

Wrocław, 28.06.2020

Summary of doctoral thesis
„Układ częściowy w postępowaniu restrukturyzacyjnym”
(Partial arrangement in restructuring proceedings)

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The main objective of the presented dissertation, based on a thorough, dogmatic method, is to analyze the partial arrangement as a legal institution in the system of Polish restructuring law. The partial arrangement, which allows for conducting judicial restructuring without involving all creditors of the debtor, was introduced into the Polish legal system by the Act of 15 May 2015 Restructuring law. The adoption of this Act was an important step towards the implementation of the 'second chance' policy, i.e. ensuring the possibility of a 'new start' for entrepreneurs, which encountered failure of an economic undertaking resulting from an unfavourable change in economic conditions, as well as the reduction in the percentage of enterprises which cease their activities but are not liquidated in any formal proceedings. The main objectives of the partial arrangement are to accelerate and facilitate the conclusion of the arrangement, including its negotiation. The partial arrangement also allows a creditor whose claim is secured by a mortgage, pledge, registered pledge, tax pledge or maritime mortgage to be covered by the effects of the restructuring procedure and the arrangement, without its consent, provided that the creditor is offered a proposal that meets the conditions laid down by the law. This solution makes a partial arrangement a unique institution, not only in the Polish legal system, but also in comparison with the legal regimes of other countries.

As the dissertation is monographic in nature, the author discussed the institution of a partial arrangement in a comprehensive manner, i.e. with reference to the purpose and function of this institution, as well as the legal framework within which it was implemented, and the provisions applicable to the partial arrangement, both of a material and procedural nature (in particular, those regulating the procedure of conclusion and approval of the arrangement and its legal effects). The dissertation also includes a comparative legal analysis, in particular an attempt to find equivalents of the partial arrangement in other legal systems, and an analysis of issues

of an economic nature, including an attempt to determine the economic justification of the partial arrangement.

The basic thesis that the author adopted for the purposes of preparing the dissertation is that the partial arrangement may constitute a real and effective alternative to an arrangement concluded with all the debtor's creditors. The correctness of this thesis has been proved by decoding the norms which allow for the assumption that in certain factual circumstances the partial arrangement has a higher usefulness than the general arrangement.

Partial theses were also used for the purposes of this analysis. The first partial thesis predicted that, with economic development, the need for conciliatory legal institutions in the area of insolvency or imminent insolvency of economic operators increases. The analysis of the current practice of restructuring proceedings allowed the author to establish that Polish entrepreneurs more and more often use solutions qualified as court restructuring, and the legislator sees the justification for extending the catalogue of solutions available to entrepreneurs and qualified as conciliatory, the youngest example of which is the enactment of regulations on simplified proceedings for the approval of an arrangement (uproszczone postępowanie o zatwierdzenie układu). However, it was not possible to prove that at present there is a great interest of entrepreneurs in the partial arrangement, although the conducted restructuring proceedings with the partial arrangement were actually characterised by higher effectiveness in comparison with the proceedings with the general arrangement, assessed on the basis of the criterion of number of approved arrangement.

The second partial thesis was that the application of the provisions on the partial arrangement may allow the restructuring procedure to be streamlined, including a reduction in the duration of the procedure. In this respect, in her dissertation, the author pointed to legal norms which prove the validity of that thesis. At the same time, however, the analysis led to the conclusion that in relation to many of these norms there are significant construction doubts, which negatively affect the practice of their application, and the regulations on partial arrangement require urgent intervention of the legislator, to which the author pointed out in her dissertation many times, proposing the wording of particular regulations.

Another partial thesis was that the application of the partial arrangement regulations may allow for the reduction of transaction costs related to the conclusion and execution of the arrangement, both on the part of the debtor and the creditors. Also in this respect, the dissertation decoded

legal norms proving the validity of the thesis, and at the same time pointed out the ambiguity of regulations, which negatively affects the course of proceedings and limits the possibility of achieving real benefits in the cost area.

The author's fourth and last partial thesis stated that the partial arrangement meets the demands of the European Union institutions, including the European Commission, to introduce effective preventive restructuring instruments by the Member States. In this respect the author tried to demonstrate that the partial arrangement meets in particular the requirements of Directive 2019/1023 of the European Parliament and of the Council (EU) on restructuring and insolvency. A comparison of other legal systems has also led to the conclusion that the rules on partial arrangement, although imperfect, contain modern solutions which largely take into account the interests of the debtor and creditors, as well as general business needs.