

NEWSLETTER

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The beginning of the limitation period for claims brought pursuant to art. 299 of Commercial Companies Code

We would like to kindly inform you about important from the point of view of members of a board in a limited liability company and their liability for the ineffectiveness of enforcement proceedings against the company, judgment of the Supreme Court dated on the 18th of February 2015 (file no. Act I CSK 9/14).

In this judgment, the Supreme Court analyzed the issue of determining the beginning of the limitation period for claims of creditors of the limited liability company against its members of a board, claimed under Art. 299 Commercial Companies Code. The Supreme Court considered whether the limitation period begins to run from the date of notification of the creditor provisions of the bailiff to discontinue the enforcement proceedings due to the ineffectiveness of enforcement or at the time of disclosure in the register of entrepreneurs information on rejecting the application for a declaration of bankruptcy due to lack of assets of the company allowing to cover the costs of bankruptcy proceedings and place an announcement about this in the Court and Economic Monitor.

The Supreme Court in its judgment indicated that **the course of the 3-year limitation period starts from the date on which the claimant learned about the ineffectiveness of enforcement proceedings against the company**, being aware of this **state of affairs must not only connect to the service of the order the bailiff to discontinue the enforcement proceedings because of its ineffectiveness; it can result from any evidence indicating that the company has no assets to cover commitments allowing to satisfy the obligations asserted in an action of Art. 299 of the Commercial Companies Code**, however, of crucial importance for commencement of the limitation period is the **creditor's knowledge about the event causing the effect, not the potential possibility for adoption of the messages.**
