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A summary of the PhD dissertation titled
"The legal nature of a consortium agreement"

The subject of this PhD dissertation is to solve the problem of how to determine the legal nature of a consortium agreement in a situation when there is no uniform view of the juridical nature of a consortium that one could find either in the doctrine of law or in court decisions. The continuous development of economic cooperation in the form of consortium cooperation is contributing to the growing practical significance of the institution of the consortium. The lack of normative solutions, however, aggravated by differing views within the doctrine, accounts for the fact that legal issues arising on the grounds of consortium cooperation cause numerous doubts referring both to interpretation and application of law. This dissertation constitutes an attempt at comprehensive and practical discussion of the issues concerning the legal nature of the consortium agreement.

Chapter 1 of the dissertation, titled *"General issues"*, presents the main general issues concerning the idea of the consortium institution, and constitutes an introduction to the subject. The author presents the historical outline of the consortium institution, analyzes the etymology and dictionary definitions of the concept of a consortium, as well as its place in provisions of domestic, Italian and EU law, the doctrine of law and court decisions. The chapter ends with a classification of consortiums operating in economy and the author's original definition for designing a consortium.

Chapter 2 – *"The model of a consortium agreement in the contract practice"* offers the characteristics of the empirical model of a consortium agreement developed in the economic practice. The author analyzes the issue of the legal form, legal capacity, the goal and the subject of consortium cooperation. The chapter characterizes entities that may become parties to the consortium agreement, their rights and obligations and the issues related to sharing profits and incurring losses by them. The author also presents the repartition of legal and economic risks related to consortium activities and the issue of handling consortium matters and representing it.

Chapter 3 – *"The consortium versus other forms of economic cooperation"* was fully devoted to the comparison between the institution of a consortium and other forms of cooperation between economic entities. The author conducted a comparative analysis

covering cooperation forms that are similar to consortium cooperation, namely: a private partnership, a sleeping partnership, a special purpose company, a concern, a trust, a holding, a joint-venture, a European Economic Interest Grouping, a conglomerate and a cartel.

Chapter 4 – *"The limits of freedom in shaping the contents of the consortium agreement"* was divided into three sub-chapters. The first one attempts at providing legal qualification of the consortium agreement, paying special attention to characteristic features of the consortium agreement model developed in the contract practice and the conclusions drawn from the comparison between the consortium institution and other forms of economic cooperation included in Chapter 3. The second section discusses the absolutely valid (expressed in the Civil Code) limitations to contracting freedom, which entities starting their consortium cooperation must obey. It also mentions the consequences of the violation of the above limitations to contracting freedom. The author devoted the last section to the issue of consortium cooperation in the anti-trust law.

The last chapter – *"Additional issues"* focuses, firstly, on the issue of liability stemming from a consortium agreement. It discusses the liability of consortium members, both internally and externally, as well as the liability of an entity conducting matters and representing the consortium. Moreover, the author analyzes the issue of recourse claims and claim prescription. Secondly, the chapter presents procedural aspects related to economic cooperation. It determines who has capacity to be a party in a court case or proceedings and discusses the issue of active and passive capacity to be a party in a lawsuit. The author characterizes the institution of the main and secondary intervention referring to consortium cooperation. Thirdly, the chapter includes the issues of arbitration clauses, focusing specifically on possibilities offered by their application in the consortium agreement.

The conclusion to this dissertation includes the author's *de lege lata* comments based, in particular, on the analysis of the provisions of domestic and EU law, as well as views presented in the doctrine of law and judicature, as well as *de lege ferenda* remarks, expressing the postulate of absolute necessity of legislative intervention. To this purpose the author presented specific provisions that should be included in the amendment to the Civil Code and the Company Law Code.

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