

Abstract of the Doctoral Dissertation

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Title: *Criminal Liability of Collective Entities in Polish Law*

The subject of this doctoral dissertation is an analysis of the **Act of 28 October 2002 on the Liability of Collective Entities for Acts Prohibited under Penalty** (Journal of Laws 2002 No. 197, item 1661; hereinafter referred to as the "Act" or "Corporate Liability Act"). This Act introduced into the Polish legal system the concept of *quasi*-criminal liability of legal entities, thereby breaking with the traditional rule that criminal liability may be imposed solely on natural persons. The adoption of the Act aimed to strengthen the fight against economic and fiscal crime by enabling the prosecution of collective entities - such as companies, public organizations, and other legal persons - that benefit from the unlawful acts of individuals acting on their behalf or in their interest.

Despite its intended preventive and repressive functions, the analysis of the Act's application over more than two decades leads to the conclusion that **it has proven ineffective and fails to achieve its legislative purpose**. In practice, proceedings against collective entities remain exceptionally rare, and penalties imposed have negligible deterrent or compensatory effects. Data published by the Government Legislation Centre and the Central Bureau of Investigation confirm that the Act, in its current form, remains largely inoperative.

The dissertation demonstrates that the ineffectiveness of the Act results primarily from its **structural and procedural shortcomings**. Chief among these is the so-called *prejudicatum* requirement, which conditions the liability of a collective entity on the prior conviction of a natural person. This dependency, combined with a closed catalogue of prohibited acts and a narrow range of available sanctions, makes the Act cumbersome to apply and significantly limits its practical impact.

Although the Polish legislator has repeatedly attempted to amend the Act - through the partial amendments of 2005 and 2011 and the comprehensive reform projects of 2019 and 2022 - **none of these initiatives resulted in the adoption of an effective and coherent regulatory model**. The absence of legislative progress perpetuates legal uncertainty and undermines the role of corporate liability as a mechanism of justice in a democratic state governed by the rule of law.

Accordingly, the **principal aim** of the dissertation is to conduct a **comprehensive examination of the current Corporate Liability Act**, including its legislative history, existing legal framework, subsequent amendments, and proposed reforms that failed to pass into law. The analysis seeks to assess the effectiveness, internal consistency, and constitutional conformity of the Act and to develop ***de lege ferenda* proposals** - recommendations for legislative reform - that, if implemented, would make corporate liability an effective instrument of criminal policy.

The dissertation comprises of **six chapters**, reflecting the logical progression of the research. The first chapter traces the historical development of collective entity liability in

Polish law, from early twentieth-century concepts to the 2002 Act, including the impact of the Constitutional Tribunal's judgment of 3 November 2004 (case K 18/03). The second chapter addresses the material and theoretical foundations of corporate liability, including the notion of organizational fault, the relationship between the natural and legal person, and the issue of attribution of guilt. The third chapter provides a detailed analysis of the current Act, focusing on the statutory definition of a collective entity, the catalogue of prohibited acts, the prejudicatum, sanctions, and procedural provisions. The fourth chapter examines legislative reform initiatives undertaken in recent years, particularly the 2019 draft Act, offering a critical assessment of their objectives and shortcomings. The fifth chapter undertakes a comparative legal analysis, discussing models of corporate criminal liability in both civil law and common law jurisdictions, including the United Kingdom, France, Germany, Switzerland, the Netherlands, Australia, Canada, and the United States. Finally, the sixth chapter presents the author's *de lege ferenda* proposals, encompassing structural, procedural, and sanction-based reforms designed to enhance the Act's practical enforceability and alignment with European standards of justice.

The findings of the dissertation demonstrate that the Polish model of corporate liability requires **comprehensive legislative reform** to achieve both - effectiveness and constitutional compliance. The proposed changes should aim to simplify procedures, clarify liability conditions, expand the range of sanctions (including organizational and compensatory measures), and eliminate systemic barriers to enforcement.

From a scientific perspective, this dissertation provides an in-depth, interdisciplinary study of the Polish system of corporate liability, combining doctrinal, comparative, and empirical methodologies. In practical terms, it offers legislative recommendations that could significantly improve the operation of the current legal framework and enable the effective application of the Act in judicial practice.

Keywords: corporate liability; organizational fault; prejudicatum; catalogue of prohibited acts; sanctions against collective entities; financial penalty; compensation; compliance; economic and fiscal crime.