

THE DUTY OF CARE IN COMPANY LAW – BASIC ISSUES FOREWORD

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On 26 November 2021, an international scientific conference on the Duty of Care in Company Law – Basic Issues was held at the Prague Law Faculty. The conference was organized by the Department of Business Law and Societas – Central and Eastern European Company Law Research Network.¹

The seven contributions presented, among others, at this conference are published in this monothematic journal issue. The papers are arranged alphabetically according to the countries whose regulation they report on. Thus, the reader can start to read the Austrian contribution, followed by the two Czech contributions, then the Hungarian, Polish, Romanian, and finally the Slovak contribution. The Czech national report is divided into two articles; the issue of the business judgment rule is dealt with in a separate article, while the other national reports deal with the business judgment rule together.

The aim of the conference and of the papers now presented is to map out, within the national reports, the approach of the individual jurisdictions to the basic issues related to the duty of care in company law. In particular, the individual papers seek to answer the following questions:

- 1) What is the purpose of the duty of care?
- 2) How is it regulated in the law of a particular country?
- 3) Which persons are obliged to comply with the standard of duty of care under company law?
- 4) Who is entitled to invoke the duty of care?
- 5) Is the duty of care a statutory or contractual liability?
- 6) Is there a reversal of the burden of proof?
- 7) Is there a business judgment rule?

Thus, the contributions are valuable not only in themselves, but precisely by their inclusion alongside the others in this monothematic issue. In fact, they report on the

¹ The goal of the Societas – CEE Company Law Research Network is to promote the development of the study of business law in general and company law in particular with a focus on Central and Eastern Europe (CEE) by encouraging collaboration among lawyers and academics in different countries and the exchange of information on sources, publications, and practice, and to contribute to the development of European Company Law and Comparative Company Law. For more details on its activities see <https://www.societas-cee.org/>.

approach of the legislature, doctrine, and case law in the selected countries to the fundamental issues related to the duty of care. The articles in their summary thus allow a comparison of selected national regulations. In my view, this is enriching not only for the national debate on the duty of care, but also for its understanding in the European context.

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