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LA RESPONSABILITÀ DELL'AMMINISTRATORE NELLA
S.P.A. IN CRISI

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ABSTRACT

International financial and economic crisis has recently enhanced the debate about powers, duties, and responsibilities of company's directors in coping with default.

The topic is systematically connected not only with Company Law and Corporate Governance matters but also with Bankruptcy Law and crisis management tools.

Moving from a brief overall framework about directors' general duties, the dissertation focuses on default's consequences on director's role in Corporate Governance and related effects on business judgment and management.

The analysis deals with different issues regarding directors' responsibility for having caused or aggravated default, for having failed in promptly and effectively perceiving crisis' signals, or for not having adequately overcome the collapse.

Further, the study refers to some questions more closely related to directors' liability in insolvency proceedings, pointing out different opinions in interpretation and case law, especially about requirements, burden of proof and damages.

In a comparative perspective, the work also outlines the debate about UK wrongful trading, introduced in the UK Insolvency Act 1986 and quoted in EU Commission's 2003 Action Plan, considering main peculiarities and weak points of such discipline.

Finally, taking into account that Italian law does not arrange specific alert and prevention tools, the research offers a reflection on the opportunity of creating a system based on diligence and good sense that, moving from the current set of rules and respecting liability's general regime, could set up an effective protection against default's mismanagement.