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SUMMARY OF DOCTORAL DISSERTATION

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Title of the dissertation: **Civil liability of members of joint-stock company's bodies for business decisions towards the company in comparative legal perspective**

Doctoral dissertation written under the academic supervision of prof. dr. hab. Andrzej Szumański

The subject of the dissertation is a comparative legal analysis of the liability of members of management boards, supervisory boards and boards of directors for business decisions in three jurisdictions - Poland, the United States and Germany. Proper shaping of the liability of officers of capital companies is a difficult task for legislators and judicature, because at the same time the regulation should provide members of the bodies with a relatively wide range of managerial discretion and not leave without sanctions serious breaches of duty, including above all particularly reprehensible violations of the duty of loyalty. The answer to the existing tension between the two values - managerial discretion and officer liability - may be the business judgment rule, which has been developed by American jurisprudence and subsequently "transplanted" to many jurisdictions.

The study is entirely of a comparative character, and liability for business decisions in three selected jurisdictions has been discussed in order to provide a comparative legal analysis later in the dissertation. The liability of the officers of a Polish joint-stock company was examined due to the fact that this company can be described as the "purest" capital company, designed for large-scale business activities. The German joint-stock company and the American corporation are its functional equivalents. The liability of managers and supervisors in the relevant types of companies was addressed according to a single scheme. First of all, the material legal aspects of the liability of board members for business decisions were examined, above all its prerequisites and the validity and formulation of the business judgement rule. In order to make this analysis, it was necessary to first determine the content of the fundamental duties of the officers of each of the three types of companies. As a study of liability would be incomplete without a presentation and commentary on the procedures for the assertion of claims, the subject of proceedings against the members of the bodies before the courts, including, above all, the assertion of the company's claims by its shareholders, is also addressed.

The main objective of the dissertation was to present the Polish regulation of the liability of board members for business decisions against a comparative legal background. In order to achieve this aim, it was necessary to fulfil specific objectives, which consisted of:

1. the description of the duties of loyalty and care;
2. the examination of the prerequisites for the liability of members of the bodies for business decisions;
3. the determination of the validity and content of the business judgement rule;
4. the identification of the implications of non-application of the business judgment rule;
5. the examination of the possibilities of modifying liability;
6. the examination of derivative suit and the factors that influence the actual exercise of the company's claims by shareholders;
7. a comparative legal analysis of the fiduciary duties of members of bodies, the liability of members of bodies for business decisions, including in particular the business judgement rule and the possibility of modifying the scope of liability and the procedures for pursuing the company's claims for damages against members of bodies.

The dissertation is based on the following research hypotheses:

1. The obligation of the members of the bodies to loyally and diligently perform their mandate in the three analysed types of companies stems from the nature of the officer-company relationship.
2. The members of the bodies of all three analysed types of companies are held responsible for the correct performance of their duties related to business decision-making.
3. Liability for business decisions in all three jurisdictions is limited in order to ensure that officers have the freedom to exercise managerial discretion.
4. The rules on reimbursement of litigation costs to the plaintiff are crucial for the actual use of derivative actions by shareholders in Poland, Germany and the United States.

The main research methods were the formal-dogmatic method and the comparative method. Additionally, the historical method was used in the study.

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