

Abstract of Doctoral Dissertation

Cross-border mergers with the involvement of Polish commercial companies and the criminal liability of their managers

The subject of the considerations in the dissertation are the processes of cross-border mergers in which one of the merging entities is a Polish commercial company, in the context of the liability of its managers under criminal law.

The aim of the dissertation is to present types of cross-border mergers within the European Union, following the criterion of the parties thereto – Polish commercial law companies, both under substantive law and the rules of conflicts of laws account being taken of the criminal liability of their managers as the parties making the most significant contribution to the correct development of the process of cross-border mergers. As demonstrated in the dissertation, a cross-border merger is a complex juridical process and the role of the parties representing the companies – their managers – is to ensure its development in conformity with the law. On the one hand, this is one of the expectations set for managers by the company owners and, on the other hand, the operations of companies in conformity with the law are in a widely understood interest of business. Hence, the behaviours of managers responsible for due development of the cross-border merger process have been analysed in the context of their relevance to the manager's criminal liability.

The research objectives have been attained with the use of the formal/dogmatic method whilst issues relating to foreign laws are referred to in the dissertation only to the extent required for its complementarity.

The dissertation consists of five chapters. Chapter one, which is an introduction to its essential, substantive part, characterises in detail the main notions used in the dissertation, that is cross-border merger, cross-border nature of the process, company as a party thereto. Further, company managers are characterised in the light of criminal law. Attention has focused on explaining the legal nature of cross-border mergers and the goals which motivate the merging companies. Chapter one also presents an analysis of cross-border mergers as a matter of substantive law, rules of conflicts of laws and criminal law. A considerable part of chapter one is devoted to a presentation of axiological aspects of cross-border mergers that is their presentation in the light of the principle of economic freedom set forth in the

Constitution of the Republic of Poland, in the light of the EU principle of entrepreneurial freedom and as a form of exercising the freedom of economic activity under the Act – Business Law.

Chapter two discusses the legal regime of cross-border mergers and the criminal liability of managers. This chapter analyses prerequisites, relating to the rules of conflicts of laws, for types of cross-border mergers and the source of regulation of cross-border mergers under substantive law. Concerning the sources of legal regulations, be it in relation to the rules of conflicts of laws or substantive law, the analysis comprises the sources of both primary and secondary law of the European Union and of Poland. The chapter also analyses the sources of regulation, under criminal law, of the managers' liability in cross-border mergers. In this context, reference is made to regulations of Polish criminal which determine the liability of managers in the process of cross-border mergers and characterises the managers' liability under criminal law.

The subject of chapter three is the determination of the personal scope of cross-border mergers, in the light of criminal liability of company managers. Accordingly, the chapter presents an analysis of the personal scope of cross-border mergers based on EU's primary and secondary law and Polish law. Chapter three also attempts to outline problems of cross-border mergers in which the target company is Polish and the bidding company is established outside of the territory of the EU. An analysis of the manager's criminal liability in a cross-border merger forms a major part of chapter three. The characteristics of the behaviours of a party which are subject to criminal law and the characteristics of prohibited acts are analysed. Attention has also focused on the personal aspects of the manager's behaviours and forms of committing offences.

Chapter four presents a model of the merger procedure taking into account various types of cross-border mergers within the EU. The chapter also outlines the themes of the penalty size and punitive measures to be imposed upon a manager.

The last chapter, chapter five, presents the consequences of cross-border mergers, that is the issues of legal succession and the acquisition of the status of a shareholder (stockholder) of the bidding (newly-established) company. Analysed in this chapter is damage as a consequence of behaviours of managers which are subject to criminal law.