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LEGAL NATURE OF THE INVENTORY OF CLAIMS IN RESTRUCTURING PROCEEDINGS

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SUMMARY

The inventory of claims is a list describing the debtor's creditors and their claims, prepared in the course of restructuring proceedings. The doctoral dissertation was devoted to the analysis of the legal nature of the inventory of claims in restructuring proceedings regulated by law. This issue has not yet been thoroughly researched and described by representatives of the doctrine, nor has it been the subject of an in-depth analysis in the jurisprudence. Certain views on the legal nature of the inventory can be found in the literature statements, and the main dispute is related to the determination whether the inventory of claims is a judgment or a document that does not meet the characteristics of a judgment. The purpose of the study was an attempt to discuss in detail the institution of the inventory of claims, and then to determine whether the basic features of the inventory allow it to be compared with specific institutions of civil law.

The basic research method of the dissertation was the dogmatic method and the analysis of legal provisions. The analysis of the jurisprudence, the literature and legislator's statements from the justifications of draft legislation were also important for the preparation of the dissertation. In addition to the research relating to the provisions of applicable law and the literature and jurisprudence discussing them, the subject of interest was also the historical wording of the provisions governing the procedure of establishing claims.

The doctoral dissertation consists of five chapters, an introduction, and a conclusion. The first chapter of the thesis focuses on the presentation of the historical development of the procedure for determining and verifying debts in proceedings related to insolvency. Historical studies and the concepts presented in them regarding the legal nature of both the activity, which was to establish the claim, and its result, were also examined.

The second chapter analyzes the inventory of claims in a static approach. For this purpose, the focus is on the inventory of claims as a ready-made act and discusses its content, including the provisions governing the principles of placing claims in the inventory. The goals and functions of the inventory of claims are determined, as well as the effects of its creation and functioning in legal transactions for creditors. Finally, the issues of great practical importance were dealt with, such as the importance of approval of the inventory of claims for pending civil proceedings regarding claims subject to inclusion in the inventory and the admissibility of interrupting the limitation period for a claim in connection with the preparation of the inventory.

The third chapter discusses in detail the subject of constructing an inventory of claims. Its content includes an analysis of the sources based on which the inventory is created and the legal status of the entity that draws it up. The inventory of claims has been presented dynamically, in the form of an analysis of the subsequent stages of its construction - preparation, appeal, approval, possible modifications and corrections. In the same chapter the restructuring proceedings currently functioning in the legal order are presented and discussed.

The fourth chapter is devoted to the discussion of various institutions of civil law showing similarity or a specific relationship under the provisions of law with the inventory of claims. Thus, the subject of the considerations were institutions such as a judgement, a document, and a surrogate for adjudicating a case. In addition, the list of claims and the concept of "writ of execution" were also discussed. In the case of all the indicated institutions of civil procedural and substantive law, the focus was on determining their most basic, constitutive features.

Chapter five contains the analysis of decisions and conclusions made in the previous chapters regarding the inventory of claims in chapter two and three, and on similar institutions in chapter four. In order to determine the legal nature of the inventory of claims, the inventory

features were compared with those of all the institutions discussed in chapter four, to establish whether it implements the constitutive assumptions of any of them.

The work ended with a summary, in which it was established that the only institution with sufficient capacity for its basic features to be implemented through an inventory of claims is a private document. As a result, it was assumed that the inventory is a private document prepared in the course and for the purposes of restructuring proceedings by the administrator (supervisor) conducting the proceedings. The inventory of claims is an ordered list of the creditors and their claims, constructed in accordance with the guidelines resulting from the provisions of the Restructuring Law. The main function of the inventory of claims is to enable the creditor included in the list to participate in the meeting of creditors with a certain voting power. The preparation of the inventory is one of several stages of the restructuring procedure, and as a result, the body conducting the procedure and its participants can obtain full information on the scale and origin of the debt of the restructured entity. The inclusion of a specific claim in the inventory is the result of a simplified - in terms of available evidence and potential appeal proceedings - the decision-making process of the administrator (supervisor), and the inventory of claims itself constitutes a conglomerate of these decisions.

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