

Università degli Studi di Salerno



**Dipartimento di Studi Internazionali di Diritto ed Etica dei Mercati
Dottorato di ricerca in Diritto internazionale e diritto interno in
materia internazionale: Public ethics, Person, Stakeolders and
Corporate Social Responsibility**

PhD – PESPECO

XIII Ciclo

Tesi di dottorato in

“L’estinzione delle società”

Il Coordinatore

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Abstract

The study discussed in this text aims at making a general survey about the procedure that begins with the company's resolution of dissolution and wound up decreed by its members during an extraordinary meeting or under the impulse of its directors and ends with the company extinction.

This analysis has taken in particular consideration all those issues that have always enlivened-also nowadays-the Science of Law and Jurisprudence as to the Judge Register's powers and the Curator's ones during the closing of the company and with reference to the claimed transversality of the rule cited in art.2495 c.c. as well as the state of pendent societates' established judgements,the assets and the contingent ones adding the supposed mechanism that allows their transfer to the ex-members seen as a sort of phenomenon which echoes the right to successions sanctioned by the Legislator in favour of "natural person".

Particularly,they have been taken into consideration the many and various contributions offered by the Science of Law and Jurisprudence initially caused by the interpretation of the discipline dealing with the study-object included in the Mercantile Law and then strengthened in consequence of the Civil Code coming into force in '42,of d.lgs.n.6/2003 and later of d.lgs.n.175/2014.

In reference to this Legislator's last intervention,it has been highlighted how art.28 d.lgs.n.175 having ascribed the Exchequer the possibility to "attack"-within five years from the company's cancellation in the Company Register and by now extinguished-in order to carry out a better and more effective action of collection of the owing duties,seems to brush up the theories developed by Jurisprudence in the period from the Civil Code coming into entrance to the "news" of hthe Compay Law intervened in 2003,reddevelopments debated in occasion of the latest arrest carried out by the Court of Cassation in joint divisions.

This last normative arrest seems to be giving start to an extinctive process in two “speed”: the one for the “normal” credit class who is obliged to accept the debtor’s disappearance since his striking off the Company Register and the other one for the creditor Exchequer to whom a more convenient timing is obviously granted.

At last,we have tried to restore the subsisting relationship between the different kinds of responsibilities charged to both liquidators and members of art.2495 c.c.and of art.36 d.p.r.n.602/1973,pointing out the Legislator’s critical state who often decides interventions not well coordinated between each other.