

Claim and dispositions with it

Abstract

This thesis aims to provide readers with a comprehensive insight into the law of obligations with regard to the theoretical concept of a claim and analyze its place in the legal system as a concept of relative property law and at the same time thing from the perception of the current civil law.

The first chapter presents the characteristics of an obligation and its cause and further elaborates on its origin, changes and termination. The second chapter analyses the nature of a claim, as the right of a creditor to demand performance from a debtor from both theoretical and practical point of view, taking into account the genesis of understanding of this institute from Roman law to the current apprehension in the law of the Czech Republic. For the sake of completeness, a chapter on debt has also been included in the thesis, in order to analyse debt as an institute standing on the other side of the spectrum of an obligation with emphasis on possible dispositions therewith from the point of view of the debtor and the creditor.

The fourth chapter deals with the pivotal theme of the thesis, namely dispositions with receivables and their limitations, which arises from the fact that a receivable, although being a property value owned by its creditor, stems from the relationship between creditor and debtor, whose legal status should not (without his consent) be affected by disposition with a claim. The chapter on dispositions thus analyses an assignment and pledge of a claim, taking into account the consequences of such dispositions in the event that the same is contractually (or as right in rem) limited by an arrangement between the creditor and the debtor. Dispositions that may at first sight seem legally impossible or practically unusable, such as the holding of a claim, the right of retention thereover or the right of lease or *ususfructus* lease to a claim, are also covered by this chapter.

The fifth chapter is dedicated to the aspects of dispositions with receivables in international trade and deals with the conflict arrangements, the substantive aspect of a claim in determining the applicable law and the protection of the debtor in transactions between parties from different countries.

Chapter six proposes the *de lege ferenda* stated regarding certain points identified in the work as unsatisfactory from the point of view of practice in the current legislation. The last chapter summarizes the partial conclusions of the work and attempts to synthesize them in a comprehensive manner.

Keywords: obligation, claim, dispositions