

Abstract

In this thesis, the author aimed to describe the specifics of agreements on financial collateral in accordance with section 323a of the act no. 513/1991 Coll. the commercial code, as amended. The Author used a method consisting of describing the purposes of traditional elements of those security instruments, which are broken and modified by the provisions enabling agreements on financial collateral in the first part of the thesis, and further applied the purposes to the provisions enabling the agreements on financial collateral itself in the second part of this thesis. As to the additional method of approach, the author judged this security instrument from the point of values and principles, which are the most reflected in its provisions.

Author implied that the specifics of an agreement on financial collateral consist in vast differences from the traditional security instruments. These differences lie in the area of formation of such security instrument, the area of rights and duties of the contracting parties during the existence of the financial collateral, as well as the possibilities of the satisfaction of the creditor from the collateral.

Author's conclusions may be summarized by the following. Agreements on financial collateral are characteristic by high extent of application of the contractual freedom. Although this is generally a positive aspect, it may occasionally lead to a breach of certainty of the contracting parties about the consequences of the transaction. The legislator also relinquished all attempts to protect the debtor, as the economically weaker party. Therefore the provisions regulating agreements on financial collateral set the equivalent conditions for all kinds of contracting parties, which should, together with the substantive contractual freedom, lead to a higher affectivity of their performance.