

ABSTRACT

This thesis focuses on selected interpretation issues accompanying the particular stages of the existence of a pledge over a business enterprise. First, the thesis provides the basic definition of a business enterprise, with an emphasis on the characteristics relevant for the pledge purposes. In addition to the analysis of its legal definition, the thesis comes to defining the business enterprise as a special kind of a collective asset. The text further focuses on the moment the pledge over the business enterprise is created. It concludes that the pledge over the business enterprise itself, including each individual asset forming it, is created upon constitutive registration in the registry of pledges. The centrepiece of the analysis supporting this conclusion is represented by the concept of a business enterprise as a functional unit, which is dealt with as such by the law, and not only in connection with the creation of a pledge. The next part of the thesis addresses the consequences of this mode of creation of a pledge for the protection of the good faith of third parties. It comes to the conclusion that, if a third party acquires a right in rem to a particular asset forming the pledged business enterprise, in good faith in the absence of its encumbrance, where the pledge over the business enterprise is not declaratorily registered in relation to that individual asset in the registry of pledges or a public register, then the third person acquires the right in rem as if there was no pledge of business enterprise in place. This fact will then be manifested in particular by the termination of the pledge over the business enterprise in the corresponding extent, if the third party acquires an ownership right to the individual asset, eventually it will be reflected by the application of rules on the order of satisfaction, if the third party acquires a pledge over the individual asset. The following section analyses the combination of the pledge over the business enterprise as a whole on the one hand, and the pledge created over the individual assets forming it on the other. In addition to describing the situations where these combinations may occur, this section also analyses the order of satisfaction of the relevant pledgees. The analysis in the last chapter focuses on selected issues of enforcement and termination of the pledge over the business enterprise. As in the context of the creation of the pledge, the analysis also emphasises the concept of a business enterprise as a functional unit. As a result, the thesis concludes that the pledge can be enforced only in relation to the business enterprise as a whole, and the same conclusion will then apply to the selected methods of termination. In addition, the thesis addresses in detail and summarizes the methods in which it is possible to terminate the pledge over the business enterprise only in relation to the individual assets forming it, with or without the consent of the pledgee.