

PHD THESIS SUMMARY

Corporate Due Diligence in Value Chains

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The dissertation addresses the issue of corporate due diligence in value chains. The central concept is defined as a systematic process of identifying, preventing, minimizing, and accounting for the actual and potential negative impacts of a company's activities on human rights and the environment. In response to this issue, the hypothesis is proposed that legislation concerning corporate due diligence transforms "soft" standards of corporate responsibility into legally binding obligations, resulting in (1) an expansion of corporate liability within global value chains and (2) the filling of existing legal gaps understood as the lack of clear regulations and effective enforcement mechanisms holding transnational corporations legally accountable. Therefore, the aim of the study is to examine whether and how corporate due diligence legislation transforms previously voluntary responsibility standards into binding legal norms. The analysis will also assess the impact of these regulations on expanding the liability of companies operating within global value chains.

The methodology of the study is primarily based on formal-dogmatic research, with an emphasis on the analysis of applicable legal regulations and the integration of findings from other disciplines, particularly management sciences. The classificatory and comparative methods are also of significant importance. The classificatory method serves to conceptualize the notion of corporate due diligence, i.e., to precisely define it in legal terms and embed it within the normative system. The comparative method, in turn, is used for a comparative analysis of legal solutions adopted in selected legal systems. Specifically, the analysis covers: (1) German law, representing the tradition of Germanic legal systems, with particular emphasis on the Lieferkettensorgfaltspflichtengesetz (LkSG); (2) French law, representing the tradition of Romance legal systems, with particular emphasis on the Loi de vigilance. These legal systems were selected because of their pioneering role in establishing statutory regulations concerning corporate due diligence obligations, as well as because they represent competing narratives regarding the nature of these obligations. German experience, focused on the public-law enforceability of these duties, contrasts with the private-law approach embodied in the French Loi de vigilance. Additionally, auxiliary methods were employed, including an

interdisciplinary approach providing the research context, economic analysis of law, theoretical-legal and functional perspectives on law, and the historical-legal method.

In addition to the aforementioned legal acts, the considerations focus primarily on European law, with particular emphasis on Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence (hereinafter referred to as “the directive”). References to Polish law have a complementary character, as there is currently neither a coherent legislative plan nor a draft law implementing this directive. Therefore, an analysis was conducted of the applicable standard of due diligence in Poland, based on Article 355 of the Civil Code, to assess whether it can fill the gap left by the lack of directive implementation. This analysis was supplemented by a comparison of this standard with the “duty of care” standard in the common law system, used in English law to remedy harm resulting from violations of fundamental rights and environmental damage within value chains.

The dissertation consists of five chapters, corresponding to successive stages of the research process.

Chapter 1 verifies the fundamental areas of law in which due diligence appears in two forms: as a standard of conduct and as a fact-finding process. These represent two interpretative directions for corporate due diligence. The first part of the chapter focuses on describing those branches of law where due diligence functions as a requirement to maintain a certain level of care, tracing its origins in Roman law and its reception in common law and civil law systems. Furthermore, its presence as a standard in international public law is highlighted. The second part of the chapter is devoted to due diligence as a fact-finding process, discussed using the example of corporate contracts, especially in the context of mergers and acquisitions transactions aimed at identifying potential risks associated with the planned deal.

Chapter 2 presents corporate due diligence primarily from the perspective of management sciences, recognizing this as the primary field where the institution developed. The chapter operationalizes due diligence—that is, it transforms the general concept into measurable and functional categories and actions typical for management practice—enabling its empirical capture and serving as a starting point for its further embedding within the legal system. This process is based on an analysis of CSR (Corporate Social Responsibility) and CG (Corporate Governance), identified as the axiological and functional sources of corporate due diligence. The first part of the chapter is devoted to the historical aspects and significance of

CSR, including a discussion of its legal anchoring. Particular attention is given to stakeholder engagement, which within the discussed theories becomes a key corporate due diligence obligation, enabling active participation in decision-making processes. The third part of the chapter describes corporate governance, its historical background, evolution, and the importance of accountability and oversight mechanisms. It also presents the relationship between corporate governance and the concept of corporate purpose, exemplified by the integration of CSR values—primarily the protection of human rights and the environment in the spirit of sustainable development—into corporate decision-making processes. This illustrates the coexistence of public aspects (protection of rights and the environment) and private aspects (internal company actions). At the end of the chapter, the focus shifts to two modern economic theories: mission economy, which assumes public-private cooperation aimed at achieving social and environmental goals, and doughnut economics, which defines a safe and just economic space considering planetary and social boundaries. The integration of these concepts with legislation and corporate governance aims to facilitate the effective implementation of corporate due diligence. Chapter 2 concludes with an analysis of corporate due diligence in the context of legal recursion theory and global governance, showing that the issue is both a result and a factor shaping the dynamic process of creating and interpreting legal norms at multiple levels—private and public. This perspective serves as a foundation for further analyses of the implementation and practical aspects of corporate due diligence in subsequent chapters.

Chapter 3 discusses the next key concept included in the title of the dissertation — the value chain — drawing on insights from non-legal disciplines, particularly the political economy of development, as this is not a concept originating from legal studies. Starting from the assumptions of this field, the chapter presents the genesis, significance, and evolution of the value chain concept, as well as distinguishes it from related terms such as supply chain and activity chain. At the same time, by analyzing the value chain in the TCLF sector, it illustrates the complexity of contemporary transnational production structures and the associated challenges, which serve as a kind of litmus test for the need to regulate the activities of transnational corporations.

Chapter 4 presents the legal understanding of corporate due diligence, beginning with a discussion of its development in the context of transnational corporate activity. It highlights five key synergies that have played a fundamental role in shaping this institution as a legal category. Next, the chapter provides a definition of corporate due diligence, considering its two

primary dimensions: as a standard and as a fact-finding process. Each of these elements is illustrated by assigning corresponding types of activities. The chapter then reviews the sources of law relevant to corporate due diligence. Due to their crucial importance in shaping this institution, the analysis starts with soft law instruments — such as the UN Guiding Principles, OECD Guidelines, the ILO Declaration, and ISO 26000. It demonstrates how these soft law documents have influenced the creation of binding regulatory frameworks at the European Union level, as a higher regulatory tier, and their adaptation and implementation within the national legal systems of EU member states, which represent the lower regulatory tier.

Chapter 5 presents a conceptualization of corporate due diligence, understood as the process of assigning this institution a precise meaning in legal terminology and embedding it within the system of normative rules. This illustrates how the legislator establishes the legal framework regulating the activities of transnational corporations. The discussion begins with an examination of the concept of Corporate Social Liability, which enables attributing legal responsibility to transnational corporations — both for damages already caused within value chains (ex post liability) and for failures to undertake preventive actions (ex ante liability). To better highlight the specificity of this concept, its distinction from classical liability regimes—ex delicto and ex contractu—is demonstrated. The latter part of the chapter focuses on the fundamental verification activities that should be undertaken first to fulfill the procedural obligations within corporate due diligence. The chapter concludes with an analysis of anchoring corporate due diligence in the legal system as a substantive legal standard, with particular emphasis on its function—that is, the impact of fulfilling due diligence obligations on substantive legal assessment.

Chapter Six, the final part of the thesis, contains an analysis of the regulation of transnational corporate activities through legal instruments, with particular emphasis on preventive obligations taking the form of mandatory corporate due diligence. The regulations adopted at the European Union level are presented, followed by a discussion of selected national solutions in member states. The chapter concludes with remarks concerning the situation in Poland.

The entire thesis concludes with a final chapter of conclusions, which address the posed hypothesis—indicating whether it has been confirmed or refuted. Additionally, it includes *de lege ferenda* recommendations concerning the implementation of the directive into the Polish legal system.