

Over the last years, the self-fulfilling prophecy about the end of history, originally put forward by G. Hegel and later popularized by F. Fukuyama, has also found its reflection in the perception of a company as a basic form of doing business around the world. Despite the various legal systems still show far-reaching discrepancies, probably due to the cultural diversity of the nature of their economic relations, the core of the company's legal structure remains the same. One of its main features is the transfer of the day-to-day management and supervision of the company from investors to delegated management.

Entrusting powers seem to be intrinsically linked to the responsibility for the tasks committed. As directors' powers are very far-reaching and affect not only the company itself but also its wider environment. Thus, to increase management accountability, their powers should be accompanied by monetary liability for breach of their duties. From a comparative point of view Polish law, however, remains a kind of exception in this respect.

While many foreign legal systems require directors to exercise duties of care in loyalty when managing a company's business, Polish jurisprudence represents a narrow view on the duty of care as merely an obligation to comply with the law. This leads to a situation where causing damage to the company by obvious lack of care does not lead to civil liability if a director has not violated a specific legal provision or a provision of the company's articles of association.

However, using the R. Pound's terminology, not only the content of legal rules – law in books – but also the possibility of their successful enforcement – law in action – determine the accountability of management. Although in principle, in this case, only the injured company has the right to claim damages, exceptionally, each of its members may bring an action for damages (*actio pro socio*). The suit is named as 'derivative' because it can be filed by a shareholder on behalf of a company only if the company represented by its directors, who are the potential wrongdoers, is not willing to do so.

Such lawsuits are quite popular in some foreign jurisdictions. They allow for effective control of the company's management and thus increase their standard of managements' accountability. However, they remain rare in continental Europe. The project, therefore, aims to verify two hypotheses - the empirical one, which is that the enforcement of directors' duties through derivative action remains rare in Poland, and the theoretical one, which answers the question whether under Polish law it is possible to formulate not only directors' duty of legality but also duties of care and loyalty, which breach may be effectively enforced through a derivative action.

The research may spark interesting results. It may show that the use of a derivative action to control the actions of board members by members of companies is rare. Therefore, it may seem desirable to introduce certain amendments of law in this respect, such as the express codification of directors' duties or rethinking the statutory framework for derivative action to ease the enforcement of the duties.

However, it may turn out that rather a change in the interpretation of the statutes, resulting from an in-depth analysis of relations between directors and shareholders, will be more important than any amendments of law. After all, as J. Namitkiewicz wrote almost a century ago, "A good law is not the one which, with its casuistry and tight rules, suppresses the social life still in its infancy, but the one which, being in harmony with the whole of other national laws and having reference to the social ideals, most appropriately resolves human relations in a given sphere of activity."