

## THE CONCEPT OF NEGLIGENCE IN TORT LAW

(Abstract)

The main research problem of the thesis is analysis of the concept of negligence that gives rise to a number of interpretation and systemic doubts, both in the doctrine and judicial practice of the Polish tort law. In this dissertation, the author attempts to answer the following questions: 1) what tort negligence actually is, 2) if the traditional, two-element concept of civil law fault proves itself in determination of tort negligence and if not - what other concept it could be replaced with; and 3) if the term 'negligence' should be defined by the legislator.

The thesis consists of nine chapters. Chapter one is dedicated to the genesis and characteristics of tort liability. It presents the basic terms regarding liability for damages as well as the rules of functions of same. General comparative remarks regarding the notion of criminal law fault and civil law fault are put forward in chapter two. Chapter three is devoted to the interpretation of the notion of guilt in the context of liability for damages. This part of the thesis presents, *inter alia*, the concept of tort fault in the French and German law as well as the common law system. It is also an attempt to depict differences between tort fault and fault proper for the *ex contractu* liability regime. In chapter four, the author analyses the issue of the role of behaviour standards in the context of assessment if the given behaviour is to be deemed negligent or not. This part of the thesis presents also the genesis of behaviour standards and the role these standards play in the tort law in the Polish legal system as well as the French, German and common law systems. Chapter five refers to the issues related to criteria applied by courts in resolutions concerning negligence. In this part of the thesis, the author investigates the method of construction of behaviour standards. Chapter six is dedicated to the notions of unlawfulness and due diligence. In this part, the author addresses the issue of possible separation of these notions and their mutual relation. Chapter seven investigates the issue of tort liability of legal persons for tort negligence. On the other hand, chapter eight refers to the issue of negligence of the injured party. The last chapter (nine) regards the issue of perception of negligence and the institution of tort liability by the representatives of the so-called economic analysis of the law.