

## **Název, abstrakt a klíčová slova v anglickém jazyce**

### **Position of a supervisory body of a joint-stock company managing a business group**

#### **Abstract**

The position of the supervisory body of a joint-stock company managing the business group (especially in relation to listed companies and international business groups influenced by the principles of corporate governance), is a key issue of law of joint-stock companies, which has not been significantly addressed by domestic legal doctrine so far. The presented dissertation is therefore mainly devoted to: (i) the scope of powers of the supervisory body of the joint-stock company managing the business group, which is influenced by the existence of group relations; and simultaneously (ii) the analysis of the related functional elements of the control mechanisms of the business group.

The methodological background for solving the issue of the position and role of the supervisory body of the joint-stock company of th managing the business group, and therefore the theoretical scientific research methods, is formed mainly by the method of analysis (i.e. classification analysis, relational analysis and causal analysis) and a combination of comparison and induction. In connection with the scientific methods used for the collection of individual findings, the scientific method of synthesis (in the form of analytical-synthetic cognitive procedures), abstraction and deduction was subsequently used for the purpose of generalizing the obtained conclusions. In relation to the interpretation of the legal text, a linguistic, logical, formally systematic, subjectively historical and objectively teleological interpretation was used together with a comparative interpretation. When using a comparative interpretation (following the comparative scientific method), German and Austrian law was taken into account (marginally, in sub-chapters also Swiss law, the law of the United States of America and law of the European Union was also considered).

The main research objective of the dissertation was to analyze the position and role of the supervisory body of the joint-stock company (i.e. the supervisory board) managing the business group. It can be concluded that the competence (powers) of the supervisory board of the managing joint-stock company is mirrored (cf. mirror effect) in relation to group management within the dualistic system in the performance of the competence (powers) of the board of directors of the managing joint-stock company. The administrative board, as a monocratic body of a monistic management system of a joint-stock company, realizes its supervisory powers across the internal

structure of the business group more simply, since it is directly empowered (as the statutory body) to enforce supervisory mechanisms and supervisory powers through the unified management.

In addition to the introduction and conclusion, the dissertation is divided into three chapters. Each chapter is further divided into sub-chapters internally structured up to five further levels.

Chapter 2 primarily defines the boundaries of the phenomenon (principles) of corporate governance and its influence on the formation of the rights and duties of the supervisory body in the dualistic and monistic system of joint-stock company management. The chapter analyzes in more detail the effective concept of supervision and the position of the supervisory body, which is perceived as the primacy of a modern joint-stock company. The very competence of the supervisory board of a joint-stock company in relation to the individual rights and obligations of its members is analyzed, as well as the creation of facultative bodies.

Chapter 3, in relation to the unified management and the position of the supervisory body of the managing (controlling) entity, provides a view on the complexity of the matrix of internal relations of the business group and the legal/factual relations of its members. Reflecting a comparative view of German and Austrian stock law, the author defines the qualification of the supervisory body of a joint-stock company managing a business group from the point of view of additional "business group" powers vis-à-vis controlled (managed) entities in domestic corporate law. A very key aspect of the effective implementation of control mechanisms of the: (i) controlling (managing) entity; and (ii) controlled (managed) entities; represents the cooperation of the managing entity's board of directors and supervisory board. Such cooperation is associated with submission of the bodies of the controlled (managed) entities to the influence of the controlling (managing) entity (regardless of whether the acceptance of influence is factual or contractual - manifested in a control contract). The driving force of the group's control powers is the group's interest, which represents the unified interest in the group's strategic direction. Additionally, the scope and organizational structure of additional advisory or initiative departments/units for selected professional topics are also described. Elected bodies of a joint-stock company are free to establish such departments within their organizational structure. We refer to these advisory/initiative units of the organizational structure of the elected bodies of the joint-stock company as (expert) committees. Joint-stock companies, whose shares are listed on the stock exchange, usually create a committee for appointment, remuneration and audit.

Chapter 4 analyzes and highlights the importance of a functional concept of communication with shareholders and investors, including the means of enforcing independence instruments in the structure of the obligatory bodies of joint-stock companies with an emphasis on elements of

corporate governance. In practice, elements of additional (investment/shareholder) independence are reflected into the functions of Internal Audit and the so-called (Lead) Independent Director. The establishment of Internal Audit at the level of the managing (controlling) entity with the power to exercise control in relation to managed (controlled) entities reflects the problem of centralization and internationalization of the Internal Audit function. The effect of breaking through the influence of shareholders or investors (mainly in joint-stock companies with a monistic management system) is further analyzed in relation to the position of Lead Independent Director, whose role brings mediation and advisory mechanisms into the internal organization of the elected bodies of the joint-stock company. It can be stated that, functionally, this role is more effective in the monistic management system of a joint-stock company, but it also brings a number of advantages for a dualistic system.

In the conclusion, the findings obtained from the analysis of the research questions are summarized, as well as the answers to the individual research questions, which represent the key conclusions for achieving the research goal of the dissertation.

**Klíčová slova: Business Group, Supervisory Board, Unified management**