

# Obligational means of securing claims in the international trade

## Abstract

The subject of this dissertation is obligational means of securing claims and their functioning in the commercial transactions with international coverage. The thesis is primarily concentrated upon the statutory securing instruments most often encountered in practice *i.e.* surety, financial (bank) demand guarantees, contractual assignment of receivables *causa cavendi*, letters of credit and letters of intent.

The thesis is divided into four parts. The first part deals with the introduction into the subject of negotiable instruments of securing obligations, provides an overview of the historical development of selected instruments, endeavours to outline the difference between the securing instruments conceived as rights *in rem* and those seen as obligations and eventually raises the issue of methodology. Afterwards the analysis is carried out on two levels: in the second part the author focuses on the applicable approach in determining the governing law in accordance with international and national regulations and afterwards on the topic of the unified norms developed by the international organisations that may be relevant in the light of the thesis' subject-matter. In this regard the works of the International Chamber of Commerce in Paris and of the United Nations Commission on International Trade Law (UNCITRAL) are the centre of attention. In the third part the author analyzes binding legal regulations on the securing instruments in the Czech Republic, France and Poland. Finally, the fourth part concentrates on the conclusions drawn from the performed analysis.

To reach its objective, the thesis is based upon the contemporary and past provisions on the national and international level, the same as on the findings of the expert literature. These results are further supplemented by the case law.

**Keywords: surety, demand guarantees, letters of credit, private international law, international trade**