

Summary

The subject of the PhD thesis is an attempt to create model statutory pledge which is based on the constitutive features of the pledge and established on the basis of regulation of the pledge in the Polish and Ukrainian law. The PhD thesis is a comparative law study that is aimed at determining the characteristics of statutory pledge, their assessment and proposing the use of optimal solutions in their scope.

Within the meaning of this PhD thesis, model statutory pledge is a universal, super-systemic law. It is an abstract, pure legal institution, which, by assumption, can be applied in any national legal system as well as in cross-border trade. In principio it is free from any systemic conditions that is specific solutions resulting from the specificity of a particular legal system.

The constitutive features of the pledge, on the ground of this PhD thesis, are understood both in a static and dynamic approach. In the static approach, they mean the properties of the statutory pledge which define it as a legal institution and in the dynamic approach they define it as a phenomenon functioning on the trade.

The PhD thesis is divided into three chapters. Chapter I and chapter II are additionally divided into two parts. Chapter I contains introduction to the subject of pledge and pledge rights; the first part of this chapter presents genesis and historical development of the pledge, including its evolution in Polish and Ukrainian law. The second part presents current regulations pertaining to pledge rights in selected, representative for the most important families of law systems: German, French, English, American and Russian. These systems have been taken into account due to the specificity and cognitive value of the regulations that they contain. The second part includes also a discussion of the process of work on the creation of super-systemic pledge rights which are needed to regulate community trade.

Chapter II contains detailed analyses of the essence of pledge in Polish law (part I) and Ukrainian law (part II). The analyses include the legal nature of pledge in these systems, its location in the systematics of law, the classification of pledge rights and the characteristics of their separate types, as well as specifying the characteristics of the pledge for each of the system. Moreover, problems related to each of the above issues are highlighted.

Chapter III is the proper summary and synthesis of the results of the research carried out in the earlier chapters of the PhD thesis. It determines the constitutive features of the pledge in the light of Polish and Ukrainian law based on the conclusions set out in the Chapter

II. Catalogues of features listed in both systems as characteristic are juxtaposed with each other and solutions for individual issues are compared and assessed. At this point, an assessment is made to whether the properties indicated on the basis of one of the discussed systems as characteristic are constitutive features of the pledge, or whether they are relevant only from the point of view of the concept adopted by legislators.

On the basis of the conducted analyses, an attempt is made to create a universal, model statutory pledge. The basic assumptions are formulated, and detailed solutions are proposed for some problem issues.

Based on the obtained results resulting from the developed concept of model law as well as from the analysis of each of the systems discussed separately, *de lege ferenda* postulates are formulated for Polish and Ukrainian law.

The model statutory pledge resulting from the research conducted in the PhD thesis is a part of the definition of pledge rights functioning in the Polish doctrine which allow to secure the obligation in such a way that in case of default of the debtor, the creditor acquires the right to obtain satisfaction from the subject of the pledge with priority before other creditors of the debtor. At the same time, there is a need to regulate issues relating to functioning of model statutory pledge in the market.

Therefore, the conclusions obtained from the analysis and evaluations applied in Polish and Ukrainian law have been used to build a model law. In this light model statutory pledge is an institution detached from any concept of its location in legal system.

In this light a model statutory pledge is an institution detached from any concept of its positioning in the system, has an accessory character, which is not influenced by the acceptability of a temporary solution in junctim between the securing relationship and the secured debt, is characterized by its securing function, and a big emphasis is put on the aspect of transparency, which is obtained by registration in a uniform, publicly accessible register. Registration of the pledge in its model approach is also related to the emergence of its effectiveness *erga omnes*.

The model statutory pledge is intended to be a flexible law that provide a convenient and attractive hedging instrument for trading participants. For this reason, it allows the possibility of establishing a pledge on a wide spectrum of items, defined through the prism of the condition of "pledges", and also assumes a wide range of possibility to use a simplified means of compensation outside of execution.

The postulate for the model statutory pledge is also extended, in relation to the current legislation of Poland and Ukraine, its effectiveness on three levels of its emanation - in trade,

in execution and in bankruptcy. In the last two cases, it also provides for the possibility of excluding the object of security from enforcement and from the bankruptcy estate. The possibility of forming the general framework of relations by the parties in accordance with the principle of the autonomy of the parties' will is also widely considered.