Turiba University

Irina Gafta

SYNOPSYS OF DOCTORAL THESIS

FINANŠU UN AKCESORISKĀS SAISTĪBAS: TIESISKĀS PROBLĒMAS UN RISINĀJUMI

FINANCIAL AND ACCESSORY OBLIGATIONS: LEGAL ISSUES AND SOLUTIONS

Study programme: Law Science

Developed for obtaining a doctoral degree in Law Science
in the subfield of Civil law

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The doctoral thesis was developed at the Faculty of Law of Turiba University between 2016 and 2025.

Scientific supervisor:
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The defense of the doctoral thesis will take place at Turiba University in an open session of the Doctoral Council of the Faculty of Law science on **April 24, 2026, at 1:00 p.m.,** at Turiba University, Faculty of Law, Riga, 68 Graudu Street, Room C205.

The thesis and its summary are available at the library of Turiba University, 68 Graudu Street, Riga.

Chairman of the doctoral council in the field of Law Science:
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Relevance of the topic

The Obligations section of the Civil Law was reinstated, but no significant amendments were made to it. A study on the modernization of the section on obligations was conducted in 2007, but a new version of this section has still not been introduced, despite the adoption of important doctrinal documents such as the UNIDROIT Principles of International Commercial Contracts, the Principles of European Contract Law, the draft European Contract Code, and the Regulation of the European Parliament and of the Council on a Common European Sales Law, the principles of which have been implemented in Latvia.

The established Latvian collateral security institute does not meet modern requirements, because at that time monetary obligations were established and loans were granted in cash and non-cash form, however, as a result of global progress, new financial assets have emerged over time - electronic money that can be issued by commercial banks, financial instruments (including derivatives), and, in the 21st century, virtual money or crypto assets, the circulation of which is ensured by innovative blockchains and smart contracts. This creates a need to establish a legal definition of financial obligations in order to promote the protection of the rights and legitimate interests of parties involved in civil law relationships in line with today's challenges. Nowadays, mortgage securitization, as well as asset tokenization and pledging, are used to secure obligations, which requires a review of the existing accessory rights norms and regulations and their targeted adaptation to innovations.

Balancing the interests of the collateral security institute with those of debtors would make a significant contribution not only to improving the investment environment, but also to the development and sustainability of secure lending, and broader economic policy measures would be needed to provide a basis for the sustainable development of lending and improve confidence. In the author's opinion, improving the protection of debtors' rights will create an attractive environment for investment, thereby supporting economic development. Due to the intensification of commercial banking activities and economic development in recent years, lending has been growing dynamically and financial credit relationships are becoming increasingly popular in the 21st century. However, a stable and sustainable lending system cannot exist without not only the creditor as the lender, but also the borrower, as well as the protection of the rights and interests of the debtor, which is essential for the sustainable development of the economy.

The existing case law and interpretation of the rules on accessory obligations indicate that the legal regulation of obligations lags behind modern requirements, highlighting the need for a comprehensive study of accessory obligations from a theoretical perspective, as well as from the perspective of the practical application of the relevant norms, putting forward proposals for their regulation.

Scientific novelty and significance

The scientific novelty of the study lies in the study of the composition of complex accessory obligations and their collateral, the study of financial assets as the object of obligations, and the study of the problems associated with the enforcement of related accessory obligations from the perspective of respecting the property interests and rights of creditors and debtors. Although accessory obligations are a relatively widely used legal institute with a history dating back thousands of years, there are not many sources in the Latvian legal literature devoted specifically to the institute of accessory obligations.

The author aims to highlight the fundamental nature of the study – it focuses on the clarification and development of the principles and basic structures of the legal system of accessory obligations, examining the genesis of financial assets as objects of obligations and their collateral in the context of civil law circulation, defining the concept of financial obligations, and exploring the interaction between the principle financial obligations and accessory obligations nowadays.

In the course of the research, the author sequentially examines the history of the establishment of the institute of accessory obligations, its content and impact on the performance of principal obligations, as well as the problems that exist in practical application. The added value of the study arises not only from the author's multi-year experience as a lawyer dealing with the existing problems of the performance of accessory obligations, especially in the context of the global economic crisis that occurred after 2007, but also due to her work in the field of legislation in the 11-th Saeima of the Republic of Latvia, performing the duties of a member of parliament and promoting a number of proposals for the improvement of the Latvian regulatory enactments, including those concerning accessory obligations. Some of them were supported, whereas proposals concerning the liability of guarantors were not supported.[1] The author also used the knowledge gained during the legislative process in the development of the present doctoral thesis.

The most significant problem in practical terms that has been identified is the incompatibility of the legal regulation of accessory obligations with current requirements, while with regard to the performance of accessory obligations, disproportionate liability has been identified on the part of debtors, pledge providers, and guarantors for the debtor's unfulfilled

[1] Draft law "Amendments to the Civil Law" (No. 536/Lp11) for consideration in the second reading. Saeima website. Retrieved on 01.10.2024. from: https://titania.saeima.lv/LIVS11/saeimalivs11.nsf/0/3D7503AF32534987C2257B3B0039DE89?OpenDocument

obligations to creditors. Therefore, the author analyses the existing problems in the thesis and puts forward proposals for improving the institute of accessory obligations from the perspective of protecting the rights of debtors, pledgers and guarantors in order to balance the rights of creditors and debtors, thereby promoting the stable development of the economy and, in particular, the national economy.

Practical application

Today, this study is the only scientific research that comprehensively and thoroughly examines the institution of accessory obligations and the problems of its practical application, taking into account modern innovative financial assets and instruments.

In practical terms, the novelty of the paper lies in the evaluation of a significant amount of case law and drawing relevant conclusions, which was made possible by an in-depth study of innovations in the law of obligations and accessory rights. The study is significant for the development of civil law science. For most of the issues examined, the solution proposed by the author is innovative.

The content of the doctoral thesis is applicable in the academic environment and in the professional further education. The main practical significance of the study can be assessed from the point of view of legal innovation, using the study as a basis for amendments to the relevant regulatory acts.

Research object and subject, objective, tasks, questions, and hypothesis

Object of the study – civil law relations based on financial and accessory obligations.

Subject of the study – civil law regulation and practice of accessory obligations in the modern and historical context.

The **objective** of the study is to create a theoretical basis for understanding the civil law aspects of accessory obligations and financial obligations as a result of research into civil law issues, to identify gaps in theory, the shortcomings in civil law regulation and practice, and to put forward conceptual proposals for the creation and improvement of legal regulation.

The following **tasks** are set to achieve the objective of the doctoral thesis**:**

1. Conduct research into the historical development of accessory obligations, explaining the scope and content of this concept in civil law;
2. Summarize and describe the means of securing obligations and accessory obligations, examining the compliance of the characteristic elements of the institution of accessory obligations with modern requirements;
3. Analyze modern types of financial assets that form the basis for the creation of new obligations and the establishment of accessory obligations;

4. To examine the genesis of financial assets as objects of liability, emphasize the importance of the legal definition of financial liabilities, and clarify the interaction between principal and accessory liabilities.

Research hypothesis: Nowadays, the development of financial assets is incompatible with the outdated legal framework regulating accessory obligations and thus does not contribute to the adequate protection of individuals' rights.

The study is based on Latvian and foreign scientific literature and publications. The practical overview covers aspects of securing obligations established in Latvian and foreign court practice, which are included in accessory obligations.

Boundaries of the doctoral thesis

In order to achieve the objective of the study, the research into civil law issues relating to financial and accessory obligations has created a theoretical basis for understanding its civil law aspects, the shortcomings in civil law regulation, theory, and practice are identified, and proposals for improving the legal framework are put forward. For this purpose, the legal framework related to accessory obligations is examined, as well as the genesis of financial obligations and trends in their development. To reflect the issues, Latvian and foreign court rulings and their findings are used, as well as the works of legal scholars and other authors who directly or indirectly examine and study the relevant field, and an analysis of the interaction between financial obligations as the principal obligations and accessory obligations is carried out. As part of this research, the author conducts a comparative analysis of the relevant legal norms with similar or identical norms in foreign regulatory norms, including those of the Baltic States, European Union countries, and other countries.

Accessory obligations affect many sub-branches of law: Property and Obligation law, Commercial law, Insolvency law, and Financial law. The study is limited to the examination of principal obligations under contract law, where the object of the transaction is financial assets as well as the study of related accessory obligations as objects of civil circulation, assessing modern means and methods of securing obligations.

Scientific research methods

In order to achieve the objective of the study and perform the tasks, the author conducted research on normative legal acts, scientific doctrine, and court practice, applying the **following general scientific research methods**:

1) One of the main research methods used in the study is analysis. It is used to examine legal literature on the concept of accessory obligations, legislation, various court practices, and case law;

2) The comparative method is used to compare the relevant Latvian legal framework with the legal frameworks of other countries, because their experience in developing a uniform liability framework for contractual transactions is valuable not only as a basis for legal unification, but also as a wide range of material for researching fundamental issues in contract theory;

3) The inductive method is used to show how legal norms and general principles of law are specified by those who apply them, including by studying the specific actions of those who apply legal norms and analyzing the causes of errors, as well as generalizing insights gained through practice, transferring them to legal dogmatics, identifying and formulating interrelationships, drawing conclusions, and putting forward proposals;

4) Using the method of deduction, the study draws conclusions about the practical application of specific legal norms based on general theoretical findings and a summary of normative regulations;

5) The dialectical method is used to study trends in the development of legal regulation and to find solutions for the creation and improvement of laws on accessory and financial obligations.

The study also uses the following **methods of interpreting legal norms**:

1) The grammatical (philological) method of interpretation is used to clarify the meaning of legal norms regulating accessory obligations from a linguistic point of view, evaluating the terminology used, explaining the understanding and application of words and concepts in civil law;

2) The historical interpretation method is used to observe the dynamics of the development of the concept and understanding of accessory liability, as well as to study the concept and interpretation of financial liability. The material under study will be examined from a historical perspective in order to determine how and what has influenced the content of specific legal norms, their development and qualitative changes;

3) The systemic method of interpreting legal norms is used to explain the interrelationships between accessory obligations:

a) and other provisions of the Civil Code;

b) and other regulations and normative acts, and general legal principles;

c) and similar legal norms and regulatory acts in the legal systems of other countries and in international law.

4) With the help of teleological (meaning and purpose) interpretation methods, the meaning of legal norms (Latin: ratio legis) is clarified in the thesis, taking into account the

objectives of expediency and fairness of legal norms, assessing the compliance of the application of legal norms with the content of the legal norm.

References and legal sources

Although accessory obligations are widely used nowadays, establishing pledge rights arising from obligations, there is no comprehensive study of the institute of accessory obligations in Latvia.

The theoretical and methodological basis of the study are based on the findings of the Latvian legal scholars A. Grūtups, Professor K. Torgāns, Professor J. Rozenfelds, G. Višņakova, I. Ziemele, and Senator E. Kalniņš. A substantive study of accessory obligations has been conducted analyzing the relevant commentaries on the Civil Law of the Republic of Latvia published in 2000, but these do not address the issues that have become relevant in the 21st century.

The author used fundamental research by foreign authors (*L.Arndts, G.Dernburgs, U.Drobnig, R.Domingo, K.Erdmans, D.D.Grimm, R.Ihering, D.Jones, M.Kaser, D.I.Mejiers, J.M.Milo, O.Palandt, K.P.Pobedonoscevs, A.M.Rabello, T.C.Sanders, S.P.Scott, E.S.Shaw, K.A.Vangerow, B.Windscheid*) as well as the studies of the local authors - V.Blūzmas, S.Osipovas, G.Zemīša, O.Ozoliņa and V.Kalniņa.

The findings of such local authors as K. Balodis, J. Briede, Ž. Bundurs, Professor G. Lībermans, S. Saksonova, H. Vebers, as well as the insights from the doctoral thesis of R. Neilands and the findings of foreign authors' (*S.M.H. Adil, F.Allen, G.Alpa, H.Almeida, K.Arrow, I.Asmundson, C. von Bar, B.Bemanke, P.Benjamin, E.Bertero, A.Brender, J.H.Boyd, M.Bussani, A.W.Boot, P.J.Carney, A.C.Ciacchi, P.Citovičs, A.U.Clark, C.Contreras, I.Czeguhn, S.Y.Deku, M.Deschamps, L.A.DiMatteo, S. van Erp, Y.Feldman, K.D.Felsen, I.M.García, K.M.Geens, N.Goderdzishvili, C.J.Goetz, J.G.Gurley, B.Guttmann, M.Habersack, A.N.Hatzis, C.Hertel, H.W.Heyman, H.Honsell, M.Kaczorowska, P.R.Kaplan, I.Kharazi, A.Kosuki, F.A.Longstaff, M.A. de la Mata, U.Mattei, C.Mayer, H.-W.Micklitz, F.Moretto, D.Z.Nirenberg, J.M.Peaslee, M.*Počuča, *C.Proctor, M. van Quickenborne, S.A.J.Rea, R.M.Rosenswig, C.Segre, C.U.Schmid, A.Steven, O.M.Stöcker, R.Sturner, T.Tajti, A.Thiele, T.Tomczak, N.V.Tskhadadze, L. van Vliet, F.Werro, P.Widerski, X.E.Xu, R.Zimmermann*) research have been used to reveal the content of accessory obligations institute and financial obligations.

The study also uses research and legal literature published before the proclamation of Latvia's independence, whose authors are the authoritative legal scholars of the time, V.

Bukovskis, K. Čakste, F.Konrādi, V.Sinaiskis, A.Walter, as well as the findings presented in A.Būmanis' doctoral dissertation dedicated to the guarantee.

The study analyzes the legal framework related to accessory obligations arising from the Satversme (Constitution) of the Republic of Latvia, EU regulations and directives, as well as Latvian regulatory enactments. An analysis of international standards, principles, reviews and guidelines has also been carried out, and foreign legal regulations have been used. The doctoral thesis also uses historical regulatory acts, such as the compilation of the local civil laws, as well as case law established before the proclamation of Latvia's independence. The analysis of court practice, case law, and European case law has been of significant importance in the study, allowing for the specification of the content of accessory obligations and the identification of flaws and shortcomings in their legal regulation.

Scope, structure, and synoptic presentation of the contents of the thesis by chapters

The total volume of the doctoral thesis is 160 pages. The doctoral thesis consists of an introduction, three chapters, conclusions and recommendations, as well as a list of references and sources used. The doctoral thesis uses 153 references, as well as other sources of information.

Each section of the paper examines the relevant issues summarizing the main results and conclusions.

The **first chapter** of the thesis explains the content of the concepts of the object and subject of the study, their historical development, and a description of the activities of the relevant entities, forming a common legal definition for the understanding of the content of the subsequent chapters on the modern legal regulation of accessory obligations.

The **second chapter** of the thesis explains the means of securing accessory obligations, analyzes the existing legal framework and court practice, reflects on problematic issues and shortcomings in the regulatory framework, and develops models for addressing them.

The **third chapter** of the thesis analyzes the genesis of financial assets as objects of obligations in civil law circulation, proposes a legal definition of financial obligations, examines the securing of obligations with financial instruments and innovative assets, and analyzes the interaction between accessory obligations and principal financial obligations.

Aprobation of work results

The author of the doctoral thesis presented the theoretical and practical results of her scientific activities and research in scientific publications reviewed in scientific journals, the journal “Jurista Vārds”, as well as at Latvian and international scientific conferences, presenting individual issues and offering possible solutions.

The author has published one book, **"Current Issues in the Institute of Asset Securitisation. A Study of Civil Law"**. Published: LAMBERT Academic Publishing. Germany, 2016. ISBN 978-3-659-93906-8.[2]

The journal "Jurista Vārds" has published an article **"Civil law aspects of the legal status of virtual currencies."**.[3]

The author's previous research within the framework of her doctoral thesis has been presented in separate reports at **15** international scientific conferences in Latvia and abroad.

Several scientific publications on the research topic have been published in local and international peer-reviewed collections and journals. Several scientific publications on the research topic have been published in local and international peer-reviewed collections and journals. **One** publication is included in the internationally cited scientific article database *SCOPUS*, **one** in *Web of Science*, **five** publications are included in scientific article collections that were included in the *ERIH Plus* database, **four** publications are included in the *EBSCO* database, **five** publications are included in the internationally cited scientific article database *Index Copernicus International* (ICI), and **four** are included in Ulrich's Periodicals Directory.

Presentation of research findings at scientific conferences:

1. 23.04.2015. Participation in the conference "Contemporary Trends in the Modernization of Private Law" organized by the Baltic International Academy with a presentation on the topic "Civil law aspects of guarantor liability".
2. 11.12.2015. Participation in the IV International scientific and practical conference "Transformation Process in Law, Regional Economy and Economic Policy" organized by the Baltic International Academy, Rīga Stradinš University, Daugavpils University and Masaryk University with a presentation on the topic "Current problems of suretyship as a type of accessory obligation".
3. 21.04.2016. Participation in the Scientific and practical conference "Current Trends in the Modernization of Private Law" organized by Rīga Stradinš University, Baltic International Academy, the College of Law, Utena College and Latvian Lawyers' Association with a presentation on the topic "The modern use of promissory note of exchange in civil transactions".
4. 08.12.2017. Participation in the VI International scientific and practical

[2] From Russian – "Актуальные проблемы института поручительства. Гражданско-правовое исследование"
[3] Cvetkova, I. "Civil law aspects of the legal status of virtual currencies.". *Jurista Vārds*. No. 45(1051), 06.11.2018 Retrieved on 01.10.2024. from: https://juristavards.lv/zurnals/273686-virtualas-valutas-juridiska-statusa-civiltiesiskie-aspekti/

conference "Transformation Process in Law, Regional Economy and Economic Policy: Economic, Political and Legal Relations" organized by the Baltic International Academy, Rīga Stradinš University and Daugavpils University with a presentation on the topic "Development of the legal regulation of virtual currencies as a financial instrument".

5. 26.04.2018. Participation in the Scientific and practical conference "Current Trends in the Modernization of Private Law" organized by the Baltic International Academy with a presentation entitled "The legal status of cryptocurrencies".

6. 19.03.2018. Participation in the 5rd International multidisciplinary scientific conference on Social Sciences & Arts SGEM 2018 (Vienna, Austria) with a presentation on the topic “International Regulation of Virtual Currencies”.

7. 30.08.2018. Participation in the XXXIII. International scientific and practical conference "Current Problems of Modern Science" (Moscow-Kharkiv-Astana-Vienna) with a presentation on the topic "Problems of legal regulation of cryptocurrency activities".

8. 18.09.2018. participation in the International scientific and practical internet conference “Current Research in Law and History” organized by the international organization "Naukova spilnota" and the Polish highshool "Wyższa Szkoła Społeczno-Gospodarcza w Przeworsku" (Ternopil, Ukraine) with a presentation on the topic "Modern use of promissory notes in Ukraine".

9. 20.09.2018. Participation in the XLIV International scientific and practical conference "European Studies: Innovations in Science, Education and Technology" (London, Great Britain) with a presentation on the topic "The problems of legal regulation of virtual currencies in EU".

10. 07.12.2018. participation in the VII. International scientific and practical conference "Transformation Process in Law, Regional Economics and Economic Policy: Current Problems of Economic - Political and Legal Relations" organized by the Baltic International Academy, Rīga Stradiņš University and Daugavpils University with a presentation on the topic "EU post-crisis measures for ensuring control over financial institutions".

11. 11.04.2019. Participation in the 61st International scientific conference organized by the Daugavpils University (Daugavpils, Latvia) with a presentation on the topic "The legal definition of crypto assets".

12. 24.07.2020. Participation in the International scientific and practical conference "Theoretical and empirical scientific research: concept and trends", Oxford, GBR, with a presentation on the topic "Security rights in goods in French law".

13. 17.01.2023. Participation in the International scientific conference "Security of Central and Eastern Europe in the Context of Modern Geopolitical Problems" organized by the

Siedlce University of Natural Sciences and Humanities, Poland, with a presentation on the topic "The problem of bankruptcy in EU countries in modern conditions".

14. 16.06.2023. Participation in the International Scientific Conference "Russo-Ukrainian War 2022-2023. Origins" organized by the Jozef Goluchowski University of Applied Sciences with a presentation on the topic “The impact of the European energy crisis of 2022 on bankruptcy”.

15. 10.05.2024. Participation in the XIV International scientific and practical conference "A Time of Challenges and Opportunities: Problems, Solutions and Perspectives" organized by the Baltic International Academy, V. Karazin Kharkiv National University and Siedlce University of Natural Sciences and Humanities with a presentation on the topic “Signs of insurance accessory”.

Publications (articles) in collections of articles and peer-reviewed scientific publications in Latvia and abroad:

1. The article **"Civil law aspects of surety liability".** Published in the Baltic Legal Journal, No. 3 (2015) (38), ISSN: 1691-0702, pp.70-75, published in the Central and Eastern European Online Library (CEEOL), Index Copernicus International (ICI), Russian Science Citation Index (RSCI), Ulrich's Periodicals Directory, databases: http://www.balticlawjournal.lv/arhivs/223?page=9

2. The article **"Current issues of suretyship as a type of accessory obligation".** Published in the collection of articles of the IV. International Scientific and Practical Conference "Transformation Process in Law, Regional Economy and Economic Policy", BIA, Latvia, 2015, ISBN 978-9984-47-108-2; pp. 336-341: https://bsa.edu.lv/docs/science/book/konf11122015.pdf

3. The article **"Current issues in the institution of suretyship".** Published in the scientific and practical international Baltic Legal Journal, No. 1 (2016) (40), ISSN: 1691-0702, pp. 48-58, published in the Central and Eastern European Online Library (CEEOL), Index Copernicus International (ICI), Russian Science Citation Index (RSCI), Ulrich's Periodicals Directory, databases: http://www.balticlawjournal.lv/arhivs/283?page=7

4. The article **"The modern use of promissory note in civil transactions".** Published in the scientific and practical international Baltic Legal Journal, No. 4 (2016) (43), ISSN: 1691-0702, pp. 46-51, published in the Central and Eastern European Online Library (CEEOL), Index Copernicus International (ICI), Russian Science Citation Index (RSCI), Ulrich's Periodicals Directory, databases: http://www.balticlawjournal.lv/arhivs/355?page=6

5. The article **"The development of the legal regulation of virtual currency as a financial instrument".** Published in the collection of articles of the VI. International Scientific and Practical Conference "Transformation Process in Law, Regional Economy and Economic Policy: Current Issues in Economic, Political and Legal Relations", BIA, Latvia, 2018, ISBN 978-9984-47-155-6; pp. 369-373: https://bsa.edu.lv/docs/science/book/sbornik08122017.pdf

6. The article **"Legal status of cryptocurrencies".** Published in the scientific and practical international Baltic Legal Journal, No. 2 (49), 2018, ISSN: 1691-0702, pp. 15-23, published in the Central and Eastern European Online Library (CEEOL), Index Copernicus International (ICI), Russian Science Citation Index (RSCI), Ulrich's Periodicals Directory, databases: http://www.balticlawjournal.lv/sakumlapa/535

7. The article **"EU post-crisis measures for ensuring control over financial institutions".** Published in the collection of articles of the VII International scientific and practical conference "Transformation Process in Law, Regional Economy and Economic Policy: Current Issues in Economic, Political and Legal Relations", BIA, 2018, ISBN 978-9984-47-162-4; pp. 291-297: https://bsa.edu.lv/docs/science/book/konf07122018.pdf

8. The article **"International regulation of virtual currencies".** Published in the collection of articles of the 5rd International multidisciplinary scientific conference on Social Sciences & Arts SGEM 2018 (Austria, Vienna), ISBN 978-619-7408-30-0, ISSN 2367-5659; P. 207.-212., published in the ISI Web of Knowledge, ISI Web of Science, CrossRef, ProQuest, EBSCOHost, Elsevier, Thomson Reuters, Google Scholar databases: https://doi.org/10.5593/sgemsocial2018h/11/s02.027

9. The article **"Legal regulation of cryptocurrencies".** Published in the academic Legal Journal "BRICS Law Journal", Volume V (2018), Issue 2, ISSN 2409-9058 (Print); ISSN 2412-2343 (Online), pp. 128-153, published in the SCOPUS, HeinOnline, East View, EBSCOHost, Ulrich's periodical directory, SSRN, Doaj, Elibrary, the British Library, ResearchBib, WorldCat, Google Scholar databases: https://doi.org/10.21684/2412-2343-2018-5-2-128-153

10. The article **"Problems of legal regulation of cryptocurrency activities".** Published in the international scientific journal “Internauka” (Moscow-Kharkiv-Astana-Vienna), ISSN: 5647–2412, pp. 96–99, published in the ResearchBib, Scientific Indexing Services (SIS), Calameo, Citefactor databases: https://www.inter-nauka.com/issues/conf-2018/august/4142, DOI: 10.25313/2520-2057-conf-2018/august/4142

11. The article **"Modern use of promissory notes in Ukraine".** Published in the collection of articles of the International scientific and practical internet conference “Current

Research in Law and History" (Ternopil, Ukraine). 19.09.2018. ISSN 2617-2364, published in the RSCI database: http://www.lex-line.com.ua/?go=full_article&id=2397

12. The article **"The problems of legal regulation of virtual currencies in the EU".** Published in the collection of articles of the XLIV international scientific and practical conference "European research: innovation in science, education and technology" (London, Great Britain), 20.09.2018., No. 1 (35), ISSN 2410-2873, pp. 52-54, published in the Google Scholar DOI, EBSCO, e-library, databases: https://internationalconference.ru/images/PDF/2018/44/EUROPEAN-RESEARCH-1-35.pdf, DOI: 10.20861/2410-2873-2018-44-003

13. The article **"The legal definition of crypto assets".** Published in the collection of articles from the 61st International scientific conference of Daugavpils University (Daugavpils, Latvia), 11.04.2019., Daugavpils University, published in the EBSCOhost database: https://dukonference.lv/files/2019_978-9984-14-890-8_DU%2061%20starpt%20zinatn%20konf%20tezes.pdf

14. The article **"Security rights in goods in French Law".** THEORETICAL AND EMPIRICAL SCIENTIFIC RESEARCH: CONCEPT AND TRENDS, United Kingdom, Oxford, 24.07.2020., Oxford, pp. 53–55, published in the Google Scholar, CrossRef, ORCID, OUCI, Open AIRE databases: DOI: 10.36074/24.07.2020.v4.17

15. The article **"The abolition of the concept of "causa" in French Civil law".** Published in the Scientific Journal Białostockie Studia Prawnicze, Poland, Warsaw: Faculty of Law, University of Bialystok, Poland, e-ISSN 2719-9452; P.91-102, published in the EBSCO Discovery Service, ERIH Plus (European Reference Index for the Humanities and Social Sciences), HeinOnline, Index Copernicus, Norwegian Register for Scientific Journals, Series and Publishers databases: DOI: 10.15290/bsp.2021.26.05.06

16. The article **"Institute of asset securitisation".** Published in the Scientific Journal "Socrates", Latvia, Riga: Faculty of Law, Rīga Stradinš University. (ISSN 2256-0548). Volume 2023 (2023): Issue 1-25 (May 2023), pp. 26-34, published in the ERIH Plus, Index Copernicus, and DOAJ databases: DOI: 10.25143/socr.25.2023.1.26-34

17. The article **"The problem of bankruptcy in EU countries in modern conditions".** Published in the Scientific Journal "De Securitate et Defensione". Poland: The Institute of Security Studies. Faculty of Social Sciences Siedlce. University of Natural Sciences and Humanities. Volume 9, No. 1 (2023), ISSN 2450-5005; P.73-94, published in the ERIH Plus, Index Copernicus, BazHum, BazEkon, CEEOL, CEJSH, CEON, UPH Knowledge Base databases: DOI: https://doi.org/10.34739/dsd.2023.01.06.

18. The article **"The impact of the European energy crisis of 2022 on bankruptcy".** Published in the academic Scientific Journal "Ante Portas – Security Studies", Poland, Volume No. 20/2023, ISSN 2353-6306; P.139-146, published in the ERIH Plus, Index Copernicus, BazHum, PNB, CEJSH databases: https://anteportas.pl/2023-2/

19. The article **"Signs of insurance accessory".** Published in the collection of articles of the XIV International scientific and practical conference "A Time of Challenges and Opportunities: Problems, Solutions and Perspectives", BIA, 2024, ISBN 978-9984-47-294-2; pp. 161-166: https://bsa.edu.lv/docs/science/book/conference_20240510.pdf

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Conclusions and suggestions

The **objective** of the doctoral thesis has been achieved – as a result of the analysis of the regulatory framework, the current systemic content of the regulatory framework for accessory obligations and financial obligations has been clarified, its shortcomings have been identified, and proposals have been put forward for improving the relevant regulatory framework in the Latvian legal system. To achieve the objective of the thesis, the author performed the following tasks: clarified the scope of the concept of accessory obligations in civil law, clarified the historical development and content of accessory obligations, clarified the nature of financial assets as obligations in civil law by performing an innovative asset analysis, clarified the conditions for the performance of obligations under accessory obligations and their interaction with the principal financial obligation.

The **hypothesis** of the study has been confirmed by the research findings: nowadays, the development of financial assets is incompatible with the outdated legal regulation of accessory obligations and thus does not contribute to the adequate protection of individuals' rights.

As a result of the research conducted in the doctoral thesis, summarizing the analysis of the institute of accessory obligations and their interaction with financial assets as the object of obligations, based on the findings obtained in scientific literature, recognizing the rationality of the legislator's actions based on the generally accepted legislative technique approach, as well as assessing the regulatory framework of the Republic of Latvia and problematic issues in court practice, the author summarized 21 (twenty-one) conclusions with proposals for their solution. Proposals for amendments and supplementary provisions to 5 (five) laws (the Civil Law, the Civil Procedure Law, the Insolvency Law, the Commercial Law and the Credit Institution Law) have been put forward, and a legal definition of financial obligations has been proposed.

Based on the research conducted in the doctoral thesis, the following conclusions and proposals are put forward for defense:

The first chapter of the study includes conclusions and proposals related to the analysis of the concept of accessory obligations, drawing the following conclusions and making the following proposals:

Conclusion No.1: The Civil law provides a definition of a contractual obligation, but does not provide a legal definition of an obligation that indicates its characteristic and essential elements and allows it to be distinguished from other civil law relationships, due to the fact that the subject of an obligation may be both an action and a certain omission (refraining from an action).

Suggestion No.1: Add Paragraph 2 to Article 1401 of the Civil law with the following wording:

"An obligation is a legal relationship in which one person (the debtor) must perform a certain action in favor of another person (the creditor) that has monetary value, or must refrain from performing a certain action, while the other person has the right to demand performance."

Conclusion No.2: Considering that nowadays the understanding of the principle of accessory nature has been consolidated, but up to now there has been a wide variety of legal norms applied and interpreted regarding the accessory nature of obligations, taking into account that nowadays independent (autonomous) guarantees are widespread, which do not always have the classic features of accessory nature, in the author's opinion, for the effective application of legal doctrine and regulatory framework, it is necessary to define accessory obligations.

Suggestion No.2: Add Article 1691^1 to the Civil law with the following wording:

"$1691.^1$ Accessory obligations are expromissory obligations, pecuniary or non-pecuniary, determined by a transaction, which are related to the principal obligation and depend on its performance, by stimulating the debtor and otherwise guaranteeing the protection of the creditor's property interests in the event of the debtor's default, thereby fulfilling an economic function."

The second chapter of the study contains the following conclusions and proposals related to the analysis of means of securing accessory obligations:

Conclusion No.3: The draft amendment to the Belgian Civil Code of 2024 provides for the principle of priority of discussion, which implies that the creditor has an obligation to make reasonable attempts to ensure the fulfillment of obligations by the debtor before demanding fulfillment of obligations from the guarantor.

Suggestion No.3: In order to balance the interests of creditors and guarantors, it is necessary to introduce a similar principle of consultation priority and to clarify Paragraph 1 of Article 1702 of the Civil Law, expressing it in the following wording:

"1702. The creditor has the right to bring an action for the performance of obligations against the guarantor if he has previously applied to the principal debtor and recovery from the latter has been unsuccessful."

Conclusion No.4: In practice, creditors often seek recovery from guarantors, despite the fact that the creditor has established a commercial pledge or mortgage against which no recovery has been made, and it is necessary to establish the creditor's obligation to seek recovery from the pledge that the principal debtor has given for the performance of the obligation.

Suggestion No.4: Amend Paragraph 2 of Article 1702 of the Civil Law, adding the words "as the debtor himself" after the words "as the debtor": *"except where the creditor first seeks recovery against a mortgage, commercial pledge or other pledge securing the creditor's claims."*

Conclusion No.5: Establish a legal requirement that a guarantee cannot be unilateral and that the parties to the agreement are not only the creditor and the guarantor, but also the debtor. As a result, the guarantee agreement will become a tripartite agreement, and in this case the debtor will be able to agree equally with the guarantor and the creditor on all its terms and conditions, and the basis for the debtor's obligations will be the guarantee agreement, not just the fact of the guarantor's performance of its obligations.

Suggestion No.5: To establish a requirement for the principal debtor to participate in the conclusion of a guarantee agreement, further specifying the concepts of "third party" and "principal debtor" included in Article 1692 of the Civil Law, and to express Article 1692 of the Civil Law in the following wording:

"1692. A guarantee is an obligation assumed by a guarantor under an agreement concluded between a creditor, a principal debtor, and a guarantor to be liable to the creditor for the principal debtor's debt, without, however, releasing the latter from his debt."

Conclusion No.6: The guarantor is burdened with a disproportionate responsibility for the principal debtor's place of residence and his insolvency, which tends to be the basis for the creditor's claim against the guarantor.

Suggestion No.6: It is necessary to strengthen the rights of guarantors by supplementing the legal framework with guarantor rights, similar to those specified in Article 148 of the Estonian Law of Obligations Act, amending Article 1706 of the Civil Law and expressing it in the following wording:

"1706. A guarantor who has paid on behalf of the principal debtor before the due date may reclaim this payment from the principal debtor only after the due date.

The guarantor may demand security from the principal debtor before payment if the prospects of recovery from the principal debtor are doubtful:

1) due to a change in the principal debtor's activities, place of residence or location, it is difficult to enforce recovery against the principal debtor;

2) the guarantor's risk has increased significantly due to the deterioration of the principal debtor's financial and economic situation, a decrease in the value of the collateral, or the principal debtor's intentional or gross negligence (including squandering of assets);

3) the principal debtor breaches the obligations arising from the contract concluded with the guarantor;

4) the principal debtor has not fulfilled its obligations within the specified period."

Conclusion No.7: In order to strengthen the rights of the guarantor, it is necessary to establish his right to be informed about the extent of the debtor's unfulfilled obligations, also providing for the guarantor's right to be released from liability for ancillary obligations if the creditor fails to provide the guarantor with the aforementioned information.

Suggestion No.7: It is necessary to supplement the Civil law with Article 1701^1 in the following wording:

"$1701.^1$ The creditor is obliged to notify the guarantor annually of the amount of the debtor's outstanding principal debt and other ancillary claims. Otherwise, the guarantor shall be released from liability for ancillary claims payable from the date of receipt of the previous notification until the date of receipt of the new notification."

Conclusion No.8: The creditor must also be informed of the creditor's reminder to the debtor about the delay.

Suggestion No.8: It is necessary to supplement the Civil law with Article $1701.^2$ in the following wording:

"$1701.^2$ The creditor is obliged to notify the guarantor of a reminder to the debtor about the delay (1653, 1654)."

Conclusion No.9: Pursuant to Article 1698 of the Civil Law, a guarantor is liable not only for the principal debt itself, but also for ancillary claims, losses caused by the debtor's fault or delay, and court costs, i.e., the secured guarantor's obligation to be liable for all possible ancillary claims is contrary to the principle of private autonomy.

Suggestion No.9: In accordance with the principle of private autonomy, Article 1698 of the Civil Law must be amended and worded as follows:

"1698. The guarantor is liable not only for the principal debt itself, but also for ancillary claims, losses caused by the debtor's fault or delay, and court costs, unless otherwise specified in the contract".

Conclusion No.10: The interpretation of Article 1712 of the Civil Law, as established in the Supreme Court case No. SKC-86/2011, does not correspond to its essence, which stipulates that a guarantee expires with any event that releases the principal debtor, and is also contrary to the principles of the Satversme (Constitution), because in such a case the guarantor becomes an unsecured creditor whose claim cannot a priori be satisfied by recourse and whose losses will not be compensated contrary to the requirements of Article 1705 of the Civil Law. Consequently, the insolvency of the principal debtor, which releases him from the performance of his obligations, is an event that constitutes grounds for terminating the guarantee.

Suggestion No.10: Amend Paragraph 1 of Article 164 of the Insolvency Law and express it in the following wording:

"(1) If the debtor has performed the actions specified in the natural person's debt repayment plan, after the expiry of this plan, the debtor's obligations and related guarantees, except for the obligations referred to in Paragraph 4 of this Article, shall be discharged and the suspended enforcement proceedings for the recovery of the discharged obligations shall be terminated."

Conclusion No.11: In court practice, an erroneous interpretation of Paragraph 2 of Article 1703 of the Civil Law has developed, which stipulates that a claim may be brought against a guarantor immediately if the actual insolvency of the principal debtor has been proven or bankruptcy proceedings have already been initiated against his property. Actual insolvency within the meaning of Article 1703 of the Civil Law is not insolvency proceedings within the meaning of the Insolvency Law. Actual insolvency simply means that the debtor does not have the funds to fulfill his obligations, so the guarantor is obliged to settle the obligations in place of the principal debtor.

Suggestion No.11: In order to adequately protect the rights of guarantors, it is necessary to amend Article 1710 of the Civil Law and precisely define the actions that terminate a guarantee:

"1710. The guarantee shall expire if:

1) the underlying obligations expire;

2) without a guarantor, the debtor's liability for obligations is significantly increased - interest rates, contractual penalties and other ancillary claims are changed;

If the guarantee is given for an indefinite period, the guarantor has the right to terminate it at any time by submitting a reasoned notice to the creditor. In the event of termination of the guarantee, the guarantor shall be liable for existing obligations, even if the deadline for their performance has not yet arrived, but shall not be liable for obligations arising after the notice."

Conclusion No.12: In order to promote the assessment of the proportionality and fairness of contractual penalties, the Civil law needs to establish proportionality criteria to be assessed by the court.

Suggestion No.12: Add to Article 1724.[1] of the Civil law the first sentence after the words "or taking into account other circumstances," adding the following words to the sentence: *"and taking into account the following criteria: the legitimate interests of the creditor, the scope of the obligations fulfilled, the economic situation of both parties."*

Conclusion No.13: Although the contract may stipulate that a party is obliged to pay a withdrawal fee if the party that has received an advance payment unilaterally withdraws from the preliminary contract, *this does not mean that in any case the amount of the withdrawal fee is double* the amount of the advance payment and that such advance payment has the character of a "deposit" as regulated by Article 1731 of the Civil Law.

Suggestion No.13: Clarify the first part of Article 1731 of the Civil law by including the term "resignation money" and expressing it in the following wording:

"1731. If the parties have agreed that an already concluded contract may be canceled, losing the deposit, and if, in such a case, the party who paid the deposit withdraws, they lose it as a withdrawal fee, but if the other party withdraws, they must return double the amount of the deposit as a withdrawal fee."

Conclusion No.14: The provision of a guarantee for the recovery of the deposit in favor of the depositor shall be deemed unresolved if the relevant recovery proceedings were brought against the depositor and the deposit was transferred from the bank account to fulfill such obligations.

Suggestion No.14: In order to protect lenders from known risks associated with real estate purchase transactions, it is necessary to amend Article 1726 of the Civil Law by adding Paragraph 2 with the following wording:

"To secure the execution of the real estate purchase, the deposit is transferred to the notary for safekeeping until the contract secured by the deposit is executed."

This would also comply with the requirements of Article 30, Paragraph 1^6 of the Law on Taxes and Fees, which prohibits taxpayers, including natural persons who do not conduct economic activities, from conducting real estate alienation transactions in cash.

Conclusion No.15: The inclusion of ancillary claims (contractual penalties, fines, or late fees) in the obligations of the pledgor is disproportionate, because their uncertainty prevents the pledgor from making effective use of the value of all his property to secure other possible future obligations and to secure a second mortgage. In turn, the possible recovery of ancillary claims significantly reduces the rights of the next pledgee to satisfy his claim secured by the current mortgage.

Suggestion No.15: Consideration should be given to confirming that the mortgage covers the principal obligation, interest and the creditor's direct expenses, excluding contractual penalties and possible losses, and Article 1290 of the Civil Law should be worded as follows:

"1290. Unless otherwise agreed, the right of pledge secures not only the principal claim but also related ancillary claims. The priority of a mortgage is determined by the date of its entry in the land register, except for ancillary claims related to the principal claim, but interest is payable only for the three years preceding the sale of the real estate at auction. Interest claims for earlier years are settled in the same way as personal creditor debt claims."

The third chapter of the study contains the following conclusions and suggestions aimed at analyzing the interaction between modern financial obligations and accessory obligations:

Conclusion No.16: The amendments introduced in 2024 to the Financial Instruments Market Law, the Credit Institutions Law, and the IL, established the institute for security agents, defining their rights and obligations and creating a legal framework for establishing pledges in the name of a third party (agent) in securities transactions and loans. In this regard, it would be necessary to provide for the security agent's right of claim in the interests of others (investors) on the basis of a fiduciary relationship also in the Commercial Pledge Law.

Suggestion No.16: To clarify Article 6 of the Commercial Law and express it in the following wording:

"A commercial pledge holder is a person who accepts a commercial pledge to secure their claim, including a security agent, subject to the exceptions and additional provisions specified in the Credit Institutions Law and the Financial Instrument Market Law."

Conclusion No.17: The term "financial obligations" used in modern contractual relationships reflects the diversity of types of security and performance of obligations, meets the challenges of the digital and innovative economy and civil law relationships between individuals today, and would be consistent with international terminology used in economics and legal science.

Suggestion No.17: The author proposes to use the definition of "financial obligation" in contract law – this is a type of civil obligation arising from public or private legal relations, the subject of which is the obligation of one party (the debtor) to pay another party (the creditor) a certain amount of financial resources or to perform another action that has monetary value.

Conclusion No.18: During the global economic crisis, banks, as commercial companies, took advantage of state support and, through auctions, re-registered several thousand real estate properties belonging to natural and legal persons in their own names and those of their subsidiaries. Moreover, the majority of these properties belonged directly to legal entities – the same commercial companies as the banks.

Suggestion No.18: In order to balance the rights of creditors and debtors, it would be necessary to stipulate that the value of a forced sale cannot be less than 80% of its market value, and the first part of Article 604 of the Civil Procedure Law should be worded as follows:

"(1) At the request of the bailiff, the real estate is assessed at the debtor's expense by a certified real estate assessor, who determines the forced sale value of the real estate, which is not less than 80% of the market value of the real estate."

Conclusion No.19: One of the mechanisms for protecting borrowers in order to balance the rights and obligations of creditors and debtors would be to amend the Credit Institutions Act providing for the right of legal persons to mortgage loans, where real estate serves as sufficient collateral to enable the obligations to the lender to be repaid in full with the pledged property.

Suggestion No.19: It is necessary to supplement the Credit Institution Law with Article 74 in the following wording:

"Article 74. A credit institution that has received a credit application from a customer who is a legal entity is obliged to offer the customer a choice of at least two different credit agreement terms, one of which stipulates that the real estate for which the credit is being taken out serves as sufficient collateral to enable the obligations to the lender to be repaid in full."

Conclusion No.20: In order to promote economic development, it would be necessary to create a more favorable environment for entrepreneurship, strengthen state support, and implement essential mechanisms for the protection of borrowers.

Suggestion No.20: Similarly to the US legal system, targeted measures should be taken at the national level, reorienting the existing national economic policy and legal system from pro-creditor to pro-debtor, thereby promoting support for the less protected participants in the economic cycle, which will ultimately have a positive impact on economic development.

Conclusion No.21: In order to ensure that credit institutions provide comprehensive and adequate financial services, particularly lending, it is necessary to introduce special control by the Bank of Latvia over the activities of banks.

Suggestion No.21:

21.1. To supplement Paragraph 1 of Article 101^3 of the Credit Institution Law with Clause 2, providing for the right of the Bank of Latvia not only to assess the adequacy of credit institutions' risk management, but also to assess the operations and management procedures of credit institutions, expressing this in the following wording:

"(1) The Bank of Latvia shall examine the strategy, procedures and measures implemented by the credit institution to comply with the requirements of this Law, other regulatory enactments, directly applicable European Union regulatory enactments and regulations issued and decisions adopted by the Bank of Latvia, and shall assess: […]

2) the activities of the credit institution, the provision of financial services, the management procedures and the business model*."*

21.2. In addition, it is necessary to clarify the first sentence of Clause 2 of Paragraph 1 of the aforementioned article of the law, expressing it in the following wording:

(2^1) When performing the verification and assessment referred to in Paragraph 1 Clauses 1 and 3 of this Article, the Bank of Latvia may apply a uniform methodology to credit institutions with a similar risk profile (similar business model or geographical distribution of risk exposures), which may include risk-oriented criteria and quantitative indicators, allowing for appropriate consideration of each credit institution's exposure to specific risks inherent in its activities and which does not affect the credit institution in accordance with the specific measures set out in the Paragraph 4 Clause 36.3 of this Law and Paragraph 4.4 and Paragraph 4.7 Clause 2 of this Article. The Bank of Latvia shall inform the European Banking Authority of the use of a uniform methodology."

2) Paragraph 3, worded as follows:

(3) Based on the review and assessment carried out in accordance with Clauses 1 and 3 of Paragraph 1 of this Article, the Bank of Latvia shall decide whether the credit institution's strategy, procedures and measures implemented ensure adequate risk management and whether the credit institution's liquidity and own funds are sufficient to cover the risks inherent in its activities and potential risks.

3) the first sentence of Paragraph 4^1, expressing it in the following wording:

" (4^1) In addition to the assessment of credit risk, operational risk and market risk referred to in Clauses 1 and 3 of Paragraph 1 of this Article, the Bank of Latvia shall assess at least the following:[…]".

21.3. It is also necessary to supplement Paragraph 4 of the Article with clause 12, wording it as follows:

"(4^4) In applying the provisions of Paragraphs 1 and 3 of this Article and the relevant requirements of EU Regulation No. 575/2013, the Bank of Latvia shall be entitled to request that a credit institution:[...]

12) ensures the proper provision of financial services, management procedures, and business model."

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