

Shares granting appointment rights in a limited liability company

Abstract

In a limited liability company, the right to appoint may be attached to and form part of the share. Such a share is a special type of share and is called a share with an appointment right, which entitles its owner to appoint a member of the statutory, supervisory, or optional body of the company, as well as to remove him. The thesis focuses on the conditions for the exercise of the right to appoint and its limits. In addition to the general limits of the autonomy of the will, the thesis focuses on the specific conditions enshrined in the Commercial Corporations Act. The diploma thesis reflects the amendment to the Commercial Corporations Act No. 33/2020 Coll., which resolved the theoretical contradiction and firmly anchored shares with the appointing rights in the Czech legal system and describes the specifics of the exercise of this right and the defence mechanisms of shareholders who do not have the broadcasting right.

In addition, the thesis deals with the consequences of failure to meet these criteria, as well as the removal of a member of an elected body who was appointed to office in violation of the law or the articles of association. The right to remove a member of an elected body is primarily vested in the shareholder who appointed him/her to the office, the only condition for removal being the non-violation of corporate loyalty. In extreme cases, however, the supreme body of the limited liability company may intervene. Of course, it is also possible for an appointed member to resign voluntarily if he or she does not breach the duty of care or any of its attributes. Increased attention is paid to the delivery of a resignation not made at a meeting of the body, as the interpretation of the statutory provisions is not clear.

In the final passage of the thesis, the author wonders over possible defects in the exercise of the broadcasting right and their consequences, in particular the invalidity of the appointment of a member of an elected body and the obligation to compensate the company for damages in the event of the appointment of a previously excluded member of an elected body. He also presents the possibilities of de lege ferenda changes to the legislation.

Key words: shares, appointment rights, shareholder with appointment rights