SPECIFIC TOOLS FOR THE INTERGENERATIONAL PRESERVATION OF FAMILY COMPANIES AND WEALTH IN SLOVENIA AND HUNGARY[1]

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Abstract

Family companies constitute an essential type of company in national and global economies, yet their long-term survival depends on effective succession planning. If the intergenerational transfer is not arranged in advance, the company faces the risk of fragmentation and even dissolution. Rather than comparing an identical legal tool in both jurisdictions, the article investigates two different instruments: one for advance and timely planning, and the other for the prevention of fragmentation through succession when no prior planning exists. Each tool is analyzed within its national framework, with the aim of demonstrating how such instruments may serve as role models not only for Slovenia and Hungary, but also for other jurisdictions. From the perspective of Slovenian law, the article considers whether special protective succession rules, similar to those preventing the fragmentation of protected farms, could be introduced to preserve family companies in cases where no prior transfer arrangements exist. From the perspective of Hungarian law, the paper analyses the asset management foundation, a private-law mechanism that allows founders to determine conditions for the governance and transfer of family wealth across multiple generations. The comparison reveals two contrasting approaches: a

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statutory framework aimed at preventing fragmentation of family companies, and a flexible private-law tool reserved primarily for families with substantial assets. Despite their differences in scope and accessibility, both instruments may coexist within a national framework: one facilitating advance succession planning, the other preventing fragmentation in its absence.

Keywords: *family companies, family wealth, intergenerational transfer, succession, asset management foundation*

1. Introduction

Family companies play a pivotal role in the global economic landscape, contributing substantially to both local and international economies.[2] They range from small, locally owned enterprises to multinational corporations. These companies are estimated to generate an annual turnover of USD 60–70 trillion and to account for approximately 60% of global employment.[3] In many national economies, their impact is even more pronounced: in the United States, family-owned companies represent around 54% of GDP (approximately USD 7.7 trillion) and employ 59% of the workforce, or about 83 million individuals.[4] Similarly, in Germany, family companies contribute more than two-thirds of the country's GDP and form the backbone of its Mittelstand firms.[5] In Slovenia, according to some estimates, as many as 83% of enterprises are family-owned.[6]

These figures underscore the economic prevalence and resilience of family companies, highlighting their central role in fostering growth, employment, and social stability. Yet their long-term survival depends on one critical factor: effective succession planning. A growing body of evidence indicates that nearly USD 18.3 trillion in collective family wealth is expected to transfer to the next generation by 2030, presenting both an extraordinary opportunity and a substantial risk.[7] Many family companies face challenges in governance, the

[2] Https://www.familybusinessunited.com/post/the-global-importance-of-family-firms (14. 8. 2025).
[3] Https://www.mckinsey.com/industries/private-capital/our-insights/the-secrets-of-outperforming-family-owned-businesses-how-they-create-value-and-how-you-can-become-one (14. 8. 2025).
[4] Https://www.familybusinesscenter.com/resources/family-business-facts/ (14. 8. 2025).
[5] Https://www.familybusinessunited.com/post/the-global-importance-of-family-firms (14. 8. 2025).
[6] Https://www.ozs.si/novice/dve-tretjini-druzinskih-podjetij-pri-prenosu-na-potomce-propadeta-5c94ea44c2a08224104174b6 (14. 8. 2025).
[7] Https://www.ft.com/content/8480fb49-5e13-4912-9087-b07f2da698c0 (14. 8. 2025).

preparedness of successors, and reconciling evolving family dynamics with the imperative of business continuity. In Germany, for example, the Mittelstand confronts an impending succession crisis: 231,000 SME owners plan to close their companies by the end of 2025, primarily due to advancing age and the absence of suitable successors—placing more than 50% of national output and 60% of the workforce at considerable risk.[8] Without timely and strategic planning, such transfers can result in underperformance and, in the worst-case scenario, company failures. Particularly alarming is the estimate that in Slovenia, as many as two-thirds of family companies fail during the transition to the next generation.[9]

With the generational change and the retirement of business owners, the question arises of how to legally regulate the transfer of family companies to younger generations, with the aim of keeping the enterprise within the family circle and avoiding its fragmentation due to a larger number of potential heirs (Dugar, 2021, p. 27-28.). Timely and proactive succession planning is advised not only in anticipation of retirement but also to address the possibility of an unexpected death (Lorz, Kirchdörfer, 2011, p. 5). This article examines two distinct legal instruments for the preservation of family companies and associated wealth. From the perspective of Slovenian law, it considers whether it would be both sensible and feasible to introduce special protective measures for family companies (for more about the Intergenerational Transfer of Family-Run Enterprises in Slovenia see Dugar, 2021, pp. 27-37), comparable to those currently applicable to the inheritance of protected farms in Slovenia. From the perspective of Hungarian law, it analyses the Asset Management Foundation and its role in facilitating the intergenerational transfer of family wealth. Although these measures operate in different contexts, both pursue the same objective: safeguarding the preservation and successful transition of family companies to the next generation. Rather than comparing an identical legal tool in both jurisdictions, the article investigates two markedly different legal tools, each situated within its respective national framework, with the aim of demonstrating how such instruments may serve as role models not only for Slovenia and Hungary, but also for other jurisdictions.

[8] Https://www.reuters.com/business/finance/germanys-retiring-mittelstand-owners-struggle-find-successors-2025-06-10/ (14. 8. 2025).

[9] Https://www.ozs.si/novice/dve-tretjini-druzinskih-podjetij-pri-prenosu-na-potomce-propadeta-5c94ea44c2a08224104174b6 (14. 8. 2025).

2. Special Rules on the Inheritance of Protected Farms in Slovenian Law and the Feasibility of Similar Measures for Preserving Family Companies[10]

2.1. An Overview of Special Inheritance Measures for the Preservation of Protected Farms under Slovenian Law

The Constitution of the Republic of Slovenia (Uradni list RS (Official Journal of the Republic of Slovenia), no. 33/91-I, 42/97, 66/00, 24/03, 47, 68, 69/04, 69/04, 69/04, 68/06,140,143, 47/13, 47/13, 75/16, 92/21; *hereinafter Constitution RS*) stipulates that legislation may determine the manner of acquisition and enjoyment of property in such a way as to ensure its economic, social, and ecological functions (Para. 1 Art. 67 of the Constitution RS). It further provides that the law shall prescribe the manner and conditions of inheritance (Para. 2 Art. 67 of the Constitution RS). An example of such a special legal arrangement in Slovenian legislation is the inheritance of protected farms, regulated by the Act on the Inheritance of Agricultural Holdings (Uradni list RS (Official Journal of the Republic of Slovenia), no. 70/95, 54/99, 30/13, 44/22; *hereinafter ZDKG*). The ZDKG implements the social function of property by safeguarding the livelihood of the heirs of protected farms. This is achieved by prohibiting the division of protected farms and enabling the heir to take over the farm under conditions that do not impose an excessive financial burden (Zupančič and Žnidaršič Skubic, 2009, p. 293). The economic function of property, as provided by the ZDKG, is ensured by preventing the fragmentation of medium-sized farms. In this way, the agricultural and forestry unit is preserved as an economic whole, enabling efficient management and maintaining the owner's competitiveness in the agricultural products market (Zupančič and Žnidaršič Skubic, 2009, p. 293). The ecological function of property is realized by ensuring that the heir who takes over the farm remains on the property, thereby enabling the continuation of agricultural, forestry, and supplementary activities on the farm to the extent necessary for subsistence. This provides the basis for an eco-social type of farming and supports the maintenance of low population density in rural areas (Zupančič and Žnidaršič Skubic, 2009, p. 294). Legal scholarship also emphasizes that such a special arrangement for the inheritance of protected farms is not inconsistent with the constitutional principle of equality before the law, according to which all persons are equal before the law (Para. 2 Art. 14 of the Constitution RS). The law takes into account the specificities of the different factual circumstances, thereby also implementing the principle of fairness by reducing the risk to the livelihood of the heir who takes over the farm (Zupančič and Žnidaršič Skubic, 2009, p. 294).

[10] All translations from Slovenian were prepared by the author, Gregor Dugar.

The ZDKG constitutes a *lex specialis* that narrows and modifies the general inheritance regime for agricultural property, with the objective of preserving economically viable farms intact across generations. The ZDKG regulates the specific rules governing the inheritance of protected farms, prevents their fragmentation as agricultural or agricultural-forestry economic units, enables their transfer under conditions that do not impose an excessive burden on the heir, and creates the conditions for maintaining and strengthening the economic, social, and ecological functions of protected farms (Para. 1 Art. 1 of the ZDKG). Two fundamental principles underpin the regulation of the inheritance of protected farms: the principle of indivisibility of farms upon inheritance and the principle that the heir of a protected farm should be able to take it over under conditions that do not place an excessive burden upon them. The first principle means that a protected farm is, as a rule, inherited by only one heir; only under the conditions explicitly provided for by the ZDKG may a protected farm be inherited by multiple heirs (Art. 5 of the ZDKG) (Zupančič and Žnidaršič Skubic, 2009, p. 295). The second principle is reflected in the fact that the rights of other entitled persons are generally pecuniary in nature and subject to deadlines adapted to the farm's economic capacity (Zupančič and Žnidaršič Skubic, 2009, p. 302-306).

The subject of this special inheritance regime is solely the protected farm, defined as an agricultural or agricultural-forestry economic unit that meets two fundamental conditions. The first condition concerns the size of the farm: it must comprise no less than 5 hectares and no more than 100 hectares of comparable agricultural land (Para. 1 Art. 2 of the ZDKG; for the definition of comparable agricultural land, see Paras. 2 and 3 of the Art. 2 of the ZDKG). The second condition concerns ownership: the farm must be owned by a single natural person, or be in the ownership, co-ownership, or joint ownership of a married couple or partners in an extramarital union, or in the co-ownership of one parent and a child or adopted child, or their descendant (Para. 1, 4, and 5 Art. 2 of the ZDKG).

A protected farm comprises all elements that form an economic whole and serve for regular agricultural or forestry production and related activities (Para. 1 Art. 3 of the ZDKG). A farm, therefore, encompasses more than merely agricultural or forest land. It also includes other immovable property, buildings, and movable property. In this way, the legislature followed the common (general, popular) understanding of a farm, which has never been perceived solely as another term for agricultural or forest land, but rather as a whole comprising arable or forest land, farm buildings, and a dwelling house (Judgment of the Administrative Court, no. I U 189/2016, 17 October 2018).

A farm that meets the above conditions acquires the status of a protected farm on the basis of a decision issued by the competent administrative unit. The

administrative unit in whose territory the majority of the land comprising the farm is located issues such a decision at the request of the court or the tax authority (para. 1, art. 4, ZDKG).

The ZDKG lays down specific rules for inheritance both in cases of intestate succession and in cases of testamentary succession. In intestate succession, the ZDKG regulates various scenarios depending on the ownership status of the deceased in relation to the farm.

The single-heir principle is codified in Article 7 of the ZDKG. If the farm was owned solely by the decedent and there is more than one co-heir of the same order, the heir who intends to cultivate the agricultural land and is unanimously designated by all heirs shall inherit the farm. If no agreement is reached, priority is given to the heir who has already demonstrated such intent (for example, through qualifications or education in agriculture). If there is more than one such person, preference is given to those who grew up or are growing up on the farm and who have contributed through their work or earnings to the preservation or development of the farm. Where conditions are otherwise equal, the decedent's spouse has priority in inheriting a protected farm. If the protected farm originates entirely or predominantly from the side of the decedent's surviving spouse, that spouse and any descendants shared with them have priority over the decedent's other descendants. If the protected farm originates entirely or predominantly from the side of a former spouse of the decedent, the descendants shared with that former spouse have priority over other co-heirs. If the decedent has neither a spouse nor descendants and the protected farm originates entirely or predominantly from the side of the father or the mother, heirs from that respective side take precedence. If, after applying these criteria, there is still more than one co-heir, Paragraph 2 of Article 7 of the ZDKG sets out additional rules to determine succession.

The ZDKG further regulates two additional ownership situations arising upon the death of the decedent. If the protected farm is owned, co-owned, or jointly owned by a married couple, the heir to the farm is the surviving spouse. In the event of the spouses' simultaneous death, the heir is determined in accordance with the rules applicable to the first ownership situation, taking into account the origin of the farm (Art. 8 of the ZDKG). If the protected farm is co-owned by one of the parents and a child or adopted child, or their descendant, the heir to the protected farm is the surviving co-owner, provided that they have a legal right to inherit. If the surviving co-owner does not have a legal right to inherit, the heir to the free share is determined in accordance with Article 7 of the ZDKG from among the legal heirs of the deceased co-owner (Para. 1 Art. 9 of the ZDKG).

If, under the general rules of inheritance, the protected farm would also be inherited by minor children or adopted children of the decedent, the determination of the heir to the agricultural holding may be postponed until all such children and adopted children reach the age of majority. A request for the postponement of the determination of the heir to the agricultural holding may be submitted by the decedent's spouse, their child or adopted child, or the competent guardianship authority (Para. 1 Art. 10 of the ZDKG).

The ZDKG provides specific grounds for excluding an heir—who would otherwise qualify under the above criteria—from taking over a protected farm. These are circumstances rendering the heir incapable of managing the protected farm, such as mental illness, psychological disorders, prodigality, alcoholism, and similar conditions. The probate court may apply the criteria from the preceding paragraph only if there are multiple co-heirs in the same order of succession and at least one of them is not excluded. Among the non-excluded heirs, the heir to the protected farm shall be the person who would inherit if the excluded heir were not considered. A motion for the exclusion of an heir under this provision may be filed by co-heirs, who must in such cases prove the grounds for exclusion (Art. 11 of the ZDKG).

If, under the above-described criteria, there is no heir who meets the conditions for inheriting a protected farm, the protected farm shall be inherited by all heirs in accordance with the general provisions on inheritance. In such a case, the protected farm may, by way of exception, be physically divided (Art. 13 of the ZDKG).

Among those who, in addition to the farm's heir, would be called to inherit under the general rules of inheritance, only the decedent's spouse, parents, children and adopted children, and their descendants have certain rights to an estate consisting of a protected farm. These persons are entitled to inheritance shares corresponding in value to the compulsory portions under the general provisions of inheritance law. The ZDKG refers to these as "compulsory" shares, although this terminology is not entirely consistent with the concept of the compulsory portion under the general inheritance regime (Arts. 14–16 of the ZDKG) (Zupančič and Žnidaršič Skubic, 2009, p. 302, 303). Under special conditions, the decedent's surviving spouse who did not inherit the protected farm is entitled to a usufruct over the protected farm (Art. 17 of the ZDKG). By means of these special provisions on the rights of other persons—namely, limiting the circle of entitled persons, reducing their inheritance share to the compulsory portion (and only to its monetary value), linking the payment of such share to extended deadlines, allowing for the reduction of the share, and requiring the mandatory imputation of gifts and legacies—the law enables the heir of the protected farm to take it over under conditions that do not impose an excessive burden (Zupančič and Žnidaršič Skubic, 2009, p. 306).

Among the special provisions of the ZDKG governing intestate succession, it is worth noting the special right of the decedent's spouse to exclude from the estate an amount corresponding to their contribution to the increase in the value of the protected farm. This value is not awarded in kind, except in respect of items that are not essential to the protected farm. If the excluded portion is not returned in kind, the heir who inherited the protected farm must pay its value within a period determined by the court, which may not exceed two years (Para. 1 Art. 20 of the ZDKG). At the request of the entitled person referred to in the previous paragraph or the heir who inherited the protected farm, the court may, for health, social, or other reasons (e.g., the farm's economic capacity), convert this right into a right to lifetime maintenance to be provided by the heir of the protected farm (Para. 2 Art. 20 of the ZDKG).

In addition to the special measures and restrictions aimed at preserving protected farms in cases of intestate succession, the ZDKG also prescribes special measures and restrictions for testamentary succession. A testator may bequeath a protected farm by will to only one heir, who must be a natural person (Para. 1 Art. 21 of the ZDKG). By way of exception, the testator may bequeath a protected farm to multiple heirs if it is left to spouses, or to one parent and a child or adopted child, or their descendant; however, in such cases, the protected farm may not be physically divided (Para. 2 Art. 21 of the ZDKG). If the testator disposes of the protected farm in contravention of these provisions, the estate is inherited according to the rules of intestate succession (Para. 3 Art. 21 of the ZDKG).

The principle of indivisibility of a protected farm in testamentary succession is further implemented in the ZDKG through specific restrictions on legacies. A testator may grant a legacy concerning a part of the protected farm only if doing so does not significantly impair the economic viability of the protected farm (Para. 1 Art. 22 of the ZDKG). Monetary or other legacies that would place an excessive burden on the heir of the protected farm may, upon the heir's request, be reduced by the court (Para. 2 Art. 22 of the ZDKG).

A decedent could potentially circumvent the mandatory provisions of the ZDKG through legal transactions conducted during their lifetime. The ZDKG therefore provides that contracts for the transfer and division of property during the lifetime of the owner, as well as lifetime maintenance contracts (gift agreements in contemplation of death), may not be used to dispose of a protected farm in a manner contrary to the ZDKG (Art. 24 of the ZDKG).

2.2. Possibilities for the Protection of Family Companies through the Statutory Introduction of Measures Similar to those Governing the Protection of Protected Farms under the ZDKG

Slovenian legislation does not provide for the protection of family companies upon inheritance measures equivalent to those laid down in the ZDKG for the protection of protected farms. This raises the question of whether similar statutory measures could be applied to safeguard family companies. The reasons for protecting family companies upon the death of the owner are, in essence, analogous to those underlying the protection of protected farms. Upon the death of an owner who managed (and possibly founded) the business, the application of the general rules of inheritance creates the risk that the enterprise will be divided among several heirs, which may result in its dissolution if all heirs are not simultaneously interested in continuing its operations. The interest in preventing the collapse of family companies due to division in inheritance goes beyond private concerns and constitutes a broader public interest. Family companies form an important part of the global economy, employing a substantial number of people and generating significant added value.[11]

Whenever statutory restrictions are imposed on property rights, the question of their constitutional compatibility inevitably arises. The Constitution RS guarantees the right to private property and inheritance (Art. 33 of the Constitution RS). Although Article 33 refers explicitly to property rights, it protects all rights that constitute the exercise of individual freedom in the economic sphere. This means that the Constitution RS safeguards not only property rights as defined in civil law but also offers protection against interference with other existing legal positions that, in a manner similar to ownership, have economic value for the individual and thereby enable them to exercise freedom of action in the economic sphere (Judgment of the Constitutional Court of the Republic of Slovenia, no. U-I-199/02, 21 October 2004). The Constitutional Court of the Republic of Slovenia adopted this position in relation to the proprietary status of a shareholder in a joint-stock company. However, this position may be generalised to apply to the proprietary status of holders of shares in other forms of companies as well. Accordingly, the Constitution RS protects all rights representing the exercise of individual freedom in the economic sphere, including managerial and proprietary rights arising from a share in a company (Judgment of the Constitutional Court of the Republic of Slovenia, no. U-I-165/08, Up-1772/08, Up-379/09, 1 October 2009). Property rights, however, are not unlimited: the law may determine the manner of acquisition and enjoyment of property so as to ensure its economic,

[11] Https://www.ey.com/en_gl/newsroom/2025/03/largest-500-family-businesses-amount-to-world-s-third-largest-economy (9. 8. 2025).

social, and ecological functions (Para. 1 Art. 67 of the Constitution RS). In the case of statutory restrictions on the inheritance of a share in a company, it is therefore necessary to assess whether such restrictions are consistent with Para. 1 Art. 67 of the Constitution RS. Limitations on the inheritance of family companies would serve to ensure the economic function of property, as they would prevent the fragmentation of such businesses through inheritance and reduce the risk of their dissolution. This would preserve the companies as an economic whole, enabling the continuation of efficient management and competitive operations in the market. At the same time, the social function of property would be safeguarded, as such measures would ensure the livelihood of the heirs of family companies. This could be achieved by prohibiting the division of family companies and allowing the heir to take over the company under conditions that do not impose an excessive burden. Undoubtedly, the preservation of the numerous jobs created by family companies in the economy also falls within the scope of ensuring both the economic and the social functions of property.

The ZDKG provides special measures only for those farms that meet two conditions—farm size and ownership status. Similarly, in the context of protecting family companies, it would first be necessary to define which enterprises qualify as family companies and are therefore to be safeguarded. As with protected farms, it would be sensible to employ the criteria of size and ownership structure; however, this definition is more complex for companies because they are typically legal persons. A size criterion would be appropriate, since it would not be sensible to afford special protection to either very small or very large family companies. The Slovenian Companies Act (Uradni list RS (Official Journal of the Republic of Slovenia), no. 65/09, 33/11, 91/11, 32/12, 57/12, 44/13, 82/13, 55/15, 15/17, 22/19, 158/20, 18/21, 18/23, 75/23, 102/24; *hereinafter ZGD-1*) classifies commercial companies as micro, small, medium-sized, and large (Para. 1 Art. 55 of the ZGD-1). For a company to fall into one of these categories, at least two of three thresholds must be met on the balance-sheet date of the annual financial statements: the average number of employees in the financial year, net sales revenue, and the value of assets (Paras. 2–5 Art. 55 of the ZGD-1). A similar approach—using analogous criteria—could be adopted to prescribe the size of an undertaking that would qualify as a family company. With respect to the second criterion—ownership structure—the law should require that family members hold equity interests in the company and that such family members are employed in it. Criteria analogous to those for protected farms could be envisaged: immediately prior to death, the equity participation could be held by a single natural person, by spouses or partners in a non-marital union, or by one parent together with a child or adopted child (or their descendant). In defining a family company, however, it would be necessary to account for the specific features of participation in a legal person

and, in some situations, to introduce additional criteria. If the decedent were the sole shareholder, an additional criterion should be stipulated—namely, that other family members are also employed in the company. Otherwise, one would arrive at an absurd outcome in which special measures apply to all companies of a given size where the sole shareholder has died, even if the enterprise has no substantive connection to other family members. Unlike the protection of a protected farm, where the object of protection is the farm itself, the protection of companies —without tying it to a particular legal form or specific activity— would therefore require an additional criterion that renders the enterprise a family company in substance. If spouses or partners, or parents and descendants, hold interests in the company, situations in which non-family persons also hold equity should be treated separately. In such cases, the company should be considered a family company only if an additional criterion is met: family members must exercise a controlling or decisive influence, i.e., an influence sufficient to determine the company's most important decisions. Given the aim of protecting family companies, it would be unsound to classify as family companies enterprises in which, for example, spouses hold only a minor equity stake that merely constitutes a financial investment, without their active involvement in the undertaking.

In regulating the specific rules on the inheritance of family companies, the same fundamental principles should apply as in the inheritance of protected farms, the principle of indivisibility of the family company upon succession and the principle that the successor should take over the family company under conditions that do not place an excessive burden upon them. The first principle would mean that, as a rule, the family company would be inherited by only one heir. Solutions analogous to those set out in Art. 7 to 9 of the ZDKG could be envisaged. In particular, it would be reasonable to apply criteria similar to those in the first indent of the first paragraph of Art. 7 of the ZDKG, whereby the heir should be the person intending to carry on the relevant business activity, and those in the second indent of the same provision, giving priority to persons who have contributed through their work or earnings to the preservation or development of the family company. The second principle, that the successor should take over the family company under conditions that do not place an excessive burden upon them, could be implemented, analogously to the regime for protected farms, through special provisions that limit the circle of persons entitled to inherit, reduce their inheritance share to the compulsory portion and only to its monetary value, link the payment of such shares to extended deadlines, allow for the reduction of such shares, and require the mandatory imputation of gifts and legacies. In the special succession regime for family companies, it would be essential to ensure that the financial burden of paying other heirs does not fall on the company itself but on the heir who has taken over the family company. The family company should not finance its own

acquisition, as this could, in the worst case, lead to insolvency and jeopardize both the position of its creditors and the preservation of jobs. So, a similar rule to the rule prohibiting financial assistance in corporate law should be adopted (Prelič, Kocbek, 2018, p. 1533).

It would be reasonable for a special succession regime for family companies, modelled on the special regime for protected farms, to also provide grounds for excluding from inheritance an heir who would otherwise be eligible to inherit the family company. Such grounds would include circumstances rendering the heir incapable or unsuitable to take over the family company, such as mental illness, psychological disorders, prodigality, alcoholism, and similar conditions. The possibility of excluding an heir on such grounds is important, as without it the primary objective of a special succession regime for family companies, the survival of the business despite the succession process, would not be achieved.

For the complete succession protection of family companies, certain restrictions should also be provided in the context of testamentary succession. Following the model of the rules on testamentary succession for protected farms, the testator should, as a general rule, be permitted to bequeath the family company by will to only one heir (analogous to Para. 1 Art. 21 of the ZDKG). By way of exception, it should be permissible for the testator to bequeath the family company to multiple persons if it is left to spouses or to one parent together with a child or adopted child, or their descendant (analogous to Para. 2 Art. 21 of the ZDKG).

An analysis of the provisions of the ZDKG governing the special inheritance regime for protected farms has shown that, in protecting family companies, it would be possible to adopt statutory measures that are essentially the same as, or similar to, those applied to the inheritance of protected farms. Such measures would prevent the fragmentation of a family company upon the death of the owner and, consequently, the potential dissolution of the company. It should be emphasized, however, that a complete transposition of the rules on the inheritance of protected farms would not be feasible. Within the framework of family companies, the subject of regulation is typically a legal person, which necessitates a consideration of the distinctive legal characteristics arising from membership in such an entity and the consequent subjection to the normative regime of corporate governance (Dugar, 2021, p. 36).

3. The Asset Management Foundation in Hungarian Law and Its Role in the Intergenerational Transfer of Family Wealth[12]

3.1. Introduction

Under Hungarian law, asset management foundations were introduced as a distinct type of foundation[13] pursuant to Act XIII of 2019 (Official Gazette of Hungary no. 43 of March 14, 2019; *hereinafter* Act on Asset Management Foundations). The general provisions on foundations contained in the Hungarian Civil Code (Act V of 2013, Official Gazette of Hungary no. 30 of February 26, 2013; *hereinafter* HCC) apply to asset management foundations as supplementary rules. An asset management foundation may also be established for a public-benefit purpose; however, the present analysis focuses specifically on those established for private purposes, and in particular for the management of family wealth.[14]

Asset management foundations are situated within the general system of foundations. The previous Hungarian Civil Code (Act IV of 1959, Published in the Official Gazette of Hungary no. 108 of November 4, 1959), even after the political transition, permitted the establishment of a foundation only for a lasting public-benefit purpose. The current HCC does not prescribe a public-benefit purpose, thereby opening the way for the establishment of private-purpose foundations. Under the HCC, however, the founder may be a beneficiary of the foundation only if the foundation's purpose is the preservation and care of the founder's scientific, literary, or artistic works; and a relative of the founder may be a beneficiary only if the foundation's purpose is the preservation and care of that relative's scientific, literary, or artistic works, the relative's nursing, care, maintenance, the bearing of the relative's healthcare expenses, or the support of the relative's formal education by scholarship or other means.

In economic and legal discourse, a demand emerged for allowing both natural and legal persons to establish foundations whose principal activity is the professional management of assets. The codification of the rules on fiduciary

[12] All translations from Hungarian were prepared by the author, Kinga Ilyés.

[13] For a general discussion of foundations in Hungarian law, see Csehi, 2006.

[14] Separate regulation is provided for public benefit asset management foundations performing public duties under Act IX of 2021; however, this is a specific construct aimed primarily at carrying out state functions and therefore does not fall within the scope of the present analysis. See Cseporán, 2022, pp. 696–704. According to the cited author, "the public benefit asset management foundation performing public duties is a *sui generis* legal entity interwoven with public and private law elements, a 'composite legal institution' in which both its public law character (performance of public duties) and its private law character (foundation form) are equally emphasised." Cseporán, 2022, p. 696.

asset management did not eliminate this demand, as international examples demonstrate that a foundation, as a legal entity, is suitable for the management of private wealth over the long term, even across generations (for a comparative international analysis, see Sándor, 2021, pp. 3–5). The purpose of the Act on Asset Management Foundations was to meet this market demand by creating a special form of foundation whose principal activity is asset management.

The asset management foundation thus came into being as a new type of private foundation. As has been generally observed, "the adoption of the Hungarian regulatory framework aligns with the international trend of recent decades, and its provisions are competitive with various foreign solutions" (Sándor, 2021, p. 3).

3.2. Conditions for Establishment

According to Section 2 of the Act on Asset Management Foundations, this type of foundation may be established for the purpose of managing the assets allocated to it by the founder and, from the income derived therefrom, carrying out the tasks specified in the deed of foundation, as well as making asset distributions for the benefit of the person or persons designated as beneficiaries. The essential function of this special type of foundation is to provide asset benefits to the beneficiary or beneficiaries defined in the deed of foundation (Arató, 2020, p. 171).

This form of foundation does not require the designation of specific beneficiaries; it is sufficient for the founder to set out criteria in the deed of foundation enabling the identification of the circle of beneficiaries (the same position is taken by Borbély, 2021, p. 35).

The purpose of the foundation may not, of course, involve any unlawful, immoral, or public policy–contrary activity (Sándor, 2021, p. 8).

The purposes of asset management foundations may be extremely diverse; therefore, the primary task of the relevant legislation was to establish their common characteristics and to define those specific features which distinguish this legal institution from the general form of foundation regulated in the HCC. In the case of this special type of foundation, the activity, primarily investment and portfolio management functions, constitutes the essential distinguishing feature.

The asset management foundation may, as an economic activity, manage the assets allocated to it or placed under its fiduciary management. This foundation is established expressly for the purpose of asset management in the interest of achieving the objectives and benefiting the beneficiaries defined in its deed of

foundation, and the income generated by such activity ensures the attainment of its purposes.

Asset management foundations carry out asset management, including investment activities, exclusively with respect to their own portfolio and do not provide investment services to third parties. However, as an economic activity, they may manage not only the assets allocated to them but also assets placed under their fiduciary management.[15] This is a noteworthy innovation, described in the literature as meaning that, by creating the asset management foundation, the Hungarian legislature "was the first in the world to introduce the so-called hybrid trust solution, enabling the asset management foundation to manage not only the assets allocated to it but also those placed under its fiduciary management" (Borbély, 2021, p. 32).

In a fiduciary asset management relationship, the exclusive beneficiary of the managed assets is the asset management foundation; however, it may carry out the management for the purpose of achieving its statutory objectives (asset distributions for the beneficiaries). The asset management foundation may take assets into fiduciary management only for the purpose of fulfilling the objectives set out in the deed of foundation, and the settlor may transfer assets to the foundation for fiduciary management only subject to this condition.

The legislature stipulates that the asset management foundation may engage, as an economic activity, solely in the management of assets allocated to it or placed under fiduciary management under the prescribed conditions, and, unlike business corporations, is not entitled to engage in other economic activities. Nevertheless, within the framework for asset management set out in its deed of foundation, it may establish a business corporation or acquire a shareholding therein, as this forms part of its own portfolio and is thus consistent with its objectives. The restriction set out in Section 3:379(3) of the HCC applies equally to it: it may not be a member with unlimited liability, may not establish another foundation, and may not join one.

A distinctive feature of asset management foundations is that their typically substantial capital base ensures the generation of returns necessary for their purpose-driven activities, whether for the achievement of the foundation's objectives or for the benefit of the beneficiaries, and enables the redistribution of such returns. To this end, the Hungarian legislature deemed it appropriate to

[15] "An asset management foundation, by its mere establishment and the allocation of assets required for its formation, does not thereby become a fiduciary asset manager; it acquires such legal status only if it takes additional assets into fiduciary management for the statutory purpose." See Arató, 2020, p. 173.

prescribe a statutory minimum capital which, by the standards of domestic law, is unusually high (Sándor, 2021, p. 9).

The establishment of an asset management foundation requires that assets equivalent to at least 600 million Hungarian forints[16] be allocated to the foundation [the "minimum capital", Section 3(1) of the Act on Asset Management Foundations]. The minimum capital is not identical to the total assets allocated to the foundation, but represents the mandatory statutory lower limit thereof. Accordingly, the initial assets may exceed the minimum capital. The founder is obliged to specify in the deed of foundation, for each asset item, the particulars necessary for its identification. Prior to submitting the application for registration of the foundation, the founder must make available assets in the amount of the minimum capital. As it was stated,

> "thus—unlike in the case of other legal persons—there is no possibility of deferring the provision of the initial capital (the assets allocated to the foundation); this obligation must be fully discharged at the time of establishment. The legislation permits only the later provision of that part of the asset contribution which exceeds the statutory minimum capital (Arató, 2020, p. 172)."

The minimum capital requirement has been subject to academic criticism. According to one author, the statutory requirement of 600 million forints raises concerns in light of the principles of legal equality and the prohibition of discrimination, as it renders the establishment of this legal institution inaccessible to the vast majority of Hungarian society. The author analyses in detail the constitutional principles of equality before the law and non-discrimination, with particular attention to financial status as a protected characteristic, and argues that the regulation indirectly excludes fewer wealthy individuals from benefiting from this legal institution. It is noted that the objectives of an asset management foundation are open-ended and may be entirely private in nature, while in other jurisdictions the minimum capital requirement is significantly lower, thereby making the structure accessible to a much broader segment of the population. In Miczáns` view expressed in the scientific literature, the current regulation not only restricts but effectively deprives less wealthy legal subjects of the right to establish a legal entity, to associate, and to dispose of property freely for this purpose; thus, the proportionality and constitutionality of the regulation may be called into question (Miczán, 2020, pp. 12-16).

[16] Approximately EUR 1.5 million.

Similarly, it has been observed that

> "from the fact that the legislature has set the minimum assets to be allocated to an asset management foundation at a level far exceeding the size of average Hungarian private wealth, it may be inferred that this legal institution was intended primarily not for domestic asset owners. The legislature's primary objective may have been to attract to Hungary offshore wealth accumulated by Hungarian asset owners in tax havens since the political transition. In addition, it may have been intended to draw certain foreign assets to Hungary in the context of a geographical diversification strategy (…) Nonetheless, there will of course be asset owners in Hungary who can exploit the advantages of the asset management foundation, although many years may pass before the legal institution becomes widespread in domestic circles" (Arató, 2020, p. 173).

The minimum capital must be provided in such a manner that it is at the disposal solely of the asset management foundation following registration. The founder may transfer to the foundation assets exceeding the minimum capital at a later date, subject to a specified deadline. While the minimum capital is sufficient for registration, the foundation may demand the transfer of any assets exceeding the minimum capital if the founder fails to fulfil the obligation within the agreed time limit.[17] The minimum capital does not include assets placed under fiduciary management; these must be provided by the founder independently.

Pursuant to the deed of foundation, the founder or a joining contributor may (beyond the asset allocation undertaken and fulfilled at the time of establishment or accession) also undertake to provide additional assets to the foundation in order to increase the assets allocated at the time of establishment or accession.

The minimum capital may be contributed in any form of asset permitted by the HCC for the establishment of legal persons. Accordingly, in addition to cash, the foundation's assets may consist of in-kind contributions. Given that the appointment of a permanent auditor is mandatory for asset management

[17] As Section 3 (4) of the Act on Asset Management Foundations states, where the exercise of the founder's rights is vested in the executive body of the foundation (the board of trustees) or in the foundation asset controller, the foundation shall be entitled, through them, to demand fulfilment of this asset contribution. If the founder has retained the exercise of the founder's rights personally and fails to fulfil this obligation despite a written request from the board of trustees to that effect, the board of trustees shall be entitled to exercise the founder's rights until such fulfilment occurs.

foundations, the valuation of any in-kind contribution falls within the duties and responsibilities of the permanent auditor.

The deed of foundation of an asset management foundation must be executed either in notarial form or as a private deed countersigned by an attorney (Section 9(1) of the Act on Asset Management Foundations). Legal representation is mandatory in the court registration procedure. The deed of foundation must set out the fundamental purposes and principles governing the management and utilization of the foundation's assets. The founder may also attach, as an integral part of the deed of foundation, an investment policy statement. The investment policy statement must include the definition of the portfolio constituting the foundation's assets, provisions on risk management, and the decision-making procedure applicable to investments. If the founder does not attach the investment policy statement to the deed of foundation, one must be prepared, based on the foundation's purposes and principles, within six months from registration, on the proposal of the supervisory board, and approved by the person exercising the founder's rights. Where the founder's rights are exercised by the board of trustees, the approval of the investment policy statement shall be decided jointly by the board of trustees and the supervisory board, after obtaining the opinion of the foundation asset controller.

3.3. Exercise of Founder's Rights

Founder's rights may be exercised in three ways:

(a) the founder retains the exercise of such rights personally, with the possibility of transferring them to the foundation at a later stage;

(b) the founder designates the board of trustees to exercise the founder's rights; or

(c) in place of the board of trustees, the founder may designate a foundation asset controller.

In our view, the literature has rightly emphasized that it is inadvisable to grant a beneficiary the ability to exercise founder's rights, and the Hungarian regulation of asset management foundations is consistent with this position (Csehi, 2006, p. 343). This position is justified by the structural role of founder's rights in the internal constitution of the foundation. Founder's rights typically entail decisive influence over governance (notably the appointment and removal of trustees) and, depending on the founding instrument, the capacity to shape the framework of asset management and distribution. If these powers were conferred on a beneficiary, the beneficiary would cease to be merely the addressee of benefits and would become, in substance, a controller

of the institution. This would generate an inherent conflict of interest, since a beneficiary's rational incentive is to maximize individual advantage, potentially at the expense of the foundation's purpose, the long-term preservation of assets, and the equitable treatment of other, especially future beneficiaries. Accordingly, the exclusion of beneficiaries from founder's rights serves the autonomy of the foundation as a distinct legal person and supports the separation of roles.

The first scenario includes cases where the founder stipulates in the deed of foundation that the founder's rights shall transfer to the foundation upon the founder's death, dissolution without legal succession, or the occurrence of a condition specified in the deed. It is important to note that the transfer may concern either the entirety or only a part of the founder's rights.

Where the founder's rights are exercised by the board of trustees, and unless the deed of foundation provides otherwise, the appointment of members and the chairpersons of the board of trustees and the supervisory board, upon any vacancy in such positions, shall be decided jointly by the board of trustees and the supervisory board, with the additional requirement that the decision must also be supported by a majority of the members of the body in which the vacancy has arisen. The deed of foundation may also prescribe a further qualified majority requirement for such decisions.

Where the founder's rights are exercised by the foundation asset controller, and unless the deed of foundation provides otherwise, the appointment of members and the chairpersons of the board of trustees and the supervisory board, upon any vacancy, shall be decided by the foundation asset controller after consulting the board of trustees and the supervisory board. The removal of members and chairpersons of the board of trustees and the supervisory board of an asset management foundation may be decided in the same manner as their appointment, with the proviso that the deed of foundation may make such removal subject to conditions or restrictions.

3.4. Organization of the Asset Management Foundation

The operational management of the foundation is carried out by the board of trustees, which functions as the foundation's executive body. In respect of the board of trustees of a non-public benefit asset management foundation, the general rules apply, meaning that the board must consist of three members. However, the prohibition contained in the HCC, under which a beneficiary of the foundation and their close relatives may not, under penalty of nullity, serve as members of the board of trustees, does not apply to non-public benefit asset management foundations, thereby providing genuine flexibility (Borbély,

2021, p. 34). This fact, in turn, underscores the family character of such foundations. As the law *de lege lata* prescribes a five-member board of trustees only for public benefit asset management foundations, in our view, there is no impediment for a non-public benefit asset management foundation to have a sole trustee appointed by the founder as the sole executive organ of the foundation in accordance with the relevant provisions of the HCC. The rules applicable to the board of trustees shall apply *mutatis mutandis* to the sole trustee.

The appointment of a supervisory board and its functioning, as well as the engagement of a permanent auditor, is mandatory (Section 6(2) of the Act on Asset Management Foundations). The supervisory board must consist of at least three natural persons, and (unless the deed of foundation provides otherwise) the members shall elect the chairperson from among themselves. However, the law allows the deed of foundation of a non-public benefit asset management foundation to stipulate that no supervisory board shall operate; in such case, the functions and powers of the supervisory board are exercised by the foundation asset controller.

Where, in the case of an asset management foundation, the founder has designated the board of trustees to exercise the founder's rights, or has transferred such rights to the foundation, the founder must also appoint a foundation asset controller (Sándor, 2021, p. 10) in the deed of foundation for the purpose of monitoring the exercise of such rights and the management of assets in line with the foundation's purposes, independently of the foundation's supervisory body.[18] A foundation asset controller may only be a statutory auditor's company, a statutory auditor, a law firm, an attorney-at-law, or another person of good repute who possesses a specialized higher education degree as defined in the deed of foundation. The founder, members and chairpersons of the board of trustees and the supervisory board, other officers or employees of the foundation, its auditor, its beneficiaries, and their relatives are ineligible to serve as the foundation asset controller. The deed of foundation may set out additional incompatibility rules for this position. If, in a non-public benefit asset management foundation, the founder designates the foundation asset controller instead of the board of trustees to exercise the founder's rights, the appointment of a supervisory board is mandatory.

[18] The founder may authorize the asset management foundation, in the deed of foundation, to appoint the foundation asset controller. In such case, the decision on the appointment or engagement of the asset controller shall be taken jointly by the board of trustees and the supervisory board; however, such appointment or engagement shall require the approval of the registry court (Section 7(2) of the Act on Asset Management Foundations).

Thus, in our opinion, for a non-public benefit family asset management foundation, seven organizational ("governance") models can be envisaged:

(a) founder exercising founder's rights + board of trustees + auditor (the simplest structure, with no obligation to appoint either a supervisory board or an asset controller);

(b) founder exercising founder's rights + board of trustees + supervisory board + auditor;

(c) founder exercising founder's rights + board of trustees + supervisory board + (optionally) asset controller + auditor;

(d) founder exercising founder's rights + board of trustees + asset controller exercising supervisory board functions (appointment mandatory) + auditor;

(e) board of trustees exercising founder's rights + supervisory board + (mandatory) asset controller + auditor;

(f) board of trustees exercising founder's rights + asset controller exercising supervisory board functions (mandatory) + auditor;

(g) board of trustees + asset controller exercising founder's rights + (mandatory) supervisory board + auditor.

These governance models reflect the possible combinations of the three types of founder's rights holders (founder, board of trustees, asset controller) and the two types of supervisory structures (supervisory board or asset controller).

As has been noted, "it is apparent that the staffing requirements of an asset management foundation are extensive, and the founder must therefore anticipate significant maintenance costs" (Arató, 2020, p. 173).

The deed of foundation may prescribe qualification, educational, and other professional requirements for the chairpersons and members of the board of trustees and the supervisory board (Section 6(3) of the Act on Asset Management Foundations). Given that asset management foundations, particularly their executive and supervisory bodies, carry out professionally responsible functions, and that their operational security, prudence, and risk management are of significant interest to both the founder and the foundation, it is advisable for the deed of foundation to ensure that members of these bodies are well-prepared and possess appropriate professional competence.

3.5. External (Asset Controller) Oversight of Asset Management

It is appropriate to designate, outside the strict organizational structure of the foundation, a person vested with the necessary powers to intervene against

decisions causing loss of assets, violating the investment policy statement, or otherwise infringing lawful operation. This function is performed by the foundation asset controller, who, in particular, may initiate a lawfulness supervision procedure in the event of inaction by the supervisory board (Arató, 2020, p. 173). Where the board of trustees exercises the founder's rights, appointment of an asset controller is mandatory, and the deed of foundation must regulate both such appointment and the remuneration of the asset controller.

The function of the foundation asset controller is to monitor whether the asset management of the foundation complies with the objectives specified in the deed of foundation, the founder's asset management directives, and the provisions of the investment policy statement (Section 8(1) of the Act on Asset Management Foundations). The asset controller also monitors compliance by the board of trustees or supervisory board with the statutory obligations applicable to them.

The asset controller has a right to provide an opinion on matters falling within the scope of founder's rights exercised by the board of trustees. In terms of access to documents and the right to receive information, the asset controller has the same entitlements as the supervisory board.

If the operation or procedure of the board of trustees or the supervisory board exercising the founder's rights does not comply with the law or with the deed of foundation, the asset controller shall call upon the body concerned to restore lawful operation. If the body fails to comply with such request, the asset controller may initiate a lawfulness supervision procedure before the registry court.

If authorized by the deed of foundation, the asset controller may, in cases specified therein, apply to the court for the annulment of a decision of the board of trustees or supervisory board that contravenes the law, the deed of foundation, or the investment policy statement.

If no decision is taken on the filling of a position of member or officer of the board of trustees or supervisory board within 90 days from the occurrence of the vacancy, the registry court shall decide the matter upon the proposal of the asset controller.

The asset controller is entitled to remuneration, which must be paid from the assets managed by the asset management foundation.

It is important to note that the asset management foundation has no accounting obligation towards the beneficiary. However, in order to ensure lawful operation and effective oversight, the legislature has made the appointment of

an asset controller mandatory where the board of trustees exercises the founder's rights, as well as for public benefit asset management foundations performing public duties. In contrast, the institution of the protector, known in fiduciary asset management, may only be created under a dispositive regulatory framework. The fundamental function of the asset controller is not the enforcement of beneficiary rights, but the supervision of the lawfulness of the foundation's asset management activities; accordingly, the beneficiary has no direct influence over the asset controller's actions (Borbély, 2021, p. 41-42).

3.6. Restrictions on Asset Management by the Asset Management Foundation

The founder may, in the deed of foundation, determine the minimum level of assets allocated to the foundation below which the assets of the asset management foundation may not be reduced; this may not be set lower than the statutory minimum capital (Section 10(1) of the Act on Asset Management Foundations). In the absence of such a specification, the statutory minimum capital shall be deemed to constitute this threshold. This constraint reinforces the asset-lock character of the institution by setting a hard limit to the depletion of the endowment through distributions or other dispositions. It serves the protection of beneficiaries, particularly those with deferred, contingent, or future interests.

If the assets of the asset management foundation fall below the prescribed minimum level, the benefits payable to the beneficiaries shall be proportionally reduced or withheld entirely until the foundation's assets once again reach the minimum threshold.

3.7. Termination of the Asset Management Foundation

A non-public benefit asset management foundation may be terminated at the request of the founder exercising the founder's rights; upon such a request, the registry court, in non-contentious civil proceedings, shall establish the occurrence of the circumstance giving rise to the foundation's termination. The termination of the foundation does not affect the fulfilment of obligations already determined and due in favor of the beneficiaries.

An asset management foundation shall also be terminated if, for a continuous period of three full years, its assets do not reach the statutory minimum capital amount; in such a case, it shall be deemed that the achievement of the

foundation's purpose has become impossible. The objective of this rule is to exclude the operation of foundations that are permanently deprived of assets and thereby incapable of fulfilling their purpose. The legislature treats this situation, as a matter of statutory fiction, as equivalent to the impossibility of achieving the foundation's purpose.

3.8. The Significance of the Asset Management Foundation in Intergenerational Family Wealth Transfer

An asset management foundation is a purpose-bound, legal personality–possessing vehicle of assets, which institutionalizes the intergenerational transfer and preservation of family wealth. The assets are segregated, dedicated to a specific purpose, and managed in accordance with pre-established conditions, serving the family's long-term interests. Its normative basis lies in the supplementary provisions of the HCC and in the Act on Asset Management Foundations; the essential distinguishing feature of this construct is not the specificity of its founding purpose, but its professional asset management function.

The segregation of the foundation's assets, the purpose-bound and conditional redistribution of its yields, and the finely adjustable, pre-definable framework of beneficiary entitlements together ensure that the wealth serves family purposes not as a one-time inheritance, but as a regulated and sustainable stream of benefits. This arrangement moderates the risk of squandering large, lump-sum inheritances and prevents the fragmentation of wealth, particularly in family businesses, where ownership stability is institutionally separated from the distribution of returns.

The capital minimum functions as an economy-of-scale threshold designed to protect yield-generating capacity and continuity, despite the criticism raised in the Hungarian legal literature. The restriction of economic activities to the foundation's own portfolio limits risk-taking while enabling stable ownership structures in family businesses through participation in corporate entities. The board of trustees, the supervisory board, the mandatory auditor, and the foundation asset controller vested with protector powers collectively establish a well-adjusted governance and oversight system, addressing principal–agent tensions through institutional means and enforcing lawful, prudent asset management. Amendment mechanisms simultaneously preserve the core identity of the founder's intent and ensure adaptability to changes in the family, market, or legal environment; meanwhile, the inviolability of vested beneficiary rights is a prerequisite for maintaining trust and stability.

The construction is completed by the linkage of distributions to asset-preservation constraints and by a termination threshold tied to sustained capital loss, both of which prioritize the protection of the real value of the capital stock over immediate distributive interests and exclude the possibility of nominal operation. Thus, the asset management foundation is both a succession technique and, more fundamentally, a multi-generational family institution: within a coherent, legally disciplined framework of assets, entitlements, and risk management, it ensures that the founder's objectives and family values are realized over the long term in a predictable, conflict-minimizing manner.

These effects allow family wealth to operate not in response to ad hoc inheritance events, but within a pre-planned, transparent, and conflict-minimizing order, extending across generations. The asset management foundation offers a structural alternative to the estate-centered logic of succession: while succession opens upon death and the heir acquires the estate *ipso iure* (HCC Section 7:87 (1)-(2)), the decisive wealth-bearing positions may be relocated, by the prior endowment, into a continuing legal person, thereby reducing the practical pressure for post-mortem partition and co-ownership. At the same time, the instrument is compatible with *mortis causa* planning as well, since the HCC expressly permits the establishment of a foundation by written will or inheritance contract (Section 3:388. (1)). Its design, however, must be aligned with the Hungarian regime of compulsory share (HCC Section 7:75; Section 7:82). The base of the compulsory share is the net estate plus *inter vivos* "donations," explicitly including assets entrusted to asset management (HCC Section 7:80 (1)), subject to the statutory exclusions, most notably the ten-year rule (a temporal filter that excludes donations made more than ten years before death) (HCC Section 7:81 (1) a)). Accordingly, if endowments are made within the relevant period, the compulsory share may, where necessary, be enforced beyond the estate itself against recipients of donations within ten years irrespective of the chronological order of the gifts (HCC Section 7:84 (1) b)). The asset management foundation therefore channels succession planning into an institutional framework in which the stability of ownership can be preserved, and the distributional question is shifted to the level of benefits, while compulsory-share claims remain satisfiable if breached, typically in money (HCC Section 7:86 (3)).

A further, practically relevant objective in the Hungarian context is the preservation of family business assets as an undivided control block: by placing shares of a certain company into the foundation, ownership remains concentrated in a single, continuous legal person rather than being fragmented among heirs through succession. In turn, the economic interests of family members may be satisfied primarily through distributions from the returns on the business (dividends or other yield), while managerial control and strategic

decision-making are stabilized. The asset management foundation also enables intergenerational transfer by separating the continuity of ownership from the generational change in beneficiaries, so that wealth and control may pass across generations without repeated fragmentation at each succession event.

4. Conclusions

Advance planning for the transfer of a family company to the next generation is crucial for its continued existence and successful operation. If the owner does not arrange for the transfer of the family company in the event of death—or dies unexpectedly before doing so—the rules of inheritance law will apply. Slovenian inheritance law does not provide for special succession rules where the estate includes a family company. The application of the general rules of inheritance in such cases may lead to the division of the company and, in the worst case, to its dissolution. It is noteworthy that Slovenian legislation prescribes special rules for the inheritance of protected farms, which prevent their fragmentation through succession. An analysis of these special rules indicates that similar succession provisions could be introduced into legislation for situations where the transfer of a family company has not been arranged in advance and the general rules of inheritance must apply. The fundamental principles of such a regime would be the indivisibility of the family company upon succession and the requirement that the successor be able to take over the company under conditions that do not impose an excessive burden. Such an approach would prevent the fragmentation of the family company, ensure its transfer to an heir who is willing or qualified to continue its management, and preserve jobs within the economy.

Under Hungarian law, the asset management foundation constitutes an effective instrument for family wealth planning, as well as for the intergenerational transfer and preservation of family and business assets. By introducing greater flexibility into the rigid rules of succession, it ensures that assets are preserved for subsequent generations. The founder may predetermine, for several generations in advance, the conditions and beneficiaries entitled to the assets or to the income derived therefrom. As noted in the legal literature, “the legal institution of the asset management foundation is one of the most effective means of preserving, maintaining, increasing, and transferring substantial wealth across decades or even centuries, provided that the founder is able to contribute at least six hundred million Hungarian forints in assets and is capable of financing the relatively high operational costs arising also from the organizational structure of the asset management foundation. Family businesses will likewise be able to take advantage of this new opportunity under

such conditions, in order to overcome the difficulties associated with generational transition" (Arató, 2020, 174).

When considered together, the Slovenian proposal for special succession rules for family companies and the Hungarian asset management foundation highlight two distinct but complementary approaches to preserving family companies. The Slovenian model seeks to safeguard continuity through statutory limitations on fragmentation, thereby protecting the family company as an economic unit of wider social importance. It can serve as an effective legal tool to prevent fragmentation through succession if the intergenerational transfer has not been planned in advance. By contrast, the Hungarian foundation provides a private-law mechanism that enables families to exercise broad autonomy in determining the long-term governance and transfer of their wealth. Although these instruments differ in both accessibility and scope, they pursue the same fundamental goal of ensuring stability in intergenerational succession. A comparative view therefore suggests that both tools can be effective in protecting family companies and wealth. The Hungarian asset management foundation facilitates advance planning of the intergenerational transfer of family wealth, while the Slovenian model may function as a protective measure if such transfer has not been planned in advance. Since each tool applies in different circumstances, they could also coexist within a national regulatory framework to safeguard family companies and wealth in both scenarios.

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