

Abstract

This diploma thesis deals with the disqualification of members of governing bodies (and other persons) as consequence of their breach of duty. The aim of the thesis is to determine whether the current form of disqualification is an effective mean of protection of business corporation, as well as to propose possible alternatives that would better achieve the objective. The thesis is divided into an introduction, four main parts and a conclusion.

The first chapter is more general as it deals with the purpose of the institute of disqualification. At the same time, it emphasises the source of inspiration for the Czech legislation – *Company Directors Disqualification Act 1986* governing the disqualification of directors in the UK – and discusses the liability for breach of duty because of its impact on the subsequent disqualification proceedings.

The content of the second chapter is to determine the range of persons who may be disqualified from holding office. It focuses on the narrowing of the personal scope introduced by the amendment to Act No. 33/2020, the issue of persons in a similar position and the consequences for them, as well as the *de facto* directors with regard to their special status.

The legal conditions necessary for a disqualification order are the subject of third chapter, particularly in light of legislative changes that no longer require both persistent and serious breaches. At the same time, this chapter discusses the proportionality of the sanction to the seriousness of the misconduct and does not omit the discretionary powers of the court in determining the length of the disqualification, which is closely related to the principle of proportionality.

In order to ensure higher degree of the protective function of this institute it is necessary to deal with the register of disqualification, which was introduced into the Czech legal system by Act No. 416/2022. For this reason, the fifth chapter is devoted to the register of excluded persons, which concludes the issue of the protective function of disqualification.