

Security interest and related institutions in comparison with Spanish legislation

Abstract

The aim of the author of this rigorous thesis was to compare Czech legislation of security interest and institutions related to security interest with Spanish legislation. In the first part of the thesis, the author outlined general and elementary aspects of security interest in the Czech Republic and Spain and then focused on the comparison of these aspects in the context of the historical development of security interest.

Following this historical excursus through the regulation of security interest, the author addressed various aspects of security interest, related prohibitions that can be established and functioning of the relevant registers in which security interest can be registered. Emphasis was placed on comparison of the regulation of those aspects which differ from one legislation to another.

The first chapter of the second part of this rigorous thesis was dedicated to the regulation of mortgage, i.e. security interest over immovable property. In this chapter, the author focused on the definition of immovable property under both legal systems, the constitutionality of registration of mortgage in the relevant public registers and the voluntary nature of registration of immovable property in the Real Estate Register under Spanish law. Under this point, the author also included the issue of the declaratory effects of the registration of transfer of ownership of immovable property and the imatriculation of immovable property, i.e. its first entry in the public register.

In the following chapter, the author of this rigorous thesis focused on the regulation of pledge over receivables. The author addressed the issue of pledgeability of a receivable and compared the two types of pledge over receivables that can be established under Spanish law, namely the so called ordinary pledge (in Spanish: *prenda ordinaria*) and pledge without transfer/change of possession (in Spanish: *prenda sin desplazamiento de posesión*) with the methods of creating pledge over receivables under Czech law, i.e. pledge over receivable that is created already when the pledge agreement comes into effect and pledge over receivable in relation to which the parties have agreed on its registration in the Register of Pledges.

In the third chapter, the author focused on the institution of forfeitable pledge and its admissibility in both legal systems.

The fourth and final chapter of the second part of this rigorous thesis was dedicated to the institution of antichresis.