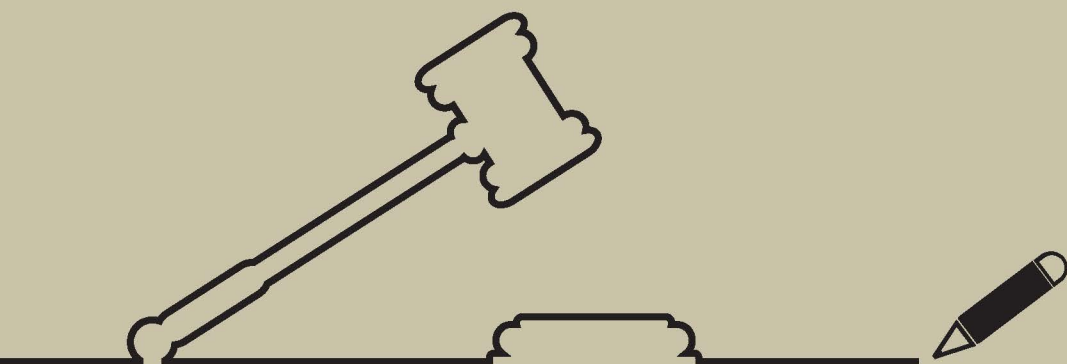


Bartosz Kucharski

POLISH COMMERCIAL LAW IN A NUTSHELL



WYDAWNICTWO
UNIwersYTETU
ŁÓDZKIEGO

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PREFACE

The present book developed mainly as a result of my lectures on Commercial Law at the Faculty of Management University of Łódź and formerly at the Koźminski University in Warsaw. I will be happy if it serves all those students who learn Polish law in English as well as students who set off to study abroad in English and seek books that could acquaint them with English legal terminology. Hopefully the work can also be of help to foreigners, especially foreign entrepreneurs who want to engage in business activity in Poland and need basic knowledge of Polish Commercial Law, as well as legal practitioners who have to explain the institutions of Polish Law to their foreign clients.

It is difficult to find on the market a comprehensive textbook in English that would correspond the structure of an academic lecture on Polish Commercial Law. “Polish Commercial Law: An Introduction” by Robert Lewandowski is much wider in the scope than this book and refers also to EU law, but it is rather rudimentary when taking into account Polish Partnerships and Companies. Nor does it cover commercial contracts, apart from some rules concerning their conclusion and the contract of sale, nor unfair competition and intellectual property law.

I wanted to simplify lecture on Commercial Law and adapt it to the needs of students who do not have general knowledge of law, especially those from Business and Management faculties. Usually lectures on Commercial law in Poland are divided into two basic parts: the first regards entrepreneurs, and the second regards commercial acts, mainly contracts. The present book follows this sequence. The first part deals mainly with partnerships and companies as the most important forms of organization of business

activity in the modern economy. The second part, apart from contracts, includes remarks on commercial papers (securities) as well as on the prevention of unfair competition and trademark law. The scope of the book made it impossible to cover other intellectual property rights and copyright.

Preparing this book I made extensive use of translations of Polish legal acts accessible on the market, especially the books: *Kodeks cywilny. Civil Code. Polsko – angielski. Przepisy dwujęzyczne* by T. Bil, A. Broniek, A. Cincio, M. Kielbasa; and *Kodeks spółek handlowych. Code of Commercial Companies. Polsko – angielski. Przepisy dwujęzyczne* by G. Domański, J. Palinka, K.A. Zakrzewski, both published by Wolters Kluwer Business in 2011. I have also used the translations of Polish legal Acts accessible via Internet. I am indebted to those who professionally translated Polish Law into English. Such translation is difficult for obvious reasons: English speaking countries have a common law legal system, which is quite different from the civil law system of continental Europe. Hence Polish concepts often do not have counterparts in common law countries, and vice versa. Proposing a completely new translation seemed not only difficult, but rather pointless as it would only lead to more chaos.

I would like to thank to Professor Wojciech Jan Katner for help in publishing this book and Dr. James Hartzell for checking the English text.

PART ONE

ENTREPRENEURS

Chapter One

NOTION AND SOURCES OF COMMERCIAL LAW

1. OBJECT AND METHOD OF REGULATION

Commercial Law regulates commercial turnover/transactions¹ in general. **Commercial turnover/transactions** may be defined from both the economic and legal point of view. From the economic point of view commercial turnover is understood as the exchange of the goods and services using the transfer of money or in-kind goods (goods which can be calculated in monetary terms). From the legal point of view commercial turnover encompass the activity of an **entrepreneur** rendering performance (selling goods or services) to another person within the scope of his enterprise's activity. In other words it may be said that commercial law regulates legal relations between participants of the market.

Commercial turnover include business to business relations (**B2B**), where both parties to a transaction are entrepreneurs acting within the scope of their professional activity. and business to consumer relations (**B2C**), where one party is an entrepreneur acting

¹ It should be noted that the terms 'turnover' and 'transactions' are basically interchangeable. A transaction, by definition, produces a turnover, and a turnover is based on a transaction. In Polish law the term 'turnover' is used, while in Anglo-Saxon legal systems the term 'transaction' is usually used. In this book the terms are used either simultaneously or separately, but unless otherwise noted they have the same meaning.