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**ACTION TO DETERMINE THE NON-EXISTENCE OF GENERAL
SHAREHOLDERS MEETING'S RESOLUTION IN A NON-PUBLIC JOINT-STOCK
COMPANY IN COMPARISON WITH ACTIONS TO REPEAL AND TO DECLARE
THE INVALIDITY OF A RESOLUTION**

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SUMMARY

Appealing against General Shareholders Meeting's resolutions in a non-public joint-stock company is a legal measure provided in the Commercial Companies Code to eliminate defective resolutions from legal circulation by repealing them or by declaring their invalidity. However, both the nature of the legitimacy and the circle of entities entitled to appeal against resolutions through actions to repeal the resolution or to declare its invalidity and the nature of sanction of a resolution contrary to the law are still disputable. In addition, in both doctrine and case law, there is a lack of agreement as to the admissibility of an action to determine the non-existence of resolutions of General Meetings in capital companies.

Thus, the main purpose of the dissertation is to attempt to discuss in detail the issues related to challenging the resolutions of the General Shareholders Meeting in a non-public joint-stock company by first of all conducting an in-depth analysis of the admissibility of an action to determine the non-existence of General Shareholders Meeting's resolution with particular emphasis on doubts raised in the case-law and the doctrine, and to consider issues related to the actions to repeal the resolution or to declare its invalidity. At the same time, the objectives of dissertation include discussing the procedural issues associated with each of these actions as extremely important from the point of view of practice.

The dissertation uses the latest literature and judicial decisions based on the provisions of the Commercial Companies Code and, accordingly, when discussing procedural issues under the provisions of the Code of Civil Procedure. Due to the identity of some of the discussed regulations with those contained in the previously binding Commercial Code and the impact of the interpretation of previously binding regulations on currently existing Commercial

Companies Code, some references were also made to the statements of doctrine and case-law representatives on the basis of the said Commercial Code.

The dissertation is divided into four chapters. The first of them is devoted to General Shareholders Meeting's resolutions in a non-public joint-stock company. It begins with an indication of the resolution bodies in a joint-stock company and their brief characteristics, and a discussion of the mode of adopting resolutions by the General Meeting. Next, basic conceptual issues were discussed, including the concept of a resolution, as well as legal actions and sanctions for defects in legal actions. The above allowed for making considerations regarding the legal nature of the resolution. In addition, the topic of the division of resolutions of the General Meeting was discussed due to their civil law effects, and the admissibility of the so-called "negative resolutions".

Second chapter deals with an action to determine the non-existence of General Shareholders Meeting's resolution pursuant to article 189 of the Code of Civil Procedure. Beginning with the explanation of the concept of a non-existent legal act, then it focuses on the controversy around the concept of a "non-existent resolution" both under the Commercial Code and the current Commercial Companies Code. This chapter also cites the views of case law and doctrine on the assessment of individual grounds for an action to determine the non-existence of General Shareholders Meeting's resolution, which considerations are culminated in the author's own position on the admissibility of the action. Next, procedural issues related to bringing an action to determine the non-existence of General Shareholders Meeting's resolution were discussed.

On the other hand, the third chapter discusses successively actions to repeal and to declare the invalidity of a resolution of General Shareholders Meeting. In the area of action to repeal the resolutions its grounds were considered, including the issue of independence of the ground of appeal in the form of a violation of the company's statute. The grounds for the action to declare the invalidity of a resolution of General Shareholders Meeting were discussed in turn, both of a material and formal nature. Much attention was also paid to the sanction of a resolution of General Shareholders Meeting contrary to the law by presenting both the position in favor of the absolute invalidity of the said resolutions and in favor of their relative invalidity, and the author's own position was presented in this respect. The issues of excluding the possibility of applying article 189 of the Code of Civil Procedure in cases to declare the invalidity of General Shareholders Meeting's resolution, an objection of invalidity of General Shareholders

Meeting's resolution and the scope of jurisdiction of the registry court to examine compliance with the provisions of law of General Shareholders Meeting's resolution were also discussed. The final part of this chapter refers to the subject of applying the provisions of the Civil Code in the procedure of appealing against resolutions of the General Meeting.

Chapter four deals with procedural issues related to actions to repeal and to declare the invalidity of a resolution of General Shareholders Meeting, in particular focusing on the issue of an active legitimacy to appeal against that resolution. At the same time, having regard to the amendment to the Code of Civil Procedure, and above all to article 1157 and 1163 of the Code of Civil Procedure the issue of arbitrability of disputes was raised for the validity of the resolutions of the General Meeting on the basis of the current legal status.

It is important that most of the above-mentioned issues have repeatedly been the subject of various studies and rulings of the Supreme Court and common courts, but nevertheless they still raise great doubts and are a source of much controversy.

The dissertation ends with a summary in which the issue of the necessity of legislative changes in the scope discussed in individual chapters was considered.

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