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a summary of the dissertation

**Insurance Mediation in Polish and European law in evolutionary perspective**

In the dissertation insurance mediation is analyzed in the Polish and European regulations. Important part of the dissertation is analysis of the market practice. Regulation of insurance mediation is analyzed mainly by the formal-dogmatic method. The main issues of the dissertation are presentation of the roots of current legislative solutions, problems connected with market practice and proposal for new regulations. Dissertation is divided into seven chapters, which present crucial aspects of insurance mediation.

Chapter I was dedicated to two main issues. The first one is introduction to the doctrinal division and understanding of the term “mediation”. The second one is presentation of the insurance mediation history. Due to the fact that insurance mediation was recognized separately from commercial brokerage since turn of the 17th and 18th century, earlier considerations (e.g. at Roman law) considered also some aspect of general mediation. The origins of the mediation regulations were indicated on the ground of the Roman law. Then author presents selected regulations and issues of the medieval and modern regulations. From the beginning of the 20th century analysis is limited to the Polish and European regulations. Historical analysis is intended to show roots and development of the mediation regulations. That is important for better understanding of the institution of mediation in general. It also helps to foresee of its future.

Chapter II was dedicated to the problematic aspects of the European regulations connected directly to the insurance mediation. This part of dissertation concerns on the influence of the European regulation on the Polish regulations and market practice. Important part of this chapter is also presentation of the changes of the scope and shape of European regulations. On the basis of the second chapter the influence of the treaty and directive is explained. The part of the chapter which is dedicated to the problematic aspects of directive influence was divided into two parts. First one concerns on the implemented Insurance Mediation Directive and second one on enacted Insurance Distribution Directive. Currently European regulations have great impact on the Polish regulations and correct analysis and application of law demand its understanding.

Chapters from III to V concerns on the insurance intermediaries’ agreement issues. On theirs ground were analyzed scope of intermediary reference, relations between them and theirs principal and third parties.

Chapter III was dedicated to agency agreement. This agreement is the basis of action for insurance agent who are the most common type of insurance intermediary on the Polish market. Within the chapter author analyzes not only the regulation of the Polish Civil Code, but also regulations of Polish Insurance Mediation Act, which has great impact on the general regulation from Polish Civil Code. The chapter refers not only to the problematic aspects settled directly on the basis of mentioned acts, but also to practical problems such as exceeding of power of attorney in scope of compulsory insurance.

Chapter IV could be recognized as complement to chapter III, due to the fact that it is also mentioning of the agreement concluded between insurance agent and insurance company. This agreement is not an agency agreement, which is refereed in the chapter III, but outsourcing agreement. Separation of these two agreements has two reasons. The first one is different scope of service provided by the insurance agent. The second one are regulations of the new Polish Insurance and Reinsurance Activity Act which has given separate legal restrictions to this agreement. The main problem mentioned on the chapter IV is presentation of legal provisions which are applicable to this agreement. Within chapter IV are also described main forms of outsourcing, such as outsourcing of claims handling or underwriting.

Chapter V is dedicated to problematic aspects of the brokerage agreement. Because this agreement has no direct regulation on the current legal acts, it was important to determine legal regulations which could be applicable to this agreement. As it was mentioned above, lack of direct regulation demands analysis of the market practice and views of legal doctrine. Beyond this problematic aspects, it was necessary to refer issues connected with wide range of brokers services and its remuneration. Chapter V contains also analysis of the problematic aspects of mutual loyalty obligation between broker and his client, as well as relations between broker and insurance company.

Chapter VI titled ‘Modern models of mediation’ concerns three main topics. The first one is specific model of insurance mediation called bancassurance which assume cooperation between insurance companies and banks which are also insurance intermediaries. This type of insurance mediation was not distinguished on the basis of Polish Insurance Mediation Act but has its own ‘soft law’ regulations. The second type of modern insurance mediation models are ‘complex insurance mediation models’. This type of insurance mediation model takes the assumption that insurance mediation services could be divided between two or more insurance intermediaries, who are cooperating with each other. In the chapter author describes the problematic aspects of selected complex insurance mediation models. The analysis applies to both practice and legal requirements. The last aspect of modern models of mediation which is referred in the chapter VI is new kind of insurance mediation which is provided online. This form of insurance mediation is present on the current insurance market, but at the moment has very limited regulation which is dedicated for it.

Chapter VII is the last chapter which could be described as an attempt of foreseeing future of the insurance regulations. It concerns on the works of Polish government connected with implementation of the Insurance Distribution Directive. Due to the ongoing works on the issue of implementation, chapter VII includes summary and evaluation of the works dated on 1st of December 2016. In chapter VII author analyzes disclosed internal arrangements and first official draft of Polish Insurance Distribution Act dated on 1st of December 2016. Regarding the fact that chapter VII concerns on the topic of implementation of Insurance Distribution Directive, it should be found as complement to the chapter II.

The analysis of past and present of the insurance mediation regulation and practice shows tendencies to ensure higher level of client’s protection. This tendency results in lower protection of insurance companies. We can observe also tendency to create more complex and technologically advanced models of insurance mediation. These two trends required further changes in the law, but this changes should comply with market customs and traditions.