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***GOVERNING BODY OF A SIMPLE JOINT STOCK COMPANY***

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## Summary

The simple joint-stock company (in Polish: prosta spółka akcyjna; hereafter referred to as “P.S.A.”) is the newest type of company, which was introduced into the Commercial Companies Code by the Act of 19 July 2019 amending the Act - Commercial Companies Code and certain other acts. One of the important features that distinguish it from other companies is the possibility to choose between a dualistic (mandatory management board and optional supervisory board) or monistic (board of directors having both a management and supervisory function) formation of the corporate bodies. The board of directors as a corporate body was previously unknown in Polish law. Its legal nature, which consists in combining two different functions in the company, although not entirely alien in Polish law (it appears in administrative board of the *Societas Europaea*), has not been insufficiently recognised.

The analysis undertaken in the dissertation seeks to answer the question of whether the introduction of the monistic formation of corporate bodies in P.S.A. is factual or merely illusory. More specifically, the purpose of the dissertation is to determine, by way of a cross-sectional analysis, whether the provisions concerning the governing body in P.S.A. under the monistic system are patterned on the provisions concerning the management board in a Polish limited liability company or on the foreign legislation from which this system of organising bodies originates, i.e. in particular the legislation of common law countries (the United Kingdom, the United States).

The starting point for the analysis is the presentation in chapter one of the historical evolution of the concept of governance of business entities in monistic and dualistic systems. The focus is on the key legislations that are considered to be the origin of the different organisational assumptions of collective governance. Their analysis is intended to allow a systemic comprehension of each of them and to synthesise their advantages and disadvantages, as well as to formulate conclusions as to the legitimacy and scope of the implementation of foreign solutions into the Polish law.

The second chapter is dedicated to the analysis of foreign legislation in terms of the methods of shaping governing bodies in companies. The aim of the study is to verify the level of inspiration from model legislation in the construction of solutions applied by the Polish legislator in introducing the monistic system into Polish law. Its result determines the further direction of considerations on the monistic composition of governing bodies in P.S.A.

The third chapter focuses on the first regulation of corporate bodies formed in the monistic system in Polish company law. This took place in the *Societas Europaea* much earlier than in the P.S.A. The chapter focuses on an explanation of the sources of regulation and their hierarchy, as well as an analysis of the structure and solutions possible in the context of shaping the corporate bodies of the *Societas Europaea*. In addition, it addresses the problem of regulatory divergence between monistically organised *Societas Europaea* and P.S.A. and presents the resulting conclusions.

The fourth chapter aims to verify the fundamental issues related to the formation of P.S.A. corporate bodies. It presents variants of the structure of bodies in both the monistic and the dualistic system, the differences between them and numerous similarities with the provisions regarding the Polish limited liability company. In the following section, the functions of executive and non-executive directors are characterised as positions that are completely new in Polish law. The conclusions drawn from this section are intended to make an important contribution to the verification of some of the theses of the thesis relating to the monistic formation of corporate bodies in P.S.A.

The subject of the fifth and sixth chapters is the analysis of the possibility of applying the rules of exegesis, namely the directives of purposeful interpretation, the directives of systemic interpretation and inference *per analogiam* in relation to the provisions of the Commercial Companies Code concerning members of the corporate bodies of a P.S.A. and a Polish limited liability company. The considerations are aimed at demonstrating that the provisions concerning the corporate bodies of a P.S.A. should be perceived as inspired by the provisions concerning the corporate bodies of a Polish limited liability company, which can be considered both positively, given the possibility of drawing on interpretations developed in case law and doctrine, and negatively, given the sense of duplicating the same solutions for theoretically different systems of shaping the corporate bodies of a company.

In the seventh and final chapter, the grounds for the liability of members of the P.S.A. corporate body under the Commercial Companies Code are reviewed. From the perspective of the possibility of internal liability, Article 300<sup>125</sup> of the Commercial Companies Code and the provisions on contractual liability in the Civil Code are discussed. Along with these, the concepts of loyalty, diligent action of officials and business judgement rule are assessed as appearing in the aforementioned provision and consequently shaping the internal liability of members of the management body. From the perspective of the risk of external liability, Article 300<sup>132</sup> of the Commercial Companies Code is analysed. In its scope, the main focus is on the very similar content of this provision to Article 299 of the Commercial Companies Code and, consequently, the possibility to benefit from the body of case law developed on the basis of this provision. The remainder of this chapter considers the scope of the liability of members of the bodies of a P.S.A. in a monistic and dualistic system and of non-executive directors in a monistic P.S.A.

The thesis concludes with a concise summary together with final conclusions and answers to the research questions posed in the introduction of the dissertation.