

Abstract

Action filed by Company Member

Diploma thesis *Action filed by Company Member* is focused on analysis of the problematic areas concerning action by a member followed by a suggestion of possible solutions to such issues. The thesis is also focused on alternative mechanisms inside the company and consideration concerning the (non-)usage of the institute in practice.

The first chapter defines the nature and objectives of the action by a member. Subsequently concrete types of occurrence are briefly defined and the institute is put into historic connection with the rules stated in Act No. 513/1991 Coll., the Commercial Code.

The second chapter focuses on analysis of the main problematic areas of the institute. The thesis focuses on problems concerning active legitimation and its consequences when it is lost during the proceedings. Chapter also deals with the issues concerning representation of the company during the proceedings and the loss of the right to represent the company. The duty to pay judicial fees and expenses of the legal representation (attorney's expenses) or the issues concerning limitation period are also important. The chapter discusses the influence of the reflective loss, which is stated in Section 213 of the Act No. 89/2012 Coll., the Civil Code.

The third chapter deals with the problems concerning the realization of the action by a member. The problems are information asymmetry or abuse of the institute by a member of the company in order to cause damage to a company. Another issue concerns problems with prove of damage's origin, which has to be proved by a member who filed the action. The last problem of the realization of the action by a member described in the chapter is usefulness of such proceedings.

In the fourth chapter there are alternative mechanisms suggested. Such mechanisms might prevent filing actions by a member. Mechanisms are suggested for both, the companies with and without Supervisory Board.

The last chapter, number five, is dealing with considerations about (non-)usage of the action by a member in practice. *De lege ferenda* thoughts which might support the usage of the institute are also considered.