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Title: Ruch przedsiębiorstwa lub zakładu jako przyczyna szkody (art. 435 § 1 k.c.) *de lege lata* i *de lege ferenda* / The motion of an enterprise or of an establishment as a cause of damage (Article 435 § 1 of the Civil Code) – the law as it stands and as it should stand

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Abstract:

The article describes the issue of “motion of an enterprise” set in motion by forces of nature, as defined in art. 435 § 1 of the Polish Civil Code, as an event giving rise to severe strict liability of the entity running the enterprise. The work explains the essence of this premise of responsibility, but above all focuses on the analysis of its validity and equity. The study describes solutions present in foreign legislation (in ten European countries), and moreover, rules set by model regulations in the field of European law of tort (Principles of European Tort Law and Draft Common Frame of Reference). Basing on the results of comparative legal studies, the work formulates proposals to change the shape of art. 435 § 1 CC, in a direction substantially consistent with the standpoint presented once by the Civil Law Codification Committee of Poland.