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**The liability of persons running hotels and similar establishments for the
things brought in**

(Odpowiedzialność utrzymujących hotele i podobne zakłady za rzeczy wniesione)

SUMMARY

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The subject of this dissertation concerns the liability of persons running a hotel or similar establishment for the loss of or damage to things brought in by a person using the services of the hotel or similar establishment, known as a 'hotel guest'. The origin of this responsibility derives from the Roman *receptum nautarum, cauponum et stabulariorum*, relating to owners of ships, innkeepers and stablekeepers. As Roman innkeepers were not regarded as decent people, there was a need to hold them strictly liable for the property of those hosted in ancient Roman inns. Nowadays hotels are perceived differently, however, the need to provide far-reaching protection for the property of those using the services of the hotel or similar establishment is still considered socially justifiable. As in many other European countries, Polish legal regulations of hotel-keepers' liability is based on the rules adopted in Convention of 17 December 1962 on the Liability of Hotel-keepers concerning the Property of their Guests of the Council of Europe.

The considerations contained in this Phd thesis proves that the current legal nature and scope of the liability of persons running hotels and similar establishments for things brought in, adopted in Polish law, is a fair compromise, reconciling the unquestionable need of effective protection of hotel guests with the protection of interests of those running hotels or similar establishments. The liability discussed in the thesis is strict but limited. However, it is subject to specific acts of diligence on the part of the hotel guest, who is obliged to report any damage due to the loss of or damage to a thing brought in without undue delay after discovering this fact.

The Phd thesis concerns to individual legal issues regulated by Article 846 et seq. of the Polish Civil Code. The methods applied in this thesis are dogmatic, historical and comparative. The dissertation consists of an introduction part, seven chapters and a conclusion.

The first chapter is devoted to the history of hotel industry and the significance of Roman origin of the liability of hotel-keepers. The individual provisions of the Paris Convention and the regulations based on them adopted in selected European countries that have ratified the Convention of 1962 are also presented in this chapter. Further evolution of Polish law regarding the liability of hotel-keepers is discussed.

The second chapter concerns the entities who are liable for the things brought by hotel guests and the persons protected under Article 846 et seq. of the Polish Civil Code. An important element of this chapter is *ratio legis* of the regulation discussed. Deliberations contained therein are aimed at specifying the criteria for qualification of a facility as a 'hotel or similar establishment'. It provides examples of establishments subject to Art. 846 of the Civil Code. The question of whether a particular establishment qualifies as a similar to a hotel raises a lot of doubts in Polish law doctrine. The last part of this chapter focuses on the notion of 'running a hotel or similar establishment' and the notion of 'hotel guest'.

The third chapter describes different concepts of the source of strict liability incumbent on persons running hotels or similar establishments. It also focuses on the issue of joinder of claims in a situation of damage to things brought into a hotel.

The fourth chapter is dedicated to the definition of the 'thing brought in'. The key issue addressed in this part remains the problem of 'entrusting the thing or placing it in a location indicated or intended for that purpose' as a criterion determining the scope of the concept of 'thing brought in'. It is also important to provide a description of different categories of 'things brought in' and the proper defining of 'use of hotel services' phrase. Further in this chapter exclusions of certain categories of things from strict liability for hotel-keepers are described. Liability analysed herein does not include motor vehicles, things left in them and live animals.

The fifth chapter deals with the principle on which the liability of hotel-keepers is based as well as it enumerates and describes the circumstances stipulated in Art. 846 of the Civil Code exempting from this liability. It also addresses the issue of the aggrieved party's contribution to damage arising or increasing.

The limited scope of the obligation of the person running the hotel or similar establishment in the event of loss of or damage to a thing brought in is presented in chapter six. Exception to the rules stipulated in Art. 849 §1 of the Civil Code (limitations of the scope of the obligation to compensate for damages) are presented in further part of this chapter. This shall apply to property deposited with hotel-keeper as well as things that hotel-keeper has refused for safekeeping despite being obliged to accept them. Furthermore, the quantitative limits of liability shall not apply if the damage was caused by the wilful act or gross negligence of the

hotel-keeper or one of its employees. The final section of this chapter indicates that exclusion or limitation of the liability by agreement or notice has no legal effect.

The seventh chapter is dedicated to the guests' obligation to inform of the damage without undue delay. It also describes the statute of limitations for claims for damage resulting from loss of or damage to things brought into a hotel or similar establishment. The adoption of not very long limitation periods in Art. 848 of the Civil Code corresponds to trends in the market for the rendering of hotel services.

This Phd thesis emphasises the need to interpret the individual norms of Art. 846 et seq. of Polish Civil Code in accordance with the provisions of the Paris Convention. To conclude, it seems worthwhile to mention that the matters discussed in this dissertation are relevant not only from a theoretical point of view. Due to the growing availability of hotel services the practical aspect of the hotel-keepers' liability for loss of or damage to things brought into the hotel by guests is equally important.

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