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Summary of the PhD dissertation

„Civil liability insurance of the railway carrier in Poland”

Rail carriers are responsible for the correct movement of people and goods. The transport activity they perform is associated with a high probability of causing damage. The liability of railway carriers for the resulting damage may be considered in two ways. First, in the event of damage to the party to the contract of carriage - contract liability of the carrier (e.g. in the event of loss of luggage, delay or personal injury) connected with the tort liability regime. Second way - in the event of damage to persons, who are not a party to the transport contract, liability will be based on Article 435 of Civil Code - railway carrier should be treated as an entity set in motion by the forces of nature.

The definition of principles and basis of the railway carrier's civil liability towards the injured is the basis for subsequent considerations on the shape of third party liability insurance. The degree of differentiation of legal acts regulating principles and basis of liability or insurance liability of the railway carrier and the number of adopted solutions make this scope of research very interesting, but nevertheless demanding from the author a synthetic arrangement.

A comprehensive analysis of the issues of railway carrier liability insurance is aimed at achieving the following research goals:

1. presentation and systematization, within one scientific study, of the basics and principles of the liability of the railway carrier in Poland;
2. characteristics of the field of liability insurance, the date when the obligation arises and the minimum guarantee amount (including the postulate of their gradual increase)
3. presentation the nature of the railway carrier's liability insurance, resulting in the definition of the railway carrier's liability insurance as a variant compulsory insurance,
4. comparison of the railway carrier's liability insurance with other insurances in land transport.

Chapter I includes a historical view of the development of rail transport in Poland, along with an indication of the most important legal acts defining the principles and basics of a railway carrier. The chapter also presents the acts of international and national law affecting the functioning of the railway sector in Poland and allowing for the specification of railway entities operating within this sector. As an aid, statistical data on railway entities and on the safety of the railway sector in recent years are also presented.

Chapter II is dedicated to the analysis the rules of railway liability towards third parties. The analysis concerns both - contract and tort liability. This part of the hearing presents the grounds of the railway carrier's liability for injury caused to passengers, for loss in the cargo and for damage caused to third parties (who are not parties to the contract for transportation). Events causing damage to the railway infrastructure, rolling stock of third parties or a collision with motor vehicles were analyzed. The second chapter is also dedicated to procedural issues and conflict of laws related to the pursuit of claims by the aggrieved in railway incidents of a cross-border nature.

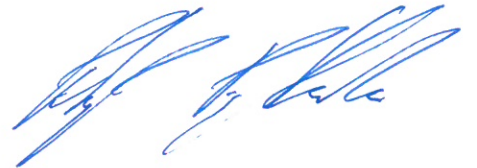
Chapter III determines the role of the third party liability insurance contract from the point of view of covering the risk on the part of the railway carrier. This chapter also presents the development of the railway carrier's liability insurance in Poland - from the monopoly period to the de-monopolization of the rail transport sector. The chapter compares the railway carrier's liability insurance with other third party liability insurance in land traffic - road carrier liability insurance and motor vehicle liability insurance.

Chapter IV is dedicated directly to the railway carrier liability insurance contract. In this Chapter author present comparative legal analysis of legal regulations in Great Britain, Czech Republic and Federal Republic of Germany. The legal systems of mentioned countries were selected due to similar levels of regulations involved with basics of railway carrier's civil liability (Czech Republic and Federal Republic of Germany) and due to developed model regulation of the liability insurance contract of the railway carrier in Great Britain. Moreover in Chapter IV author present of rail damages in Poland Republic in the period 2010-2020 according to documentation from National Railway Accident Investigation Commission. The result of statistical research is calculation of the largest possible damage that railway may cause (PML – *probable maximum loss*).

The PhD dissertation ends with a summary dedicated to conclusions and solutions regarding the scope of the railway carrier's liability insurance contract and the minimum guarantee amounts. The main aim of PhD dissertation is systematize the basics and principles

of railway carrier liability within one scientific study in Poland and present the essence of the railway carrier's liability insurance contract. Moreover, specified by the Regulation of the Minister of Development and Finance of 25 May 2017, the minimum guarantee amounts remain too low and it is advisable to gradually increase them by the legislator. The analysis of railway damages in Poland and Europe and the comparison of guarantee amounts with other European countries allows for the conclusion that the guarantee amounts established in Poland are inadequate to the risk of damages caused by running the activity of railway carriers. It should also be remembered that the guarantee amounts established by the Regulation are minimum and railway carriers usually insure themselves for amounts higher, than those indicated in the legal act. It should be noted that the railway carrier's liability insurance contract is a compulsory contract, to which the Act of 22 May 2003 on compulsory insurance, the Insurance Guarantee Fund and the Polish Motor Insurers' Bureau will apply. Nevertheless, it is necessary for the Polish legislator to decide definitively about compulsory nature of this insurance in an act of statutory rank.

Keyword: railway carrier, civil liability, railway damages, compulsory insurance, insurance of civil liability,

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