

Abstract

Legal aspects of the securing of obligations in international trade

The securing of obligations in the international trade is recently, possibly more than ever before, very topical issue, and the reason is quite clear – there is a strong need to secure international contractual obligations by effective and reliable securing instruments because of the economic and debt crises which started in 2008 and has been still a very actual problem.

This thesis focuses on legal relations arising from the securing of contractual obligations in the international trade. The goal of the thesis is to describe legal aspects of securing obligations considering the determination of an applicable law, under which the securing is governed. Because of the author's long-term working bank experience, the final part of the text deals with a securing by a bank guarantee.

In the first part of the thesis there are described legal relations in which an international element appears, and there are also described a purpose, function, categorization and different types of securing instruments respective of the international trade.

The second part of the thesis deals with the problem how to determine which law is the applicable one for securing of obligations in the international trade. There are described legal aspects of international private law relations in which an international element appears, aspects of the qualification problem and the mutual relationship between provisions of a collision law as well. In this part of the study author describe the choice of the law for relations which incurred from securing of legal obligations. Further, a description of the legal regulation of securing in the new International private law act must not, of course, be lacking in this part.

The third and final part of the thesis includes a detailed description of securing of contractual obligations by a bank guarantee. There are described legal aspects of a bank guarantee in the point of view of the Czech Business Code and of

the uniform rules for guarantees. Additionally, there are mentioned different types of bank guarantees which are also examined in detail in this part. In the end of the thesis author describe a legal framework of the determination of the applicable law for bank guarantees.