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SUMMARY OF DOCTORAL DISSERTATION

written under the scientific supervision of

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**Notary as a guarantor of the security of legal transactions
in the European Union**

The subject of the doctoral dissertation is the analysis of the role and tasks of the Latin model notary in the EU legal protection system and in the exercise of the freedoms of the EU internal market, as well as the scope of notary's liability. The research is conducted in the EU context with an outline of Polish regulation as a representative model of the Latin notariate.

The aim of the dissertation is to create a concept of a notary as a guarantor of the security of legal transactions in the EU. This guarantee results from the duties entrusted to the notary and notarial liability, and the purpose of the guarantee is legal protection. The research problem comes down to answering the question of whether the guarantee of the security of legal transactions provided by the notary covers cross-border legal transactions in the EU. The central thesis of the dissertation comes down to stating that a notary of an EU Member State implementing the Latin notarial model is a guarantor of the security of legal transactions in the EU.

The basic research method used in this dissertation is the dogmatic method, which consists in the analysis and interpretation of legal provisions, taking into account the views expressed in doctrine and case law. In addition, the use of the comparative method allowed for the identification of differences in the notarial models functioning in the EU Member States, as well as a comparison of the scope of notarial activities performed in the EU Member States. The issues of this dissertation have been included in three chapters.

The first chapter includes an indication of what is the subject of the notarial guarantee, i.e. defining the scope of the meaning of the security of legal transactions, the location of the security of legal transactions in the EU legal system and the justification for using the concept

of the security of legal transactions to define the subject of notarial security in the EU. The source of the security of legal transactions is legal security, which is a general principle of EU law. For this reason, this chapter discusses the concept, sources and legal nature of the general principles of EU law. Then, the concept and legal nature of the general principle of legal security in the EU and the relationship of this principle with legal certainty and the rule of law are presented. This chapter also presents the concept of legal transactions and the related legal risk and the characteristics of the security of legal transactions. The result of the research conducted in this chapter is the qualification of legal security as a general principle of EU law, which is an aspect of the general principle of legal certainty, also related to the principle of the rule of law, the expression of which in legal transactions is the security of legal transactions.

The purpose of the second chapter is to demonstrate that the notary is a legal protection body in the EU, which has a special legal obligation related to the obligation imposed on it, which is aimed at ensuring the security of legal transactions in the EU, which characterizes the function of a guarantor. These findings were made based on an analysis of the scope of legal protection in the EU against national authorities, set out in the content of Article 19 paragraph 1 subparagraph 2 TEU and an analysis of notarial models functioning in the EU, among which the Latin notarial model was given special importance. Next, it was determined what function the notary performs in the legal protection system in the EU, what tasks are entrusted to him in this system and how these tasks are performed. Research on the function and tasks of the notary in the legal protection system in the EU, the nature of the effects of notarial acts and notarial proceedings and a comparison of the notary with other bodies of the legal protection system allowed for the position of the notary in this system to be determined. The results of the research conducted in this chapter show that the EU uses a system of legal protection authorities established in the Member States, therefore the effective fulfilment by the public law notary of the obligation of preventive jurisdiction as a legal protection authority is a necessary condition for the proper functioning of the entire justice system, not only at the national level, but through Article 19 paragraph 1 subparagraph 2 TEU the notary becomes an indispensable body of EU legal protection. The legal position of the notary in the legal protection system in the EU is clearly evolving towards a function referred to as preventive jurisdiction.

The third chapter aims to demonstrate that the notary plays an important role in exercising the freedoms of the EU internal market, which is why the scope of the guarantee provided by the notary for the security of legal transactions goes beyond the national

framework and covers cross-border legal transactions in the EU. For this purpose, an analysis of the role and tasks of the notary in exercising the freedoms of the EU internal market was carried out. This chapter analyses the possibility of applying the freedom to provide services and the freedom of establishment to the activities of a notary, the role of the notary in the implementation of EU regulations aimed at ensuring the freedom of movement of persons and the role of the notary in exercising the freedom of movement of capital in the EU internal market. The last issue analysed is the liability of the notary, which constitutes the final confirmation of the guarantee nature of the notary's activities. The results of the research conducted in this chapter show that the notary, as a lawyer practicing a liberal profession in the internal market, becomes an entity of the freedom of establishment and the freedom to provide services. The notary performs public tasks aimed at ensuring the security of the freedom of movement of persons and the freedom of movement of capital. The special dimension of the notary's liability protects not only legal transactions, but also ensures the credibility of the notary as a guarantor of the security of legal transactions.

The final substantive part of the dissertation, formulating several conclusions, summarises the results of the conducted research, confronting them with the main thesis of the dissertation. The conducted research shows that the proper performance of the preventive function by the notary is an indispensable element of an efficient system of legal protection in the EU. The freedoms of the internal market and the sources of EU secondary law are of fundamental importance for the implementation of cross-border legal transactions. The intensification of legal transactions in the EU forces the coverage of subsequent areas of life with legal regulations aimed at harmonising or unifying the law in the EU Member States. EU law regulations do not directly define the status of the notary and the conditions for performing this profession, but indirectly have a significant impact on the role and scope of the tasks entrusted to notaries by the Member States. It is precisely the EU legal acts that significantly contribute to giving notarial activities a cross-border character, stimulating cooperation between notaries from different Member States and including them in the implementation of the internal market. Entrusting a notary with tasks originating from acts of secondary EU law means that the EU legislator perceives the notary as an EU body ensuring the security of legal transactions.

The scope of preventive jurisdiction exercised by a notary goes beyond the national framework. This phenomenon is supported by entrusting notaries with the competence to issue European Certificate of Succession and the obligations related to the control of capital

flows in the internal market. Through their special constitutional status, special competences and responsibility, a notary guarantees the security of legal transactions and exercises preventive jurisdiction. The research conducted in this dissertation allowed to prove the thesis that a notary is a guarantor of the security of legal transactions in the EU. The results of the conducted research are also postulates regarding ensuring security in legal transactions in the EU and strengthening preventive jurisdiction, the body of which is a notary. Acceptance of the concept of the notary's action as a guarantor of the security of legal transactions in the EU may bring tangible benefits for the efficient functioning of the entire justice system, and thus the implementation of the principle of legal security and the rule of law in the EU.

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