

Abstract

The thesis focuses on the concept of the duty of due managerial care as regulated in the legal framework of the Czech Republic and the Federal Republic of Germany; in particular, the comparison is aimed at the application of this duty against the members of the board of directors and the supervisory board of the joint-stock company and the executives of the limited liability company.

The thesis first describes the duty of due managerial care as a standard of conduct. Chapter 3 describes the particular consequences of said duty for the conduct of the members of the board of directors and the supervisory board of the joint-stock company. Chapter 4 is focused on the reflection of this duty on the legal relationships within the limited liability company. Chapters 3 and 4 each include a partial conclusion concerning the most important differences as well as the effectiveness of the respective legal regulation.

Chapter 5 is divided into two parts, differentiated according to the legal form of the company in question, and concerns itself with the liabilities following from the breach of said duty. Particular attention is paid to the possibilities of shareholders (members) to influence - whether ex ante or ex post - the said liabilities, as this area is marked by the most significant differences when compared to the Czech law. Both parts are concluded with a partial comparison of the main differing aspects.

The thesis leads up to a conclusion about the better suitability of certain partial aspects of the German legal regulation and case law, primarily in the area of the duty of due managerial care as a standard of conduct, as well as regarding the issue of the modification of liabilities arising from the breach of this duty within the joint-stock company. The thesis reaches a negative stance on the potential “transferability” of the legal regulation within the limited liability company due to insufficient provisions regarding the protection of creditors and minority company members; as well as due to conceptual differences. These are based on the fact that the German limited liability company shows significant features of a partnership.