

THE DISAPPEARANCE OF A NATURAL PERSON WHO IS A SOLE PROPRIETOR (SELF-EMPLOYED) – CONSIDERATIONS UNDER THE POLISH AND SLOVAK LAW / Alexandra Löwy, Karin Raková, Paweł Lewandowski

prof. JUDr. Alexandra Löwy, PhD.
Comenius University Bratislava
Faculty of Law
Department of Civil Law
Šafárikovo nám. 6,
810 00 Bratislava; Slovakia
alexandra.lowy@flaw.uniba.sk
ORCID: 0009-0003-3403-4794

JUDr. Ing. Karin Raková, PhD., MBA.
Comenius University Bratislava
Faculty of Law
Department of Civil Law
Šafárikovo nám. 6,
810 00 Bratislava; Slovakia
karin.rakova@flaw.uniba.sk
ORCID: 0000-0001-9227-7864

Paweł Lewandowski, PhD.
University of Warmia and Mazury
in Olsztyn
Faculty of Law and Administration
Department of Economic Public Law
and Commercial Law
ul. Dębowskiego 13,
10-723, Olsztyn; Poland
pawel.lewandowski@uwm.edu.pl
ORCID: 0000-0002-8979-928X

Abstract: *The disappearance of a natural person, especially when he or she is also a sole proprietor of a business, causes legal problems. Such situations are not directly regulated by legal acts, i.e., the legislators do not refer to the impact and consequences of the disappearance on the performed business activity. Meanwhile, the fact that a sole proprietor goes missing may have a negative impact on his or her situation, including the content of the obligations binding on him or her. This paper discusses how the relatives, in particular the spouse of the missing person, may behave in such circumstances. The considerations carried out concern Polish law and Slovak law, as there is no specific regulation of the declaration of missing person who is a sole proprietor introduced on the model of foreign regulations, the article places emphasis on the comparison of both selected regulations. The conclusion indicated that until the missing person is recognised as dead, family members or other relatives do not have any competence to take any action on behalf of the missing sole proprietorship circumstances, other entities may operate, i.e., attorney-in-fact, proxy, according to Polish law custodian established pursuant to Art. 184 of the Family Code, the custodian established pursuant to Art. 144 of the Code of Contentious Civil Procedure, or prosecutor. Similarly, under the Slovak law, until the missing person is declared dead, a guardian, or a representative appointed by the court pursuant to Section 68 of the Civil Procedure Code, acts for such person.*

Key words: *Commercial Law; Business Activity; Missing Person; Responsibility for Obligations*

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1. INTRODUCTION

Usually, the legal regulations are limited to the issue of the declaration of death (Burch, 2017), such as the provisions in force in Poland (Articles 29-32 of the Polish Civil

Code).¹ This is because a disappearance is a factual, not legal, event, and therefore the law does not regulate the particular and specific consequences of the disappearance, such as what about the rights and obligations of the missing person during his or her absence, whether and who can protect them/fulfil them, etc.² From a legal point of view, a disappearance is not the same institution as death. What distinguishes them is a kind of uncertainty as to the fate of the person (the missing person may still be alive, for example). From the legal point of view, a missing person is, until a document declaring him or her dead is issued,³ a living person who can participate in established civil relations, including economic ones. Above all, the disappearance of a person does not constitute a reason for ceasing to treat such a person as an entrepreneur (Sailasri, 2020), with all the consequences. From the legal point of view, the disappearance of a person ("owner" of the enterprise) does not affect the existence of business activity, for example a suspension or termination of business activity does not occur *ipso iure*. The norms of law generally applicable in do not regulate the impact of the disappearance of a natural person on the conducted business activity registered in the Central Register and Information on Business (CEIDG) (sole proprietorship).⁴

It should be noted that the regulation of the declaration of missing person was introduced on the model of foreign regulations. Among other, there is for example appropriate regulations in Czech civil law, *id est* §§ 66 - §§ 69 of the Act of Civil Code of the Czech Republic.⁵ The indicated regulations apply to a missing person, not specifically to an entrepreneur, although in the case of a sole proprietor it should be assumed that it will be appropriate. The declaration of missing person, according to Czech law, is not strictly to protect the rights of the absent person, but rather to facilitate legal action in situations where the absent person would be required to consent to, consent to, vote for, or otherwise take legal action (Čuhelová and Pondikasová, 2022). What is worth to note the declaration of missing person is reserved only for a specific group of disappeared persons (those who have full legal capacity, and those who can be considered missing within the meaning of §§ 66 Act of Civil Code of the Czech Republic) and persons who have specific legal relations with them. However, what is most important in view of these considerations - the effects of a declaration of disappearance do not apply to the actual legal actions of the missing person in private law relations (Čuhelová and Pondikasová, 2022). That makes this institution rather exceptional and causes that the appointment of a guardian is a general solution (Čuhelová and Pondikasová, 2022).

Similarly, under the Slovak legislation, the reasons for declaring a natural person dead are regulated by the provisions of Art. 7 of the Civil Code, if, taking into account all the circumstances, it can be assumed that he/she is dead (proof of death) or in the case of a missing person, and also on the condition that it can be assumed that this natural

¹ More about declaration of death: Bartoszewicz (2007, p.11 et seq.); Bartoszewicz (2017, p. 147 et seq).

² As Schoeman-Malan points out: „Rarely do authorities consider ‘missing’ to be a legal status. This lack of recognition affects families’ rights to property, inheritance, guardianship of children, even remarriage. Family members are seldom entitled to the same social benefits as those whose relatives are confirmed as deceased. They might not have access to bank accounts or savings.” (Schoeman-Malan, 2018, p. 219)

³ The legal effects of declaring a missing person dead are the same as those of a natural person’s death (Kalus, 2018).

⁴ Natural persons conducting business activity in Poland should obtain an entry in CEIDG (that requires their legality). At the same time, the lack of an entry does not deprive a person of the attribute of an entrepreneur, CEIDG is regulated in The Act of March 6, 2018 on the Central Register and Information on Business Activity and the Information Point for Entrepreneurs, Journal of Law 2022, item 541; more about Central Registration and Information on Business Activity: Lewandowski (2013), generally about business activity registers: Breges and Jakupak (2017).

⁵ Act. No. 82/2012 Call. Civil Code.

person is no longer alive. The procedural procedure for declaring a person dead is governed by the Code of Non-Contentious Civil Procedure, in particular Article 220 and following of the Code of Non-Contentious Civil Procedure. The decision to declare a person dead is of a constitutive nature, and therefore, until the decision to declare a person dead becomes final, it is assumed that the person is alive and is therefore the subject of legal relations in which he or she can enter and, therefore, acquire rights and obligations. The Slovak legislation does not provide for a specific substantive prerequisite for the appointment of a guardian for a missing person, although the above cannot be excluded with reference to the provision of Article 29 of the CC, which will be dealt with in more detail in the next part of this paper.

However, the subject of this publication is not to discuss the issue of the disappearance of a natural person,⁶ but to draw attention to the consequences of this event in relation to a person who is a sole proprietor. The issues have not been discussed in the literature so far, which justifies making it the subject of considerations. Therefore, it is worth analysing how the disappearance of a natural person – a sole proprietor – affects the legal obligations of such an entrepreneur, which, in consequence, requires considering the premises and legal consequences of suspending or even terminating the business activity conducted by the missing entrepreneur. Moreover, attention should be paid to how the closest, in particular the spouse of the missing person, may behave in the signalled situation. After all, it is important to establish who can act at all (including running cases and business) on behalf of the missing entrepreneur. This study may be of use to the relatives of the missing sole proprietorship. Above all, however, it may contribute to a broader scientific discussion, and perhaps in the future, lead to the introduction of appropriate legal regulations (Lewandowska, 2021), especially in connection with the movement of people and entrepreneurs and their activities in various EU Member States.

2. SOLE PROPRIETOR

Considerations as to the consequences of the disappearance of a sole proprietor should begin with outlining the concept of an entrepreneur. In the Polish legal system, an entrepreneur is defined in various legal acts (Etel, 2012), including in particular Art. 43¹ of the Polish Civil Code (PCC). Statutory definitions of an entrepreneur have a different normative structure and different binding force (e.g., they go beyond a legal act or apply only to a normative act, taking into account the specificity of the regulated matter).⁷ In particular, it is worth noting the definition of an entrepreneur found in The Act of March 6, 2018, Entrepreneurs' Law.⁸ Pursuant to Art. 4 sec. 1 of the aforementioned Act, the entrepreneur is a natural person,⁹ legal person or an organisational unit that is not a legal person, to which a separate act grants legal capacity, carrying out business activity on its

⁶ More about the disappearances of natural persons: Lisnicha (2011); Ramghani, Roshan and Khah (2017); Citroni (2014).

⁷ In such a situation, the legislator uses the term "an entrepreneur within the meaning of the Act is ..." or another equivalent expression.

⁸ The Act of March 6, 2018, Entrepreneurs' Law, Journal of Law 2021, item 162, hereinafter: **Entrepreneurs' Law** (Lewandowski, 2019).

⁹ According to the Central Statistical Office (GUS) data, as of December 31, 2017, it is the most numerous category of entities engaged in business activity (natural persons conducting business activity constitute 69.64% of the number of all entities); Zmiany strukturalne grup podmiotów gospodarki narodowej w rejestrze REGON, 2017 r. GUS 2018, s. 18, available at: <https://stat.gov.pl/obszary-tematyczne/podmioty-gospodarcze-wyniki-finansowe/zmiany-strukturalne-grup-podmiotow/zmiany-strukturalne-grup-podmiotow-gospodarki-narodowej-w-rejestrze-regon-2017-rok,1,21.html> (accessed on 22.06.2024).

own behalf. In sec. 2 of the cited provision as entrepreneurs qualifies partners of a civil partnership in the scope of their business activity. Thus, the entrepreneur is defined by the subjective criterion (entities that may be entrepreneurs) and functional criterion (performing business activity).

Characteristic features of business activity (Art. 3 Entrepreneurs' Law) are organisation, profitability, continuity and performance on one's own behalf.¹⁰ Those features must be met jointly to treat a person's activity as a business activity (Sieradzka, 2018). Organising means that the activity must take a formalised form, e.g., it must be entered in a relevant register. Importantly, in connection with the analysed issue, a natural person conducting business activity is subject to the obligation to register in the CEIDG, the register mentioned previously. Failure to comply with this obligation is incompatible with statutory regulations (Article 17 sec. 1 of the Entrepreneurs' Law) and even constitutes an offense (Article 60¹ of the Act of May 20, 1971, Code of Petty Offenses¹¹). It is worth noting that business activity is not an activity performed by a natural person whose income due from this activity does not exceed 50% of the minimum wage in any month, referred to in the act on the minimum wage for work and who has not performed business in the previous 60 months. Profitability means that a given activity must be profit-oriented (income),¹² but obtaining profit is not really necessary. Generating losses instead of the expected profits (e.g., due to the operating costs exceeding the income), does not preclude its profit-making nature. Performing on one's own behalf means that the person is responsible for the obligations of the business with his or her own property, and the profits are his or her personal income (the benefits and risks are borne by this person). Continuity is manifested in the intention to constantly perform activities that make up the business activity.¹³ It can be noted that the judiciary additionally emphasises that business activity should be characterised by a professional character (permanent, not amateur, not occasional), compliance with the rules of profitability and profit, repetition of activities (e.g., serial production, typing transactions, constant cooperation) and participation in the course of trade.¹⁴

The Slovak legal regulation differentiates between the terms entrepreneur, entrepreneurship, and enterprise. It also should be stated that the single definition of these terms is missing, as it is spread out in many legal regulations.¹⁵ The basis of the legal regulation of entrepreneurs - both legal and natural persons, can be found in the Commercial Code,¹⁶ which defines an entrepreneur either as a person that is registered under the Commercial Register, or conducts its business based on the registration with the Trade Register or any other register under the specific law. A Trading Licence¹⁷ or Commercial register registration is just one of many types of business authorisation, as but it is always necessary to have a certain authorisation for performance of entrepreneurship. An entrepreneur, either natural person or legal entity, is regarded as the

¹⁰ See also Kruszewski (2019, pp. 46-65); Komierzyńska-Orlińska (2019, pp. 48-58).

¹¹ The Act of May 20, 1971, Code of Petty Offenses, Journal of Law 2021, item 2008, consolidated text from November 5, 2021.

¹² Judgment of the Supreme Administrative Court in Warsaw of September 26, 2008, II FSK 789/07, lex database no. 495147.

¹³ Judgment of the Supreme Administrative Court in Warsaw of September 17, 1997 (II SA 1089/96), lex database no. 31312.

¹⁴ Resolution of 7 judges of the Supreme Court of June 18, 1991, III CZP 40/91, lex database no. 3682; resolution of 7 judges of the Supreme Court of December 6, 1991, III CZP 117/91, lex database no. 3709.

¹⁵ For example: Act No. 40/1964 Coll. Civil Code, as amended, Act No. 455/1991 Coll. Trade Licensing Act, as amended, Act No. 530/2003 Coll. On Commercial Register, as amended.

¹⁶ Act No. 519/1990 Coll. Commercial Code, as amended.

¹⁷ Act No. 455/1991 Coll. Trade Licensing Act.

subject of legal relationships, both rights and obligations. The Commercial Code¹⁸ defines entrepreneurship as a continuous activity carried out independently by an entrepreneur in his own name and on his own responsibility for the purpose of making profit. Therefore, it is only activity which is carried out by an entrepreneur and at the same time cumulatively meets all requirements of the Commercial Code: continuity,¹⁹ independence, conduct under the own name of an entrepreneur and under its own responsibility. An enterprise²⁰ is defined as a set of tangible as well as personal and intangible assets of a business. An enterprise includes things, rights and other property belonging to the entrepreneur and serving the operation of the enterprise or, by their nature, intended to serve that purposes (Eliáš, 1997). An enterprise can be defined as an economic and organisational unit formed by combining the activities of persons with means of a material nature.²¹ The term enterprise is used in the legal order in different meanings, sometimes as an object of legal relations, sometimes as a subject of legal relations. According to the statutory definition, an enterprise for the purposes of the Commercial Code is not a subject of law (it has no legal personality) but is an object of legal relations. We can say that the enterprise is actually understood as a kind of a complex of business activities, carried out within one business entity.

3. DISAPPEARANCE OF A SOLE PROPRIETOR AND HIS BUSINESS ACTIVITY

3.1 *Private Law Obligations*

There is no doubt that the disappearance of a natural person who performs a business activity has an impact on the private law obligations binding such an entrepreneur. The fact of disappearance of the entrepreneur, due to the lack of care for the proper conduct of matters (i.e., payment of receivables or failure to receive correspondence) may have a negative impact on his or her situation and the content of obligations. For example, non-performance may result in the maturity of a liability or an increase in debt. In the event of non-voluntary performance of the service, the creditor may bring an action before the court (e.g., if the case concerns an unpaid invoice – an action for payment). When a missing debtor is obliged to pay, he or she must first be served with a copy of the statement of claim with attachments, which would be impossible in the analysed situation. Legal regulations do not provide for the so-called fiction of delivery. In connection with the above, it is worth considering the suspension or perhaps even termination of the business activity carried out by the missing sole proprietorship.

In the conditions of the Slovak Republic, in view of the above-described assumption of the existence of the legal personality of a natural person until the final

¹⁸ Art. 2 Sect. 1 and 2 of the Commercial Code states that an entrepreneur is: a) a person registered in the Commercial Register, b) a person who conducts business on the basis of a trade licence, c) a person who conducts business on the basis of a licence other than a trade licence pursuant to special regulations, d) a natural person who carries out agricultural production and is registered in the register pursuant to a special regulation.

¹⁹ Judgment of the Supreme Court of Slovakia of July 11, 1997, No, 4Sž 38/97 issued that: *“Continuity as a feature of entrepreneurship is related to the professional scope of the entrepreneurial licence and not all activities of the entrepreneur which are related to his/her entrepreneurship. The framework of the business is a defined range of activities which are fulfilled by the subject matter of the activity specified in the business licence and, at the same time, by activities which fall within this range according to the Trade Business Act and which are at the same time directly related to the implementation of the authorised activity.”* (Patakyová, 2022, p. 21).

²⁰ Art. 5 of the Commercial Code.

decision on the declaration of death, a missing person is regarded as a legitimate and proper subject of legal relations.

From a practical point of view, however, disappearance may create defects in the functioning of legal entities. The abovementioned can be seen in two ways. The first situation may include cases where a shareholder in a company is missing, while his real absence may have a negative impact on the operation of the company in the sense that it will not be able to perceive fundamental decisions within the scope of competences defined in the articles of association. Another alternative is if the missing person is the managing director of the company. This in itself, provided that the managing director is not at the same time the sole or one of the shareholders, does not prevent the company from functioning. However, if the acting for the company is set up in such a way that both managing directors act exclusively jointly for the company, the absence / disappearance of the other managing director may cause complications until the company decides to remove the managing director who is missing for one of the legal reasons. In the case of a sole trader's (entrepreneur's) disappearance, the most significant impact is the occurrence of default in the fulfillment of his/her obligations, which may manifest itself primarily, for example, in the creation of default interest or, secondarily, in the termination of existing contractual relationships.

3.2 The Suspension or Termination of Business Activity

It seems that in the circumstances of the disappearance of a sole proprietorship, it is highly desirable to suspend or even terminate its business activity. Therefore, it is worth referring to these issues more extensively.

The suspension of business activity according to Polish law is a legal event, the occurrence of which depends on the entry in the CEIDG²². The rules for suspending a business activity are specified in the Entrepreneurs' Law (Art. 22-25 Entrepreneurs' Law; see Powalowski, 2010). The legislator does not specify the reasons after which the suspension is possible, so such an action may be considered in the event of the entrepreneur's disappearance. The condition to the suspension is the lack of employment of employees. This means that employing at least one individual makes it impossible to suspend business activity. From the point of view of an entrepreneur-employer, employment contracts should be terminated before being able to take advantage of the possibility of suspending business activity (Kidyba, 2021).

In the case of a sole proprietor, the suspension may be made for an indefinite period, but not shorter than 30 days (an exception is February, see Art. 23 of the Entrepreneurs' Law) (Hauser, Niewiadomski and Wróbel, 2018). The beginning of the period of suspension of business activity begins from the date indicated in the application for the entry of information on the suspension of business activity and lasts until the date specified in the application or in the application for the resumption of business activity, if this date has not been specified in the application for suspension of business activity.

Suspension of business activity in the event of the entrepreneur's disappearance is a desirable action, because the effect is, above all, the release of the entrepreneur from public law obligations, e.g., social security obligations (for the period of suspension of business activity, an entrepreneur who is a contribution payer only for himself is not required to submit a declaration settlement and payment of social security contributions).²³ The effects of the suspension of business activity extend from the day

²² Judgment of the Supreme Administrative Court of April 18, 2013, II GSK 192/12, lex database no. 1337109.

²³ Judgment of the Administrative Court in Poznań of May 25, 2017, III SA/Po 150/17, lex database no. 2306735.

on which the suspension begins to the day preceding the day of resumption of business activity. However, during the period of suspension of business activity, the entrepreneur is still obliged to settle obligations arising before the date of suspension of business activity, including private law (Lubeńczuk, 2019; Kozieł, 2019).

It is worth pointing out that during the period of suspension of business activity, the entrepreneur cannot perform business activity and generate current income from non-agricultural business activity. However, during the suspension of business activity, pursuant to Art. 25 sec. 2 of the Entrepreneurs' Law, the entrepreneur may undertake many activities, e.g., he or she may perform all activities necessary to maintain or secure the source of income, including termination of previously concluded contracts, he or she may accept receivables and is obliged to settle liabilities arising before the date of suspension of business activity, it may sell its own fixed assets and equipment, and it may generate financial income, also from activities carried out before the date of suspension of business activities (Kruszewski, 2019).

On the basis of the abovementioned *de lege ferenda* considerations, it can be considered the introduction of a provision providing for the suspension of the business activity of a missing sole proprietorship, as if automatically (*ipso iure*), without the participation of other entities. Such a solution would seem justified.

On the other hand, as for the termination of business activity, the legislator does not provide for the conditions that must occur in order to take such action. It is generally a right resulting from the freedom of economic activity (Art. 22 of the Constitution of the Republic of Poland of April 2, 1997²⁴, Art. 2 Entrepreneurs' Law) (Sieradzka, 2018). Due to the fact that the termination of a business activity is the most strongly interfering with the existence of business activity, as it definitively ends the functioning of the enterprise, as well as due to the uncertainty as to the fate of the missing person (sole proprietorship), the termination of his/her activity should be approached with a certain distance, i.e., such a solution as a last resort.

On the other hand, Slovak legislation provides for the suspension or revocation of a trade licence under the conditions prescribed by law. The Trading Licence Act provides for the possibility of revocation of a trade licence, including *ex officio* in accordance with Article 58 Sect 2 a, b, if he is in serious breach of his obligations or if he has not carried on business for a period of 4 years. As we have indicated, this may occur *ex officio* or at the initiative of a third party. It can be said in principle that a serious breach of duty need not occur as a result of mere missing persons. This would seem to be justified only in the case of the specific nature of trades, where there is a requirement to fulfil and at the same time to prove fulfilment of specific statutory conditions. In the case of long-term disappearance (where the death of the individual cannot be anticipated with the proof of death), the revocation of the trade would also come into consideration, unless the business ceases to operate without suspension for at least 4 years. In this respect, the close relatives may also notify the fact, which, on the other hand, does not change the fact that, until the trade is closed, the relevant legal relationships may legitimately arise.

3.3 Entities Authorised to Act on behalf of the Missing Sole Proprietor

As can be seen from the above considerations, the rights and obligations of the entrepreneur under the concluded contracts, despite the disappearance, continue to exist and are charged/legitimised by the missing entrepreneur. The entrepreneur is liable with all his assets for obligations arising as a result of running the business. Everyone is

²⁴ The Constitution of the Republic of Poland of April 2, 1997, Journal of Law 1997, no. 78, item 483.

responsible for their own actions and omissions, therefore, until the missing person is deemed deceased, neither family members (e.g., children, spouse, parents, siblings) or other relatives (e.g., son- or daughter-in-law) are responsible for a missing person who is a sole proprietor, but also cannot – for the mere fact of being a close person – act on behalf of the missing entrepreneur in order to pursue his debts.

Similarly, when it comes to taking actions on behalf of a missing person – a sole proprietor, actual and legal acts should be distinguished. Actual acts, e.g., the release of goods under a sales contract concluded by the entrepreneur before their disappearance, can be performed by anyone (the actual act cannot be invalid). In turn, a legal act (e.g., creating a sales contract) to be valid (fully effective) must be performed by an authorised entity (authorised to act on behalf of the entrepreneur).

Therefore, it can be indicated that in the event of the disappearance of a natural person who is a sole proprietor, legal actions in certain circumstances may be performed by the following entities: attorney-in-fact; proxy²⁵; custodian established pursuant to Art. 184 of the Act of February 25, 1964, the Family and Guardianship Code²⁶; a custodian established pursuant to Art. 144 of the Act of November 17, 1964, Code of Civil Procedure²⁷ (the so-called procedural custodian for an unknown from the place of stay); or prosecutor.

An attorney-in-fact is an entity authorised to act on behalf of a missing entrepreneur if the latter has granted him an appropriate power of attorney prior to his or her disappearance. It should be emphasised that the disappearance of an entrepreneur does not terminate the power of attorney (cf. Strugała, 2021). The power of attorney expires with the death of the principal or the death of the attorney-in-fact, unless the parties have stipulated otherwise in the power of attorney itself. It is possible to grant general, specific, and for a particular act power of attorney. The general power of attorney confers authorisation for all acts of ordinary management. For acts that are beyond the scope of ordinary management, a power of attorney specifying their type is required (specific power of attorney), unless the law requires a power of attorney for a particular activity (Wolter, Ignatowicz and Stefaniuk, 2018).

As indicated, the entity authorised to act on behalf of the missing entrepreneur may also be a proxy appointed by this entrepreneur (Powałowski, 2012; Stadnik–Jędruch, 2013). A proxy is a special type of power of attorney (see Krauss, 2012, pp. 125-134) authorised to perform court and out-of-court actions related to running the enterprise (Szwaja, 2005). The scope of the proxy is wide as it does not cover only legal actions for which it is necessary to have a specific power of attorney, i.e., legal actions leading to the sale of the enterprise, commissioning the enterprise for temporary use, as well as selling and encumbering real estate. The proxy expires upon the death of the holder of a proxy. It is possible to establish a joint commercial proxy in which the commercial proxy must act jointly with the entrepreneur. Also in this case, the joint proxy expires upon the death of the holder of a proxy. On the other hand, the death of the entrepreneur, as well as his or her disappearance, does not terminate the proxy (Doliwa, 2016).

The next entity authorised to act on behalf of a missing entrepreneur is a custodian appointed pursuant to Art. 184 of Family Code (see Panasiuk, 2015, pp. 115-127), which is about situations where the missing person has not previously appointed an attorney-in-fact, or the granted power of attorney does not adequately guarantee the

²⁵ Known as well as commercial proxy.

²⁶ The Act of February 25, 1964, Family and Guardianship Code, Journal of Law 2020, item 1359, consolidated text from August 20, 2020, hereinafter: **the Family Code**.

²⁷ The Act of November 17, 1964, Code of Civil Procedure, Journal of Law 2021, Item 1805, consolidated text from October 4, 2021, hereinafter: **the Code of Civil Procedure**.

protection of the missing person's rights. An application for the appointment of a custodian may be submitted by any interested party, including third parties who exercise or intend to exercise their rights arising from legal relations with the missing person. In application it is reasonable to indicate the person who may be a custodian. Best is if the function of custodian is performed by a relative who cares about securing the property of missing person. The role of the custodian is to protect all rights of the missing person, both property and non-property (Moszyńska, 2021). The custodian has the same rights as the person he or she replaces (the missing one), i.e., he or she can perform an action that could be performed by the party if he or she could personally represent its interests. Above all, however, its task is to search for a missing (absent) person, as well as to exercise ordinary management of their property, and thus to perform the necessary factual and legal actions aimed at preserving the property. Carrying out these activities is subject to control by the guardianship court, which may issue the necessary orders and, in the event of defaults on the part of the custodian, deprive him or her of his function. The custodian is obliged to exercise due diligence in the interests of the missing person (according to Art. 154 of the Family Code in connection with Art. 178 § 2 of the Family Code). The custodian acts on behalf of the missing person, representing his or her interest, therefore the actions taken by the custodian have consequences for the replaced person. The custodian is a legal representative of the missing person acting on behalf and in the interest of the missing person, and therefore he or she is not entitled to bring an action in his or her own name and on his or her own account. Establishing a custodian pursuant to art. 184 of the Family Code makes it unnecessary to appoint a custodian established pursuant to Art. 144 of the Code of Civil Procedure. What is important from the point of view of the missing person is that the custodian's power over the elements of the property of the missing person only takes the form of 'an actual holder'²⁸, who exercises vicarious power on someone else's behalf. Social perception may be similar to the state of possession, but the holder has no will to possess or rule over things for himself, but will to act for the sake of the subject on behalf of whom he rules.

Another entity authorised in the analysed circumstances is a custodian established pursuant to Art. 144 of the Code of Civil Procedure, i.e., a procedural custodian for a person unknown from the place of stay. The powers of the procedural custodian are limited only to taking procedural steps or other actions in civil proceedings necessary to defend the rights of the absentee. These activities and actions include: taking a position on the opponent's demands (the applicant, other participants), submitting motions and statements, participating in hearings during which evidence is taken and the results discussed, raising material and procedural allegations, and taking other actions appropriate due to the state of the case, including bringing, if necessary, means of appeal (see also Kotłowski, Piaskowska and Sadowski, 2010, p. 701 et seq.; Jurzec-Jasiecka and Jasiecki, 2014, pp. 64-71). The custodian may not make or accept substantive statements on behalf of the person for whom he has been established.²⁹ A prerequisite for the appointment of a custodian is substantiation that the party's whereabouts (place) are unknown.³⁰ The party's claim that it does not know the current place of residence (stay) of the opposing party cannot be regarded as substantiating. In judicial practice, grounds for appointing a custodian are proven by documents such as written information from address offices or population registration authorities. In view of

²⁸ According to art. 338 of the PCC – anyone who has actual control of a thing on behalf of another person is the actual holder of the thing.

²⁹ Judgment of the Administrative Court in Szczecin of June 18, 2014, I ACa 236/14, *Legalis* 1241503.

³⁰ Decision of the Supreme Court of July 10, 2020, III CZ 16/20, *lex* database no. 3054429.

the practically unlimited use of trips and periodic stays abroad, the criteria for assessing whether it is substantiated should be tightened accordingly.

Finally, an entity that may undertake procedural activity in the field of the rights and procedural obligations of the missing entrepreneur is the public prosecutor, who, pursuant to Art. 7 of the Code of Contentious Civil Procedure may request the initiation of proceedings in any case, as well as take part in any pending proceedings, if, in his opinion, it is required to protect the rule of law, citizens' rights, or social interest. The prosecutor independently assesses the premises justifying the request to initiate civil proceedings or to report their participation in them. Although it seems that the fact of the disappearance of a person and the possible negative consequences thereof should prompt him to initiate proceedings, the protection of individual, most just, interests is not always the protection of, e.g., social interest (Grzegorzczyk and Jędrzejewska, 2016). This means that the prosecutor may, but does not have to, initiate (or join) proceedings on behalf of the missing person or against the missing person (Pogonowski, 2021), as there is no provision that would impose an obligation on the prosecutor to act in such circumstances. The prosecutor's power extends to all stages of the proceedings, i.e., examination (e.g., a claim for payment for failure to pay for the service provided), enforcement, or security proceedings. The prosecutor may undertake procedural activities on his own initiative, communicating with the person concerned, instructing him or her about his or her rights. Thus, the prosecutor may initiate proceedings as a result of an application (application) submitted to the prosecutor's office by, for example, a relative of a missing person, especially when the deadline for submitting the request is approaching or when the limitation period for the claim is close.

It is worth noting that the closest persons (in the sense of the circle of heirs of the sole proprietorship) may continue the business activity of the missing person only in the event of establishing (in any way) the death of the missing entrepreneur (including declaring him or her deceased), which takes place on the basis of the inheritance provisions (Art. 922, 924 and 925 of the Civil Code; see also, e.g., Kawałko, 2019), as well as regulations with a succession management.³¹ As a side note, it is worth pointing out that the death of a natural person (including declaring him or her deceased) does not make the enterprise lose its ability to operate, i.e., concessions, licenses, consents, permits relating to the business activity of the deceased sole proprietorship, etc., do not automatically expire.

To analyse the above on the basis of Slovak law, it should be noted that the term "disappearance" is not specifically defined in Slovak law. Disappearance is perceived as a situation associated with uncertainty about the life of a person (Lavický, 2014). The disappearance of a person can be caused by a variety of factors. The material legislation does not specify the period during which this situation remains, or when the procedure for declaring a person dead may be initiated. The adequacy of the period will be assessed by the court, but information relating to the last appearance of the person, or when and where he or she was seen, may affect the determination of the estimated date of death. It should be noted that the concept of disappearance also occurs in the context of defining the scope of the police force's jurisdiction.³² If a search for a missing person is unsuccessful, such a search shall be automatically revoked 20 years after its declaration. Notwithstanding the foregoing, it is possible for a person who has a legal interest in the

³¹ See: The Act of July 5, 2018, about succession management of a natural person's enterprise and other facilities related to the succession of enterprises, *Journal of Law* 2021, item 170; also, e.g., Wrzcionek (2020, p. 23 et seq.).

³² Zákon č. 171/1993 Z. z. o Policajnom zbere v platnom znení, Nariadenie MV SR č. 53/ 2007 o postupe pátrani po osobách a veciach.

matter, and if the conditions in section 7(2) of the Civil Code are fulfilled, where it is assumed that the person is not alive, to bring an application for a declaration of death. In proceedings for a declaration of death, a procedural guardian shall be appointed to represent the person to be declared dead in the proceedings. The question therefore arises as to how the interests of a natural person who is missing can be protected.

An entrepreneur may, in the course of his/her business, grant various powers of attorney for representation, whether to specific natural or legal persons, as well as to attorneys in the scope of the provision of legal advice and legal services. These powers of attorney shall continue until the person is declared dead, unless otherwise terminated, e.g., by resignation by the attorney.

If no power of attorney has been granted by the missing natural person, the possibility of appointing a guardian pursuant to Section 29 of the Civil Code may be considered. Pursuant to Art. 29 of the Civil Code, a guardian may also be appointed for a natural person whose residence is unknown, and by applying the rules of interpretation, although these concepts cannot be compared, a missing person may also be considered as such a subject. In addition to the primary condition, i.e., that the person is a person whose residence is unknown, there must also be a second condition, which is that the appointment of a guardian is required by the public interest. The Civil Code, in the intentions stated, uses the term public interest, which is abstract in nature, and should be interpreted in the context of the facts of the case, where the appointment of a guardian is at the issue. However, the term public interest cannot be interpreted as it must be the common interest of all persons concerned. However, what appears to be in the public interest of the majority does not necessarily must be considered to be in the public interest from the point of view of the persons whose rights (including property rights) are being limited. In this view, the public interest is variable and must therefore always be considered in the context of a particular decision-making process. The authors further state that it has a preferential status over other partial or individual interests (Baricová et al., 2018).

With reference to the above definitions, we could therefore consider the public interest, as a condition for the appointment of a guardian for a missing person justified where enters into a wide range of legal relationships from which rights and obligations arise and, in the context of his or her missing status, there is therefore a risk of default. In the same way, emphasis can be laid not only on the protection of the missing person, but also primarily on the protection of third persons who interact with the missing person, as well as on the close relatives of the missing person, whose disappearance may have a legal impact on them.

It cannot also be omitted to refer to the person who comes into consideration as a guardian under material law. Where the missing person is married, the spouse will normally be appointed as guardian. If he or she is not married, it will normally be someone close to him or her, but it remains a condition that that person agrees to his or her appointment as guardian.

4. RESPONSIBILITY FOR OBLIGATIONS AND THE MATRIMONIAL PROPERTY REGIME

It is a rule that the debtor is personally responsible for the obligations incurred. However, depending on the marital status and the matrimonial property regime, it is also possible to claim liability against his or her spouse. When discussing the situation of a sole proprietor (a missing natural person), it is also worth referring to his or her personal situation, i.e., in terms of marriage.

According to Polish law, if the missing sole proprietor was not married, family members are not responsible for the obligations incurred by him or her. It is a similar situation to when a person is missing while married, but the spouses remain separated in their property (see, e.g., Jędrejek, 2011, pp. 261-264). On the other hand, in a situation of joint property between spouses, liability depends on whether the contract constituting the source of liability of the missing sole proprietorship was concluded with the consent of the other spouse or without such consent (see also Pokora, 2014; Łukasiewicz, 2014, pp. 119-120). If the other spouse has consented to the conclusion of the contract, the creditor may also claim satisfaction from the joint property of the spouses. However, when the contract was concluded without the consent of the other spouse, the creditor may demand satisfaction from the debtor's personal property, remuneration for work or income obtained by the debtor from other gainful activity, as well as from the benefits obtained from his copyrights and related rights and property rights, and industrial and other rights of the creator, and if the claim arose in connection with running the enterprise, also from the property belonging to the enterprise (art. 41 § 2 of the Family Code). In a situation where a final judgment was passed against the missing sole proprietor, and the creditor proves by means of a document (e.g., an invoice) that the obligation arose in connection with running the enterprise, the court may issue an enforcement clause against the debtor's spouse. In this case, enforcement will be limited to the enterprise forming part of the joint property, and when the creditor shows that the debtor's spouse has consented to incurring the obligation, the enforcement will cover all items included in the property of the joint enterprise and his spouse (cf. Lipińska, 2017).

It is worth noting that due to the possibility of being liable for the obligations of sole proprietorship whose place of residence is unknown, the spouse may request the separation of property. Pursuant to Art. 52 § 1 of the Family Code, each of the spouses may, for important reasons, request that the court establish property separation. The prerequisite for the ruling on the separation of property between spouses was not formulated in a specific manner. It is indicated that it is a situation involving a violation or a serious threat to the property interests of one of the spouses (the one who remained), and thus the good of the family (Kubica and Twardoch, 2021). This condition does not have to be the fault of either spouse. Therefore, it should be assumed that the occurrence of these premises as a result of the disappearance of a person fulfils the disposition of Art. 52 § 1 of the Family Code.

5. SUMMARY

The disappearance of a natural person and uncertainty as to his fate can cause a lot of worry for relatives. Apart from the emotions associated with this fact, there are also numerous legal problems, including those indicated in this study. The disappearance of a natural person engaged in business activity has an impact on this activity, both the situation existing until the disappearance and at the time of the disappearance of the sole proprietorship. People closest to the missing person will certainly be interested in security, in the sense of taking care of "interests" or avoiding harm to such a sole proprietorship. Since statutory regulations (not only in Poland and Slovakia) only decide when and under what circumstances a missing person may be considered dead, which equates the situation of a missing person with their death, solutions to specific issues related to the disappearance, such as in the case when the missing person is a sole proprietorship, should be resolved by reviewing and interpreting all applicable legal provisions. As it turns out, both under Polish and Slovak law, until the missing person is recognised as dead, family members or other relatives do not have any competence to

take any action on behalf of the missing sole proprietorship. In such circumstances, other entities may operate, i.e., as indicated in the work – attorney-in-fact, proxy, custodian prosecutor. Whether the actions taken by the indicated persons will be effective can be assessed in specific circumstances.

Similarly to the Polish law, the Slovak legal regulation also sufficiently doesn't regulate the situations arising in cases where the entrepreneur is missing until recognised as dead. Mainly the possible length of the proceedings, as well as the absence of a clear legal solution in the situation requiring the appointment of a guardian raise the need for legislative changes.

The provided analysis and comparison proved that both jurisdictions require *de lege ferenda* the appropriate regulation providing for the suspension of the business activity of a missing sole proprietorship by operation of law, without the participation of other entities.

BIBLIOGRAPHY:

- Baricová, J. et al. (2018). *Správny súdny poriadok: komentár*. [The Administrative Justice Code. Commentary]. Praha: C.H. Beck.
- Bartoszewicz, A. (2007). *Postępowanie o uznanie za zmarłego i stwierdzenie zgonu*. [Proceedings for declaration of death establishing death]. Warsaw: Wolters Kluwer.
- Bartoszewicz, A. (2017). Uznanie za zmarłego i stwierdzenie zgonu (geneza, rozwój instytucji i postępowania). [Declaration of death and establishing death (origins, development of institutions and procedures)]. *Zeszyty Prawnicze [The Legal Journal]*, 7(2), 147–184, <https://doi.org/10.21697/zp.2007.7.2.05>
- Breges, Z. and Jakupak T. (2017). Digitalization of Business Register. *InterEULawEast: Journal for International and European Law, Economics and Market Integrations*, 4(2), 91–100, <https://doi.org/10.22598/iele.2017.4.2.6>
- Burch, R. A. (2017). Presumed Dead: Why Arizona Should Shorten the Required Time for Beloved Missing Persons to Be Declared Legally Dead. *Arizona Summit Law Review*, 10(1), 59–86.
- Citroni, G. (2014). The Pitfalls of Regulating the Legal Status of Disappeared Persons through Declaration of Death. *Journal of International Criminal Justice*, 12(4), 787–804, <https://doi.org/10.1093/jicj/mqu045>
- Čuhelová, K. and Pondikasová T. (2022). In: Lavický, P. et al. (ed.), *Občanský zákoník I. Obecná část (§ 1–654). Komentář [Civil Code. I. General part (§ 1 - 654). Commentary]* (pp. 239-245). Praha: C.H.Beck.
- Doliwa, A. (2016). In: Mróz, T. and Stec, M. (eds.). *Prawo gospodarcze prywatne [Economic private law]* (pp. 100-104). Warsaw: C.H. Beck.
- Etel, M. (2012). *Pojęcie przedsiębiorcy w prawie polskim i prawie Unii Europejskiej oraz w orzecznictwie sądowym [The concept of an entrepreneur in Polish and European Union law and in court decisions]*. Warsaw: Wolters Kluwer Polska.
- Grzegorzczak, P. and Jędrzejewska, M. (2016). Commentary to art. 7. In: Erciński, T. (ed.), *Kodeks postępowania cywilnego. Komentarz. Tom I. Postępowanie rozpoznawcze [Code of Civil Procedure. Commentary. Volume I. Examination proceedings]* (pp. 187-191). Warsaw: Wolters Kluwer Polska.
- Hauser, R., Niewiadomski, Z. and Wróbel, A. (2018). *Publiczne prawo gospodarcze. System Prawa Administracyjnego. Tom 8A. [Public Economic Law. Administrative Law System]*. Warsaw: C.H. Beck.
- Jędrejek, G. (2011). *Intercyzy. Pojęcie. Treść. Dochodzenie roszczeń. [Prenups. Concept. Content. Claims assertion]*. Warsaw: LexisNexis.

- Jurzec-Jasiecka, A. and Jasiecki, A. (2014). Wybrane zagadnienia dotyczące instytucji kuratora procesowego dla osoby, która nie jest znana z miejsca pobytu (art. 143–144 k.p.c.) [Selected issues concerning the institution of a guardian ad litem for a person whose place of residence is unknown]. *Przegląd Sądowy [Judicial Review]*, 7-8, 64-76.
- Kalus, S. (2018). Commentary to art. 29, 30. In: Frasz, M. and Habdas, M. (eds.). *Kodeks cywilny. Komentarz. Tom I. Część ogólna (art. 1-125) [Civil Code. Commentary. Volume I. General Part (Art. 1-125)]* (pp. 144-147). Warsaw: Wolters Kluwer Polska.
- Kawałko, A. (2019). Commentary to art. 922, art. 924, art. 925. In: Frasz, M. and Habdas, M. (eds.). *Kodeks cywilny. Komentarz. Tom VI. Spadki (art. 922-1087) [Civil Code. Commentary. Volume VI. Inheritances (Art. 922-1087)]* (pp. 28-80). Warsaw: Wolters Kluwer Polska.
- Kidyba, A. (2021). *Prawo handlowe [Commercial Law]*. Warsaw: C.H. Beck.
- Komierzyńska-Orlińska, E. (2019). Komentarz do ustawy - Prawo przedsiębiorców. [Commentary on the Act - Entrepreneurs' Law]. In: Wierzbowski, M. (ed.), *Konstytucja biznesu. Komentarz [The Constitution of Business. Commentary]* (pp. 48-58). Wolters Kluwer Polska.
- Kotłowski, D., Piaskowska, O. M. and Sadowski, K. (2010). Kurator procesowy dla osoby nieznannej z miejsca pobytu w postępowaniu cywilnym – osoba zapewniająca stronie prawo do obrony, czy figurant? [A guardian ad litem for a person of unknown location in civil proceedings – a person ensuring the party's right to defense or a figurehead?]. *Monitor Prawniczy [Law Monitor]*, 12, 701.
- Kozieł, G. (2019). Commentary to art. 24. In: Kozieł G. (ed.), *Prawo przedsiębiorców. Komentarz [Entrepreneurs' Law. Commentary]* (pp. 174-182). Warsaw: C.H. Beck.
- Krauss, J. (2012). Prokura. In: Okoński, J. and Modrzejewska, M. (eds.), *Prawo handlowe [Commercial Law]* (pp. 125-134). Warsaw: Wolters Kluwer Polska.
- Kruszewski A. K. (2019). Commentary to art. 3. In: Pietrzak, A. (ed.), *Prawo przedsiębiorców. Komentarz [Entrepreneurs' Law. Commentary]*. Warsaw: Wolters Kluwer Polska.
- Kruszewski, K. A. (2019). Commentary to art. 25. In: Pietrzak, A. (ed.), *Prawo przedsiębiorców. Komentarz [Entrepreneurs' Law. Commentary]* Warsaw: Wolters Kluwer Polska.
- Kubica, B. and Twardoch, P. (2021). Commentary to art. 52. In: Frasz, M. and Habdas, M. (eds.), *Kodeks rodzinny i opiekuńczy. Komentarz [Family and Guardianship Code. Commentary]* (pp. 336-348). Warsaw: Wolters Kluwer Polska.
- Lavický, P. et al. (2014). *Občanský zákoník. I. Obecná část (§ 1 – 654). Komentář [Civil Code. I. General part (§ 1 - 654). Commentary]*. Praha: C. H. Beck.
- Lewandowska, E. (2021). A missing person as a copyright holder. *Problemy zakonnosti – Problems of Legality*, (154), 138–153, <https://doi.org/10.21564/2414-990X.154.238983>
- Lewandowski, P. (2013). Central registration and information on business as a source of information about entrepreneurs. *Communication as a Measure of Protection and Limitation of Human Rights. Information in Relation to Human Rights* (pp. 259–269), Bratislava: Univerzita Komenského v Bratislave, Právnická fakulta.
- Lewandowski, P. (2019). O definicji przedsiębiorcy i działalności gospodarczej po wejściu w życie ustawy - Prawo Przedsiębiorców [About the definition of an entrepreneur and business activity after the entry into force of the Act - Entrepreneurs' Law]. *Palestra* 1-2, 94–103.
- Lipińska, Ż. (2017). Poddanie się rygorowi egzekucji przez osobę pozostającą w związku małżeńskim – zakres egzekucji [Submission to the rigor of execution by a married

- person - scope of execution]. *Nowy Przegląd Notarialny [New Notarial Review]*, 2, 17–26.
- Lisnicha, T. V. (2011). The Law Consequences of Appearance of a Person Who Was Declared Dead: Detection and Solutions to Related Problems. *Law and Safety*, (4), 196–200.
- Lubeńczuk, G. (2019). Commentary to art. 24. In: G. Lubeńczuk, A. and Wołoszyn-Cichocka, M. Zdyb (eds.), *Prawo przedsiębiorców. Komentarz [Entrepreneurs' Law. Commentary]* (pp.375-381). Warsaw: C.H. Beck.
- Łukasiewicz, J. M. (2014). *Instytucje prawa rodzinnego [Family law institutions]*. Warsaw: Wolters Kluwer Polska.
- Moszyńska, A. (2021). Commentary to art. 184, In: Frasz, M. and Habdas, M. (eds.), *Kodeks rodzinny i opiekuńczy. Komentarz [Family and Guardianship Code. Commentary]* (pp. 1647-1652). Warsaw: Kluwer Polska.
- Panasiuk, Ł. (2015). Problem ustanowienia i określenia kompetencji kuratora nieobecnego [The problem of appointing and defining the competences of an absent curator]. *Palestra* 9-10, 115–127.
- Patakyová, M. et al. (2022). *Obchodný zákonník. [Commercial Code]*. Bratislava: C. H. Beck.
- Pogonowski, P. (2021). Commentary to art. 7. In: Wiśniewski, T. (ed.), *Kodeks postępowania cywilnego. Komentarz. Tom I. Artykuły 1–366 [Code of Civil Procedure. Commentary. Volume I. Articles 1–366]* (pp. 108-114). Warsaw: Wolters Kluwer Polska.
- Pokora, A. (2014). *Odpowiedzialność majątkowa małżonków i przymusowe dochodzenie od nich roszczeń. [Property liability of spouses and compulsory recovery of claims against them]*. Warsaw: Wolters Kluwer Polska.
- Powałowski, A. (2010). Ocena regulacji prawnej zawieszenia wykonywania działalności gospodarczej. [Assessment of the legal regulation on the suspension of economic activity]. *Gdańskie Studia Prawnicze [Gdansk Law Studies]*, Tom XXIV, 339–346.
- Powałowski, A. (2012). Centralna Ewidencja i Informacja o Działalności Gospodarczej – ocena regulacji prawnej [Central Register and Information on Economic Activity – assessment of legal regulations]. *Gdańskie Studia Prawnicze [Gdansk Law Studies]*, t. XXVIII, (pp. 267-276).
- Ramghani, H. M., Roshan, M. and Khah M.N. (2017). The Effect of Death on Dissolution of Marriage Contract with Emphasis on Presumed Death. *Journal of Politics and Law* 10(1), 219–227.
- Sailasri, P. (2020). Private Companies - Privileges and Exemptions. *Supremo Amicus*, 16, 239–246.
- Schoeman-Malan, L. (2018). Missing Persons – Current Tendencies. *Tydskrif vir Hedendaagse Romeins-Hollandse Reg (Journal for Contemporary Roman-Dutch Law)*, 81(2), 218–238.
- Sieradzka, M. (2018). Podstawowe zasady obowiązujące przy podejmowaniu, wykonywaniu oraz zakończeniu działalności gospodarczej oraz ich wpływ na sytuację prawną przedsiębiorcy [Basic principles applicable to undertaking, conducting and terminating business activity and their impact on the legal situation of the entrepreneur]. *Monitor Prawniczy [Law Monitor]*, 13, 21–22.
- Sieradzka, M. (2018). Zakres przedmiotowy i podmiotowy ustawy z 6.3.2018 r. – prawo przedsiębiorców [The objective and subjective scope of the Act of 6 March 2018 – Entrepreneurs' Law], *Monitor Prawniczy [Law Monitor]*, 13, 34–36.
- Stadnik-Jędruch, J. (2013). Możliwość ustanowienia prokury przez przedsiębiorcę będącego osobą fizyczną na tle zmian wprowadzonych w ustawie o swobodzie działalności gospodarczej [The possibility of establishing a power of attorney by

- an entrepreneur who is a natural person in the context of changes introduced in the Act on Freedom of Economic Activity]. *Monitor Prawniczy [Law Monitor]*, 1, 56.
- Strugała, R., (2021). Commentary to art. 101. In: Gniewek, E. and Machnikowski, P. (eds.), *Kodeks cywilny. Komentarz [Civil Code. Commentary]* (pp. 294-296). Warsaw: C.H. Beck.
- Szwaja, J. (2005). Pojęcie przedsiębiorcy a instytucja prokury (Przedsiębiorca jako podmiot udzielający prokury). [The concept of an entrepreneur and the institution of commercial proxy (Entrepreneur as an entity granting power of attorney)]. In: Nowicka, A. (ed), *Prawo prywatne czasu przemian. Księga pamiątkowa dedykowana Profesorowi Stanisławowi Sołtysińskiemu [Private law in times of change. A commemorative book dedicated to Professor Stanisław Sołtysiński]* (pp. 281-297). Poznań: Wydawnictwo Naukowe UAM.
- Wolter, A., Ignatowicz, J. and Stefaniuk, K. (2018). *Prawo cywilne. Zarys części ogólne. [Civil Law. Outline of the General Parts]*. Warsaw: Wolters Kluwer Polska.
- Wrzecień, R. (2020). *Zarząd sukcesyjny przedsiębiorstwa w spadku. Status i charakter prawny. [Succession management of an inherited enterprise. Legal status and character]*. Warsaw: Wolters Kluwer.
- Zmiany strukturalne grup podmiotów gospodarki narodowej w rejestrze REGON [Structural changes in groups of national economy entities in the REGON register], 2017 r. GUS 2018. Available at: <https://stat.gov.pl/obszary-tematyczne/podmioty-gospodarcze-wyniki-finansowe/zmiany-strukturalne-grup-podmiotow/zmiany-strukturalne-grup-podmiotow-gospodarki-narodowej-w-rejestrze-regon-2017-rok,1,21.html> (accessed on 22.06.2024).
- Act No. 40/1964 Coll. Civil Code, as amended.
- Act No. 455/1991 Coll. Trade Licensing Act, as amended.
- Act No. 519/1990 Coll. Commercial Code, as amended.
- Act No. 530/2003 Coll. On Commercial Register, as amended.
- Act No. 161/2015 Coll. Code of Contentious Civil Procedure
- Act No. 36/2005 Coll. Family Code
- Act. No. 82/2012 Coll. Civil Code.
- Nariadenie MV SR č. 53/ 2007 o postupe pátraní po osobách a veciach [Regulation of the Ministry of the Interior of the Slovak Republic No. 53/2007 on the procedures for searching for persons and objects].
- The Act of February 25, 1964, Family and Guardianship Code, Journal of Law 2020, item 1359, consolidated text from August 20, 2020.
- The Act of July 5, 2018, About succession management of a natural person's enterprise and other facilities related to the succession of enterprises, Journal of Law 2021, item 170.
- The Act of May 20, 1971, Code of Petty Offenses, Journal of Law 2021, item 2008, consolidated text from November 5, 2021.
- The Act of November 17, 1964, Code of Civil Procedure, Journal of Law 2021, Item 1805, consolidated text from October 4, 2021.
- The Constitution of the Republic of Poland of April 2, 1997, Journal of Law 1997, no. 78, item 483.
- Zákon č. 171/1993 Z. z. o Policajnom zbere v platnom znení. [Act on the Police Service].
- Decision of the Supreme Court of July 10, 2020, III CZ 16/20, lex database no. 3054429.
- Judgment of the Administrative Court in Poznań of May 25, 2017, III SA/Po 150/17, lex database no. 2306735.

- Judgment of the Administrative Court in Szczecin of June 18, 2014, I ACa 236/14, Legalis 1241503.
- Judgment of the Supreme Administrative Court in Warsaw of September 26, 2008, II FSK 789/07, lex database no. 495147.
- Judgment of the Supreme Administrative Court in Warsaw of September 17, 1997 (II SA 1089/96), lex database no. 31312.
- Judgment of the Supreme Administrative Court of April 18, 2013, II GSK 192/12, lex database no. 1337109.
- Judgment of the Supreme Court of Slovakia of July 11, 1997, No, 4Sž 38/97.
- Resolution of 7 judges of the Supreme Court of December 6, 1991, III CZP 117/91, lex database no 3709.
- Resolution of 7 judges of the Supreme Court of June 18, 1991, III CZP 40/91, lex database no. 3682.

