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Abstract of the doctoral dissertation entitled:

"Practical aspects of consumer protection on the financial services market on the example of consumer claims under concluded loan agreements indexed with foreign currency exchange rates"

The subject of this doctoral dissertation is an analysis of selected decisions of common courts, the Supreme Court, the Court of Justice of the European Union, the Constitutional Tribunal, the Supreme Administrative Court and Provincial Administrative Courts in order to show the method of consumer protection on the financial market and the effectiveness of legal tools in which consumers have been equipped. In addition, the paper raises issues related to the way entrepreneurs, in this case credit institutions, shape contracts massively concluded in business transactions with consumers, as well as the consequences related to the way the relationship between the parties to the contract is shaped, the way credit entrepreneurs present their financial products, and what information they provide to their clients about the products offered. What's more, the issues related to the settlement of an invalid loan or loan agreement were shown, as well as issues regarding the possibility of the parties to an invalid contract claiming additional benefits.

In addition, the work uses the achievements of literature, including monographs, articles in scientific journals, chapters in collective works and comments. The paper also used, as part of the case files made available by common courts, the positions of both banks and consumers. Showing the issues also required consideration of positions, opinions and reports of state authorities, as well as representatives of doctrine and literature on the subject. The legal acts used were mainly laws, regulations, implementing acts, directly applicable EU legislation and secondary EU legislation.

In the work, the author put forward research theses that have been verified. The fundamental research problem was to answer the question whether Polish legal system ensures complete effectiveness in terms of consumer protection. Detailed research theses were also formulated, according to which the consumer protection system in Poland is significantly shaped by judicial decisions and the positions of legal doctrine, while legislative solutions remain incomplete and ambiguous. The Polish legal system and judicial decisions do not provide legal certainty for citizens, including consumers, who often withdraw from a dispute with an entrepreneur. The Polish legislator should take action to develop more effective mechanisms enabling the use of the consumer protection system in the financial services market. The influence of the jurisprudence of Polish common courts, the Supreme Court and the Court of Justice of the European Union plays a far-reaching role in the consumer's ability to benefit from consumer protection mechanisms.

An attempt was made to find answers to the questions whether measures to ensure legal certainty should be implemented in the Polish legal system, whether such measures already exist and whether they are effective, and whether it is possible to introduce legislative changes to enable the Supreme Court or another court to make decisions , decisions binding on common courts, in order to unify the line of jurisprudence?

The verification of the research theses made it possible to take the position that the consumer protection system has undergone a significant metamorphosis in recent years, in view of the problems related to loans denominated to foreign currencies, towards providing consumers with broader protection of their interests. The analysis also led to the conclusion that the current shape of the consumer protection system was greatly influenced by EU case law interpreting EU legal acts. The analysis of case law also made it possible to show discrepancies in selected issues regarding loans indexed to foreign currencies and to show the direction in which the development of the consumer protection system is heading. In the author's opinion, the analysis leads to the conclusion that it would be worthwhile for the legislator to impose on common courts, as part of court proceedings, the obligation to each time verify the status of the parties in terms of their consumer status, so that when assessing the contract they could use consumer protection measures, including recognizing selected clauses as ineffective, or recognizing the instructions regarding a given financial product as insufficient or misleading.

The analysis of case law, in the author's opinion, also allows for the assumption that it is justified for the legislator to introduce solutions that would give consumers a choice as to the type of protection they would like to benefit from, and therefore to introduce specific provisions within the consumer protection system that would empower consumers to create claims in

various ways. It would also be worth considering introducing a separate claim for consumer protection under consumer protection regulations, based on which the court would assess whether the party has the status of a consumer, whether the contract contains prohibited contractual provisions and what their effect is, without the need to specify the claim. A consumer lawsuit would oblige the court to resolve the case in the most favorable manner possible, of course after recognizing that the plaintiff is entitled to the status of a consumer, which it would also have to consider thoroughly.

Moreover, despite the existence of an institution in the Polish legal system that allows the Supreme Court to resolve emerging legal issues, this institution currently seems not only ineffective, but also in the case of loan agreements indexed to foreign currencies, its use was too late. In the author's opinion, it seems justified to introduce solutions for the future that would enable the Supreme Court to effectively respond to emerging doubts in the consumer protection system and unify the lines of jurisprudence of common courts. Perhaps it would be justified to empower the Court of Competition and Consumer Protection with the ability to respond to emerging doubts in ongoing court disputes involving consumers and to enable it to adopt resolutions resolving the arising doubts. Of course, it should be considered whether in the Polish legal system these resolutions would constitute only an interpretative guideline for common courts, or whether they would bind common courts in every case they consider.

In the author's opinion, it would also be justified to introduce regulations that would oblige a common court to examine whether a given contractual provision questioned in court proceedings initiated by the consumer has been entered in the register of prohibited clauses. If such a provision, in the opinion of a common court, was of an unlawful nature and had not yet been assessed in this way by the Court of Competition and Consumer Protection, then the court would be obliged to ask this Court to examine whether the challenged provision is of an unlawful nature, and the Court Competition and Consumer Protection to adopt a resolution in this regard. This resolution - like the current judgment - would be subject to entry in the register of standard contract provisions deemed prohibited and would constitute a final and binding judgment binding on courts in other matters.

Similarly, it would be worth considering the justification for shifting the burden of adopting binding resolutions resolving legal doubts in consumer matters to the Court of Competition and Consumer Protection. Providing the Court of Competition and Consumer Protection with this type of tools would enable a faster response to emerging legal doubts in the context of consumer disputes and would eliminate consumers' doubts and possible concerns as to the validity of their claims.

The above mechanism would be part of the general trend of expanding the importance of soft law in the financial market and would therefore be consistent with the specificity of this market.

Moreover, in the author's opinion, it would be justified to expand the institution of collective lawsuits in the Polish legal system. Currently, there is no formula based on which consumers could effectively pursue their claims in such proceedings. Although the institution of a collective action exists in the Polish legal system, its formula should be considered ineffective and therefore not used by Polish courts and plaintiffs. Of course, extensive systemic change would be necessary in this area.

Moreover, the analysis of the phenomenon of indexed loans allows us to assume that introducing only selected regulations or remodeling the existing ones would not be sufficient. In the author's opinion, this would only increase the complexity of the already existing consumer protection system on the domestic financial market. The author is of the opinion that only systemic solutions could provide an appropriate response to the problems of the consumer protection system.

The author used several research methods in his doctoral thesis. The fundamental method was the formal and dogmatic method, concerning the analysis of both national and international legal acts related to the research topic. The next methods used are the comparative legal method and the historical and legal method. Using them made it possible to show the way in which regulations concerning consumer protection are shaped in the national and international system, as well as the evolution of the positions of jurisprudence and doctrine in the field of the discussed issues. The comparative method was used to illustrate the differences in the consumer protection model in the light of Polish and international regulations and jurisprudence. Ultimately, the method of economic analysis of law and the analytical method were the basis for showing the impact of both legislation and the adopted interpretation of legal provisions and the views of representatives of legal doctrine on the financial and economic sector.

The work consists of five chapters that discuss important issues necessary to justify the accuracy of the thesis included in the content of this study, introduction and conclusion.

The first chapter discusses issues related to the concept of a consumer and the model of his protection in the Polish legal system and in the light of European Union law and the case law of the Court of Justice of the European Union. A comparison was also made of the person of the consumer and the client on the financial services market.

The second chapter characterizes the loan agreement and assesses its invalidity in its entirety in terms of contradiction with mandatory provisions of law, the principles of social coexistence and the principle of freedom of contract. Moreover, the prohibited nature of contractual provisions regarding the indexation of a loan to a foreign currency and its consequences were illustrated. The issue of the substantive finality of the judgment of the Court of Competition and Consumer Protection declaring the unlawful nature of a contractual provision and its effectiveness was also raised, and the appropriate moment for assessing the unlawful nature of a contractual provision and the sanction of recognizing the unlawful nature of a contractual provision were indicated.

The third chapter illustrates accessory issues arising in the context of disputes arising from loan agreements indexed to foreign exchange rates. It also describes the balance theory and the two-condition theory, as well as the issue of legal interest in determining the invalidity of a loan agreement, as well as the issue of whether a loan agreement indexed to a foreign currency rate constitutes a financial instrument with an embedded derivative.

The fourth chapter is dominated by issues related to the validity of banks' claims regarding the consumer's use of the paid loan capital. The importance of determining the validity of claims for remuneration for the use of capital and the possible legal bases for claims in this respect have been shown. The positions of case law and state institutions regarding the validity of claims for remuneration for the use of loan capital were summarized and the validity of claims for remuneration for the use of capital was assessed.

In the fifth chapter, for the purposes of this work, the author also analyzed selected judgments of common courts and the Supreme Court in order to show how consumers are protected in the financial market and the effectiveness of the legal tools with which consumers are equipped. Unfortunately, the author also encountered limitations in access to research materials, in particular the fact that the materials were not made available to any extent, in the case of the District Court in Gdańsk, or other courts made the requested materials available only to a selected extent. Therefore, the author made a selection from the case files made available to him and selected those that allowed to fully demonstrate the discrepancies in court decisions and, therefore, the inconsistency of the consumer protection system and the uncertainty of the legal situation of consumers.

At the end of the doctoral thesis, a final analysis of the accuracy of the formulated research theses was made.