

Paziņošanas par cesiju juridiskā nozīme

Legal Significance of Notification of the Assignment

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This article is dedicated to the establishment of legal significance of the notice of assignment, examining the joint relation of such notification with the assignment by agreement coming into force, as well as protection of a good faith debtor both before the receipt of such a notice as well as after the receipt thereof. While analysing the various opinions expressed in legal literature, the article substantiates the thesis that pursuant to the legal framework of the institution of assignment covered by the Civil Law of Latvia the notice of assignment made by assignee in a proper way is to be qualified not as a pre-condition to the fact that the assignment by agreement would be effective also in relation to the debtor, but rather as a measure to prevent the formal legitimation of the former creditor (assignor) against the debtor and to make the debtor as of the bad faith. At the same time, the article substantiates the thesis that such a notice is not to be deemed as the only way the debtor may become aware of the assignment that has taken place and become of bad faith, thus losing the legal possibility of a good faith debtor, provided for by Section 1804, Sentence 2 of the Civil Law of Latvia, to fully or partially discharge himself from obligation, giving performance to the former creditor (assignor) or entering into the settlement or similar type of transaction with the assignor or in relation to him, which shall be directed towards termination or amendment of the assigned right to performance. In this relation, taking into account the principle of good faith, the bad faith of the debtor as such rather than the fact of receiving a notice of assignment shall have the decisive meaning.

Atslēgvārdi: līgumiskā cesija, paziņojums par cesiju, kreditora formālā leģitimācija, labticīga parādnieka aizsardzība, zināšana par cesiju.

Keywords: assignment by agreement, notice of assignment, formal legitimation of creditor, protection of good faith debtor, knowledge of the assignment.