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Abstract:

The article concerns the analysis of the validity of contractual penalty clauses for withdrawal from the contract due to breach of a monetary obligation in Polish law. The author assesses the arguments for and against the admissibility of applying the above-mentioned penalties presented in the doctrine and case-law. This text also provides an analysis of this problem from the comparative law perspective, i.e. the distinction between legal systems that have adopted a single model of contractual penalties (e.g. Polish) and legal systems based on a dualistic model, in which, apart from the contractual penalties, various forms of contractual lump sum compensation are known (Schadenersatzpauschalen, liquidated damages, clause d’indemnisation forfaitaire).