary to the essence of the Company or its content is contrary to law, morals or the provisions of the statute;
- 4) The Assembly decided on a matter that is not within its jurisdiction;
- 5) The decision was not entered into the record in the manner specified by the law;
- 6) Management body or supervisory board is elected, composed contrary to the provisions of this law or statute;
- 7) By a decision, the Assembly elected as a member of the managing or supervisory board an individual that has not been proposed in accordance with this law or statute;
- 8) By a decision, the Assembly elected as members of the management body or supervisory board more individuals than is stipulated in this law or statute;
- 9) By a decision, the Assembly elected a person who, at the time of the election did not meet the conditions set by the law regarding election choice in the management body or supervisory board;
- 10) The Assembly decided to approve the annual accounts and the financial statements that have not been reviewed or audited or if the audit is not conducted in accordance with law or not performed by an authorized auditor;
- 11) The Assembly decided to approve the annual accounts, financial statements and annual report of the Company's previous business year without prior approval of the management body and supervisory board;
- 12) If during the preparation of the annual accounts the provisions of this Act or statute that determine the obligations for allocation and use of funds for supplies are not respected, and
- 13) By a final court decision it is determined that the decision of the Assembly is void<sup>19</sup>.

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<sup>16</sup> Dr. Jaksa Barbic, *Pravo društava*, book II, fourth edition, Organizator Zagreb, 2007, page 813

<sup>17</sup> Dr. Milan Nedkov and Dr. Tito Belicanec, *Pravo na društva* – book 2, 2008, page 131 and 132

<sup>18</sup> Law on Trade Companies, article 408

<sup>19</sup> Law on Trade Companies, Article 408,

Realizing the content of the introductory sentence of Article 408 of the Law on Trade Companies of the Republic of Macedonia, it is determined that the Law had two methods of establishing the invalidity of the decisions of the Shareholders Assembly. The first one is listing the cases in one article (Article 408 of the Law), and the second is establishing invalidity of decisions of the assembly specified in other articles of the law.

Certain cases prescribed by the Law on Trade Companies, which are relevant for annulment of the acts of the Shareholders Assembly to be taken into consideration, include: convening the Annual General Meeting<sup>20</sup>, convening the Assembly<sup>21</sup>, convening the Assembly on the basis of a court decision<sup>22</sup> and other cases prescribed by the law.

The Law on Trade Companies provides that the decision of the Shareholders Assembly is not void despite the violations committed during the convening, if the assembly is attended by all shareholders<sup>23</sup>. This means that there is no possibility and consequence for the shareholder to be injured due to the violation of the procedure for convening the meeting of the corporation, while he understood and was present during the deciding process of the same session.

### 1.3.1 Calling nullity

In the law, the right of the companies to invoke nullity is regulated differently, than it is regulated in civil or contract law. The main reason for this kind of regulation of relations is to avoid a permanent uncertainty regarding the possibility of annulment of the decision of the Assembly, and for security of the legal transactions<sup>24</sup>. Therefore even if there is reason for nullity, the Law on Trade Companies prescribes the removal of nullity action in some cases.

After the entry of the Assembly decision in the commercial register it cannot be called to its nullity because the decision was not entered into the record in the manner specified by law<sup>25</sup>. If the decision of the Assembly is void because it is contrary to the essence of the Company or its content is contrary to law, morals or the provisions of the statute of the Company, its nullity cannot be called after three years of its entry in the commercial register. If during this period of time there is an ongoing lawsuit for establishing the nullity of the decision, the period of three years shall be extended until a decided effect on the appeal or until the dispute is resolved in another manner. If the decision of the Assembly is void for the reason that it was made during the Assembly that was not convened in accordance with the law and statute, the nullity

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<sup>20</sup> Ibid, Article 384 paragraph (1),

<sup>21</sup> Ibid, Article 385 paragraph (1),

<sup>22</sup> Ibid, Article 386 paragraph (1)

<sup>23</sup> Ibid, Article 408, paragraph (1) item 1,

<sup>24</sup> Dr Milan Nedkov and Dr Tito Belicanec, *Pravo na drustvata*, book II, 2008, page 132

<sup>25</sup> Law on Trade Companies, Article 409

cannot be claimed if the decision is agreed on by all shareholders who were summoned to the assembly<sup>26</sup>.

The content of the provisions of Article 409 of the Law on Trade Companies shows that for legal certainty and due to the effect of registration in the trade register, there is no possibility for an annulment of the decision of the assembly for these provisions. With entry into the commercial register and the expiry date which is stipulated in the law, the decisions of the Assembly shall become valid unless there is another reason for nullity, which cannot be removed even with the entry in the Trade Register. Setback for reference nullity is the performed registration in the commercial register, not just filing the application for registration. This means that if we there is entry in the commercial register after the initiation of litigation, the registration would not be an obstacle to invoke nullity.

The period of three years<sup>27</sup> is preclusive and legal, and it starts from the date of the registration in the commercial register.

### **1.3.2 Distinguishing the nullity**

The nullity can be distinguished by a lawsuit, or in any other way<sup>28</sup>.

The section of the provision of the Law on Trade Companies "in any other way" is not clear enough.

One could talk about filing a complaint pending before the court where the court has to decide on the merits or lack of grounds of the appeal under the provisions of the Law on Trade Companies which stipulates in which cases the nullity of the decisions of the Shareholders Assembly can be distinguished.

### **1.3.3 Active identification for filing a claim for nullity**

Each shareholder, the management body or a member of the management or supervisory board has the legal capacity to file a lawsuit against the company that would require establishing nullity of a decision of the Assembly".<sup>29</sup> The lawsuit requires establishing nullity of a decision of the Shareholders Assembly, which means moving in the direction to remove the decision of corporation legal action towards all.

When a lawsuit is filed by a shareholder, it is a negating shareholder lawsuit that protects the membership of the shareholder, and his right based on the membership in the corporation from the action of the nullified decision against him.

If the complaint is submitted to the management authority, the Supervisory Board, member of the management or supervisory board, it's a quasi-negating lawsuit because these entities do not defend or protect their subjective right. On the contrary, the removal of the nullified

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<sup>26</sup> Ibid, Article 409 paragraph (2),

<sup>27</sup> Ibid, Article 409 paragraph (2),

<sup>28</sup> Ibid, Article 410 paragraph (1),

<sup>29</sup> Law on Trade Companies, Article 410 paragraph (1) and (2),

decision of the Shareholders Assembly allows performing their duties as bodies of the society.

For the submitter of the complaint to be actively legitimized, he must prove that he is a shareholder of the company. This is proved with an excerpt from the Central Depository of Securities, or that he is a member of the management or supervisory board with an appropriate document issued by the Central Registry. This is sufficient for the existence of a legal interest in filing the lawsuit. The shareholder must not prove the existence of a further interest in charges<sup>30</sup>.

The authorities need to make an appropriate decision for filing a lawsuit by the management body or the supervisory board. Although these bodies lack the ability to be a party in the proceedings because they are legal entities, this feature is recognized, and in this case the advocacy of the company before the competent court shall be governed by the statute of the company. If during the course of the litigation the member of the Supervisory or Management is no longer a member, the person loses the power to conduct litigation or dispute. The new person that will be elected to replace a member of the management or supervisory board can take over the litigation under the rules of the Law on Civil Procedure<sup>31</sup>.

#### **1.3.4 Deadline for submission of an appeal for nullity**

The appeal shall be filed within 30 days of the adoption of the decision. If the plaintiff was present at the assembly during which the decision was made, the period shall run from the first day after the end of the work of the Assembly when the decision was made. If the plaintiff did not attend the assembly during which the decision was made, the period shall run from the first day when he could have found out about the decision, but not later than one year after the decision was made<sup>32</sup>. In this way, the Law on Trade Companies practically relativises the nullity in its essence, and it is practically approaching the destructiveness (void, relative nullity).

#### **1.3.5 Jurisdiction of the court to resolve the dispute in a lawsuit to establish the nullity of a decision of the Shareholders Assembly**

The Law on Trade Companies, in terms of actual competence regarding a lawsuit filed to establish the nullity of a decision of the Shareholders Assembly, refers to the court under authority established by the Law on Courts<sup>33</sup>. Pursuant to the Law on Courts<sup>34</sup>, the Principal

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<sup>30</sup> Dr Jaksa Barbic, *Pravo drustava*, book II, fourth edition, Organizator Zagreb, 2007, page 837

<sup>31</sup> Law on civil proceedings ("Official Gazette of RM" no.79/2005, 10/2008, 83/2009 и 116/2010), Article 186

<sup>32</sup> Law on Trade Companies, Article 410 paragraph (3),

<sup>33</sup> Law on Trade Companies, Article 42



Courts of first instance shall be competent to decide in the first instance in civil disputes and other activities stipulated by law, which means courts with primary jurisdiction are in charge of handling the complaint to establish the nullity of the decision of the Shareholders Assembly.

The general territorial jurisdiction in disputes establishing nullity of a decision of the Shareholders Assembly is regulated under the Law on Civil Procedure. According to this law to prosecute cases against legal persons, the generally competent court is the court in whose territory they have their headquarters<sup>35</sup>.

#### **1.4 Temporary measures**

The Law on Trade Companies provides that the court may suspend the implementation of the decision to which through the appeal it is required to determine its nullity by interim measure, if it seems likely that the execution of the company or the shareholder can cause irreparable damage<sup>36</sup>.

#### **1.5 Legal consequences of the nullity**

The legal consequences of the nullity are associated with the successful completion of the dispute in which a determination of nullity of the decision of the Shareholders Assembly is requested. The law provides that a decision has nullified legal action. Also, everything that is acquired by the Company on the basis of nullified decision must be returned to the company, and the costs related to it must be recovered<sup>37</sup>.

In case when as a result of a decision of the court the nullity of the decision of the Shareholders Assembly is determined, the management body of the company is required within three days of receipt of the final decision to submit it to the commercial register, if the entry in the commercial register is made based on that decision. The entry of the court's decision in the Commercial Register must be published in the same manner as the previous announcement of the entry<sup>38</sup>.

The court ruling that declared nullity of the Shareholders Association decision is of a declaratory and not constitutive importance. The decision is not void because the court declared it as such, but primarily because the nullified decision does not possess essential legal conditions necessary for its validity. This means that the court only concluded, i.e. states that the decision of the Assembly is nullified. The nullity of the decision arises ipso jure (by operation of law) and this decision cannot be convalidated, and subsequently implemented.

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<sup>34</sup> Law on Courts ("Official Gazette of RM" no.58/2006, 35/2008, 61/2008, 118/2008, 16/2009 и 150/2010), Article 30 paragraph 3 item 13

<sup>35</sup> Law on Civil Proceedings, Article 40 paragraph (2),

<sup>36</sup> Law on Trade Companies, Article 410 paragraph (5),

<sup>37</sup> Ibid, Article 411 paragraph (1) and (2)

<sup>38</sup> Ibid, Article 415 paragraph (1),

## 2. Decisions that cannot be refuted

The decisions of the Shareholders Assembly that are eligible for refutations represent the second category of decisions that contain legal defect (legal weakness). These decisions of the Shareholders Assembly are valid; they produce all legal consequences, but because of certain legal disadvantages can be refuted and declared void<sup>39</sup>. The refuted decisions are null and void under the law, but it may be required from the court to annul these decisions. Basically the difference between the nullified and the refuted decision comes down to the reasons because of which nullity or refutation can be pointed out, i.e. refutation subsequently the complaint.

### 2.1 Reasons for refuting a decision of the Shareholders Assembly

As grounds for refuting the decision of the Assembly,<sup>40</sup> the Law on Trade Companies states the decisions voted by the shareholder in order to gain benefit for himself or someone else and to the detriment of the company or other shareholders. This is achieved by the refuted decision. This provision of the law will not be applied when the other shareholders, respectively, will be compensated<sup>41</sup>. This procedure should determine the existence of intent (*dolus*) that is an obligation to the plaintiff, further to prove a causal link between the decision and the benefits, as well as the causal link between the decision and the damage it is causing, or could be caused to the company or other shareholders. The damage is compensated by the shareholder whose voting decision can be challenged or the third person who should be awarded by the benefits of such a decision. The decision will remain eligible for further refutation, if the damage is only compensated to the company and not to the other shareholders who have suffered damage. The Law on Trade Companies stipulates that the Assembly's decision can be refuted for failing to provide information which influenced the decision being made. Such decisions are decisions when each shareholder has not been provided the right to inspect the instruments and other documents of the company, in the headquarters of the company in a manner specified in the statute, and when the shareholder has not been given the right to information and records for decisions of the meetings of the governing bodies<sup>42</sup>.

Also these decisions are decisions by which the shareholder is not given notice of the condition of the company and its relationship with other companies, and this notice is related to the agenda of Assembly<sup>43</sup>.

### 2.2 Method of refuting the decision of the Shareholders Assembly

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<sup>39</sup> Dr. Milan Nedkov and Dr. Tito Belicanec, *Pravo na drustvata*, book II, 2008, page 133

<sup>40</sup> Law on Trade Companies, Article 412, paragraph (1) and (2)

<sup>41</sup> *Ibid*, Article 412 paragraph (1)

<sup>42</sup> *Ibid*, Article 320 paragraph (1) and (2),

<sup>43</sup> *ibid*, Article 406 paragraph (1),

The decisions of the Shareholders Assembly are refuted with a lawsuit. It is a constitutional complaint. The legal interest in filing this lawsuit is assumed pursuant to the Law on Trade Companies, which states the cases where this kind of lawsuit can be filed. Given the fact that the constitutional action acts in the time when the decision of the Shareholders Assembly is created, the legal effect of the judgment of the court shall be to refute, i.e. “ex tunc”.

For the complaint on refuting, the provisions of the Law on Trade Companies that regulates the action for nullification are adequately applied<sup>44</sup>. In a case of a complaint on refuting, the company is being sued and not the shareholders assembly, because the Assembly has no legal subjectivity. If the court, after the procedure, with the final decision overturned the decision of the assembly, the court ruling has effect for all the shareholders, members of the management body or the supervisory board, even when they were not party to the proceedings<sup>45</sup>.

#### **2.4 Obligation to submit and entry of the court judgment in the trade register**

In order to successfully achieve the effect of the nullified decision of the Shareholders Assembly, the Law on Trade Companies<sup>46</sup> imposes a duty of submission and entry of the court's decision, according to which the management body is required, within three days of receipt of the final decision, to submit it to the trade register, if based on the nullified decision it is entered in the Trade Register. The entry of the court's decision in the Trade Register must be published in the same manner as previously announced entry. If on the basis of the court decision harmonization of the corporation statute is made, together with the decision (judgment), the trade register shall receive the revised text of the statute of the company.

#### **Concluding remarks**

The Decisions of the Shareholders Assembly, from the moment of its institutionalization, and during the course of its operations constitute legal acts (legal work).

Just like any other legal action, the decisions of the Shareholders Assembly shall be in accordance with the Constitution, the laws and the good business practices. Any violation of the imperative norms prescribed by the Constitution, the law and the business practices is a violation of the institute public order and the decisions made contrary to the public order are unlawful, i.e. null.

The Shareholders Association does not always make decisions that are in accordance with the law, or decisions which are illegal from a legal and material perspective. Such decisions are flawed (injury) and this makes these decisions unlawful. As a consequence of lack of

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<sup>44</sup> Law on Trade Companies, Article 410 paragraph (2), (3), (4) and (6)

<sup>45</sup> Law on Trade Companies, Article 410 paragraph (2), (3), (4) and (6)

<sup>46</sup> Ibid, Article 415,

decision creates the need to take action before a competent court for refutation of such unlawful decisions.

The Law on Trade Companies regulates the issue of the invalidity of the decisions of the Shareholders Assembly and their refutation.

We believe that the Law on Trade Companies of the Republic of Macedonia provides a relatively good legal basis, and regulates, very clearly, the issue of nullity and refutation of the decisions of the Shareholders Assembly.

To successfully achieve the protection from unlawful decisions of the Shareholders Assembly there is a need for an upgrading of the existing system and as well as other elements of the legal framework. The existence of an effective judicial system that will promptly solve the issue of the legality of decisions of the Shareholders Assembly for submitted claims also represents an important issue. The timely settlement of lawsuits by the court will certainly contribute to eliminating or reducing the possible harmful consequences from the adopted illegal decisions.

We hope that with this paper we were able to highlight the key aspects of the issue and the need for protection from the adopted nullified and refuted decisions of the Shareholders Assembly, to highlight the types of unlawful decisions as well as to provide insight on the manner and procedure for putting them out of force. We expect that this work will cause an additional incentive for further insights on this issue by the expert and the scientific community.

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