

## Summary:

The announcement of the bankruptcy of Lehman Brothers today is an exceptional warning for the governments of almost all countries in the world, which are trying hard with their institutional actions to destroy the mythical doctrine of "too big to fail". But is not this struggle similar to the one described in Miguel Cervantes' novel Don Quixote? Or maybe it seems too naive to look for some incompetence of legislators and one should rather find in legal texts those elements which may suggest some undisclosed and hidden purpose in keeping alive banks too big to fail.

The thesis presents the problem of the complexity of the procedure leading to a bankruptcy order. The conducted research shows that under the guise of shifting responsibility to shareholders for bank debts, intentions to deliberately enlarge individual banks in terms of capital. In addition, an analysis of the interpretative tools used by lawyers has shown that they are used only to legitimize the effects of legal interpretation. The crisis of the Enlightenment beliefs about language caused a permanent loss of the foundations on which the entire Western legal tradition was based.

The first chapter presents the phenomenon of identifying banks as public trust institutions and the consequences of accepting this approach. This part of thesis discusses a cross-section of positions justifying the recognition of a bank as an institution of public trust, with particular emphasis on the fact that the actions of these entities do not reflect such perception in any way. In this chapter we can also find informations about the types of banking risks. Its incompetent management contributes to destabilization of the bank's functioning, which may ultimately lead to the fulfillment of the premises for its declaration of bankruptcy. Therefore, this chapter is intended as an introduction to issues related to the security of bank operations and, above all, to legal requirements, the meeting of which contributes to increasing a bank's resilience to the possible occurrence of particular types of banking risk.

The second chapter analyses the most important regulations concerning actions taken against a bank in which prerequisites for initiating corrective actions have been met. These actions concern both the obligation to draw up a recovery plan and its possible implementation, but also the appointment of a curator or, as a last resort, a receiver. Furthermore, this chapter discusses the institution of forced restructuring. The provisions relating directly to the conditions were also subject to a detailed reconstruction - the fulfillment of which obliges the supervisory authority to issue a decision on the takeover of the bank or to file a motion to the

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court for bankruptcy. The result of the research presented in this way makes it possible to define the nature of these regulations and to discover their ideological basis.

The third chapter reviews the most recognizable positions characterizing capitalist and Marxist concepts. This section shows that capitalist concepts are extremely dynamic and perfectly adapt to any changes in socio-economic reality. On the other hand, the projects of possible transformation proposed by contemporary Marxists, despite their strenuous efforts, remain in the grip of capitalist snares. It leads to an impasse that cannot be avoided by remaining stuck in the current structures. Eventually, the solution proposed by Slavoj Žižek makes it possible to break out of the ideological scheme imposed by neoliberal capitalism. Its panacea allows us to understand the true nature of the regulations relating to dealing with banks threatened with bankruptcy.

The last chapter presents the concepts of interpretation of law which, despite the passage of years, are still dominant in Polish jurisprudence. This section tries to show that the interpretation of law does not equip the lawyer with any certain interpretative mechanism leading to a single meaning of a legal norm. Only the entirety of the legal tradition, defined after Artur Kozak as *ius*, allows to authoritatively set boundaries for representatives of the dogmatic discourse. It enables lawyers to mount real resistance to neoliberal ideology, which tries to influence socio-economic reality through appropriate legal regulations designed to imitate the Marxist genotype.

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