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**“Principle of Proportionality and (Re-)insurance Captives in the EU and Polish
Regulation”
Summary**

The thesis presents the results of research on the principle of proportionality applied in the EU insurance regulation. The main objectives of the study are to understand the meaning of the principle, its application within the EU and Polish insurance regulation and to verify whether the current way in which the principle is applied makes the EU and Polish insurance regulation adequate for (re-)insurance captive undertakings ((re-)insurance captives). The analysis of proportionality is coupled with the concept of (re-)insurance captives because, as the research demonstrates, a correct application of proportionality is indispensable for (re-)insurance captives to operate. Consequently, the regulation of captives is considered a true test of the effectiveness of the principle.

Following the introduction, Chapter 2 addresses proportionality as a general legal principle of the EU law. The author traces back the evolution of the principle, its rationale, and functions. Subsequently, by analyzing the impact assessment process, it is demonstrated how the principle is applied in practice by the EU legislator. The findings of the Chapter allow offering a distinction between judicial proportionality and legislative proportionality.

In Chapter 3 the focus switches to the EU and Polish insurance regulation. The analysis of the proportionality embedded in the Solvency II Directive (and the Polish implementing act) and its practical use demonstrates the importance of the principle for the insurance regulation and proves that it is not the same proportionality as the one set out in the Treaty on EU. Based on this, the author coins the term ‘insurance proportionality’ and explains the relationship between insurance proportionality and legislative proportionality.

Having clarified the position on the meaning and role of insurance proportionality, Chapter 4 introduces the concept of (re-)insurance captives. The analysis starts by explaining the specificity of captives and how they differ from traditional insurance undertakings. It is

concluded that for these differences, captives and traditional insurers cannot be subject to the same regulation. In search for the optimal regulation of the captives' activity, different possible policy options, including the application of the insurance proportionality are analyzed.

Considering that the EU legislator chose the application of the insurance proportionality as the optimal policy option, Chapter 5 turns to the 4 steps analysis designed to verify the effectiveness of the proportionality with respect to (re-)insurance captives and to answer the question of whether the current application of proportionality makes the EU and Polish insurance regulations adequate for (re-)insurance captives. More specifically, whether the application of proportionality is truly effective in easing the burden of the regulation for captives.

Chapter 6 summarizes the findings and provides the conclusions. The author puts forward 2 main arguments. First, although the insurance proportionality holds the potential to make the regulation flexible, it does not work in practice. The difficulties surrounding its practical application lead to the situation where both regulated entities and national supervisory authorities do not follow the principle to the full extent possible. Second, the insurance proportionality does provide the opportunity to minimize the regulatory burden for captives. However, because whether this opportunity is seized depends on the national supervisory authorities, the end result differs among the EU Member States. Therefore, the effectiveness of the insurance proportionality for captives will depend on the way the principle is implemented to the national legislation and the supervisory approach in applying the principle. In Poland, both the general application of the insurance proportionality and regulation of captives require substantial improvement.