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Abstract of the Dissertation

**Corporate Law Effects of Breaches of Duties Related to
the Acquisition of Significant Blocks of Shares of Public Companies**

Transactions whereby significant blocks of shares of public companies are acquired are frequent on organized securities trading markets. Changes in the holding of significant blocks of shares or processes consisting in becoming majority shareholders in public companies involve many demanding duties. In Poland these duties are imposed on investors by Chapter 4 of the Act on Public Offering and Conditions for Introduction of Financial Instruments Into Organized Trading and on Public Companies (APO). Though these provisions should be understandable, precise, and adequate to the market reality (proportionate), they are in fact far from perfect, thus they often loom large in the minds of participants of trading in considerable blocks of shares of public companies. For these reasons, unfortunately, there are in practice many infringements of the duties borne by entities acquiring considerable blocks of shares on the stock exchange.

Considerable controversies are also caused by regulations that introduce sanctions for such breaches. First of all, norms concerning the corporate law sanction of prohibition of exercising the voting rights carried by shares of public companies, which sanction is referred to in Article 89 APO. In particular, these norms do not in principle relate to the duration of the prohibition, to the manner of execution of the sanction nor to the feature of guilt of a purchaser of a considerable block of shares who breached a duty, as a criterion for assessing a given specific breach. Meanwhile such a regulations should provide all the participants of trading on the stock exchange with all the details of the corporate law sanction, as it is really severe, especially for the major investors who allocate large capital into considerable blocks of shares of public companies.

Therefore the main thesis of my scientific research is a theorem that regulations that introduce corporate law sanction, which is referred to in Article 89 APO, are very imperfect and that is why they cause significant danger to the stability of corporate law relations in public companies' organization as well to the security or reliability of legal turnover in which these companies take part in practice. The

main goal of my dissertation was proving the thesis in particular by finding answers to specific research questions corresponding to the subject of my thesis.

In achieving my scientific goal I based mainly on dogmatic analysis of reference regulations of Polish and EU corporate & capital market law as well as on foreign regulations in that field (German, French and U.S. law) to show a wide research spectrum and draw some comparative conclusions. Another important research method that I have used actually throughout all the chapters of my dissertation is the so called 'law & economics' which is in my opinion an absolutely essential way of analysis while conducting any research on the economic branch of law nowadays. I was also basing on a theoretical method that let me explore the views of the doctrine of law and jurisprudence. Last but not least in some parts of my dissertation I tried to show a genesis of regulations that are subject of my research as well as trends of changes of these regulations, therefore historical analysis was a supplementary research method of my dissertation.

For better transparency I decided to divide the dissertation into six substantive chapters preceded by an introduction and closed with an ending intended for research conclusions.

First chapter has an ordering meaning. This part of the dissertation includes the classification of duties of purchasers of considerable blocks of shares of public companies. Information duties were discussed firstly. Duties concerning public tender bids were discussed secondly. In the first chapter I also analyzed EU capital market law as it has source meaning for the shape of our national regulations.

The subject of the second chapter is the diagnosis of potential breaches of duties of purchasers of considerable blocks of shares of public companies. In this part of my dissertation I analyzed in particular guilt (in the strict sense) as a criterion for assessing if a given duty was breached and a possibility to rectify a breach of a given duty individually by the obliged investor to regain the voting rights carried by his shares.

Chapter No. 3 concerns the comprehensive analysis of corporate law sanction which is referred to in Article 89 APO. The sanction which is in the form of prohibition of exercising the voting rights carried by shares of public companies is here discussed both from the theoretical point of view and from practice of stock exchange market. Legal nature, contents and scope (time scope) of the corporate sanction were discussed carefully. What is more, the subject of research in this part of the dissertation is the legal influence of the given sanction on other fundamental corporate rights incorporated in shares e.g. on the right to participate in GM.

The fourth chapter is focused on comparative legal analysis. I have chosen foreign regulations of German, French and U.S. capital market law to point legal similarities as well as differences between these systems and Polish regulations of trade in large blocks of shares of public companies. The main goal of this part of the dissertation was to show that despite the fact that German or French regulations have the same source in EU directives as Polish law, foreign systems are much more precise in comparison to our Polish rules (e.g. about duration of corporate law sanction).

Chapter No. 5 has a significant meaning for the practical reason of the dissertation. In this part all research is focused on possible legal instruments *de lege lata* of assessing breaches of duties of purchasers of large blocks of shares as well as verification of voting rights carried by shares in practice. The main goal of this part is to answer the question who has a right to execute – in advance – the corporate sanction of loss of voting rights carried by shares while the breach of duty imposed on investor by Chapter 4 of APO has been proven just before opening of the GM or even during the GM. That is why the fifth chapter includes an analysis of regulations dedicated especially to the organization of GM, attending GM and voting at GM. In the end of the fifth chapter I described controversies I have observed in practice of trade in large blocks of shares and presented original suggestions *de lege ferenda*, which, should they enter into force, could probably help solving the aforementioned situation.

The sixth and final chapter of the dissertation includes the discussion about legal effects of voting at GM against the corporate law sanction which is referred to in Article 89 APO and on how to prevent these effects *ex post*. That is why the core of the last chapter is dedicated to a precise analysis of possible legal instruments which potentially let the court of justice decide about the ‘objective shape’ of resolution of GM that has been passed by ‘illegal’ votes or to eliminate the resolution of GM passed in that illegal way as invalid in accordance with Article 425 of the Code of Commercial Companies.