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The Appealing Against Resolutions of Shareholders of the Limited Liability Company and General Meeting of Stockholders

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Abstract:

The main purpose of this dissertation is the analysis of the provisions contained in Articles 249-254 and Articles 422-427 of the Commercial Companies Code, as a basis for the appealing against resolutions of shareholders of limited liability company and general meetings of stockholders, and their evaluation in terms of whether they adequately fulfill their function. The legal character of abovementioned resolutions will also be considered. The additional aim of this thesis is the reflection on the concepts of the unnormative category of the defective resolutions ("non-existent" and "negative") that although formed on the background of the previous state law, are still valid.

Moreover, the aim of this thesis is to compare the current regulations of the Commercial Companies Code (Art. 249-254 and Art. 422-427) from the previously existing normalization, and draw attention to the solutions included: in other laws, the proposed changes in regulations and in German stock law (Aktiengesetz). The analysis begins with the characterization of the current legal status under the Commercial Code, with the emphasis on the discrepancies between the current and previous legislation. Taking this step backwards is of a great importance, hence the views formed therein are still being reflected not only in the nowadays opinions of legal scholars, but also courts and Supreme Court rulings. Discussion of how to appeal against defective resolutions – adopted in the Cooperative Law and in the Project of 20 June 2011 amending the Law on Investment Funds – to better capture the characteristics of the institution of challenging resolutions, functioning in the Polish legal system. On the other hand, closer look at the regulations of § 241-249 AktG is especially important that the Polish legislature, creating the Commercial Companies Code, modeled largely on the German law. However, this article does not pretend to the rank of comparative study. A broader perspective on the issues covered by the subject seems to be essential to the formulation of thought postulates *de lege ferenda*.