

Piotr Moskala – Summary of Ph.D. dissertation

The dissertation is dedicated to legal aspects of company groups management. It constitutes an analysis of key company law tools which are or may be utilized for the purpose of integrated management of company groups. The analysis relates also to other legal systems (first of all to German and Italian law), the experiences of which may be found useful for the purpose of interpreting Polish law.

The issues discussed in the first chapter are of general nature and aim at allowing the delimitation of the dissertation's subject. This pertains to defining the notions of "company group" and "legal management instruments". Moreover, the chapter covers the economic background for establishing groups of companies and discusses various regulatory approaches to this phenomenon in company law, including those adopted by foreign systems.

The second chapter is dedicated to the doctrine of the company group interest, being a tool for group management which experiences a growth of significance across Europe. First of all, the analysis regards the admissibility of applying this doctrine in view of the definition of the "interest of a company" adopted in Polish law. The determination that Polish law endorses the shareholder value approach leads to a conclusion that the interest of a company may be interpreted flexibly and may include the group context. Secondly, the chapter describes the requirements for applying the doctrine, among which the most prominent one is the necessity to compensate any burdens incurred by a group member for the purpose of benefitting the group. The next chapter discusses the practical application of the doctrine in relation to various company law mechanisms, including the rules on liability of corporate bodies' members, protection of the company's assets or access to information on the company.

The fourth chapter examines the possibility of utilizing German law-style management instruments under Polish law, that is issuing of binding instructions to the subsidiary and takeover of its profit by the parent. The analysis leads to a conclusion that such instruments are inadmissible under group contracts since such contracts cannot be effectively concluded under Polish law. However, binding instructions may constitute an element of the internal management structure of a limited liability company and both instruments may be used to a limited degree (determined by the prohibition on circumvention of the company law rules) as

a component of intra-group contracts. In practice informal instructions may also play a significant role, despite their non-binding character.

The fifth chapter discusses the empirical phenomenon of implementing instruments which secure the functioning of management systems in groups of companies. Such instruments often constitute part of so called codes of capital groups, but also tend to be introduced to articles of association of group members or to contracts concluded between them. The most typical among such instruments, such as the establishment of group bodies or granting the parent a wider access to information on the subsidiary, are analyzed from the perspective of their admissibility. For this purpose, the general rules on shaping legal relations to which such instruments are implemented (corporate or contractual) are applicable.

The *de lege ferenda* proposals are presented in the sixth chapter. The most important among them is the recommendation to codify the doctrine of company group interest which should enhance legal certainty regarding its admissibility under Polish law. The dissertation is ended by the seventh chapter which includes conclusions of the whole dissertation.

Keywords: capital companies, groups of companies, management instruments, interest of a company, interest of a company group, liability of corporate bodies' members, protection of the company's assets, access to information, group contracts, binding instructions, transfer of profit, capital group's code

A handwritten signature in blue ink, appearing to read 'W. Kozłowski', is located in the lower right quadrant of the page.