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**COMPARATIVE LEGAL PRINCIPLES OF REGULATION
OF PROPERTY RIGHTS, OTHER PROPERTY RIGHTS
AND OBLIGATIONS IN THE CIVIL LAW
OF FOREIGN COUNTRIES**

Олександра Нестерцова-Собакарь. Порівняльно-правові засади регулювання права власності, інших речових прав та обов'язків за цивільним законодавством деяких країн. У роботі досліджується правове регулювання права власності та інших речових прав у цивільному праві зарубіжних країн, а також загальні положення про зобов'язання в їхніх правових системах. Проаналізовано основні підходи романо-германської та англо-американської правових сімей до визначення змісту права власності, способів його набуття, обмежень і механізмів захисту. Особлива увага приділена системам реєстрації речових прав, забезпечувальним інструментам і принципам публічності, які гарантують стабільність цивільного обороту та захист добросовісних учасників.

Розкрито специфіку забезпечувальних прав, таких як застава, іпотека, та інші форми сек'юритизації майна, що мають ключове значення для розвитку комерційного обігу. Охарактеризовано роль міжнародної уніфікації у сфері рухомого та нерухомого майна, а також тенденції до цифровізації реєстраційних процедур і впровадження модельних законів.

У контексті зобов'язального права висвітлено основні засади виникнення, виконання та припинення зобов'язань, розглянуто правові наслідки порушення договорів і засоби захисту сторін. Підкреслено відмінності між кодифікованими підходами континентальної Європи та прецедентною природою англо-американської системи, що формує різні механізми забезпечення правової стабільності.

Визначено сучасні тенденції гармонізації приватноправових інститутів, спрямовані на підвищення ефективності міжнародного комерційного обігу. Зроблено висновок, що право власності та зобов'язальне право в зарубіжних країнах поступово набувають універсальних рис, що сприяє формуванню єдиного правового простору у сфері майнових відносин.

Ключові слова: право власності, речові права, зобов'язання, цивільне право, торговельне право, зарубіжні країни, уніфікація, реєстрація прав, забезпечувальні інструменти.

Problem statement. In the current conditions of globalization of economic processes and intensive development of international legal relations, the issue of regulating property rights and other property rights in the civil and commercial law of foreign countries is gaining special importance. Property remains a key institution of private law, which determines economic stability, investment attractiveness and legal security of market participants. At the same time, the development of international trade, transnational agreements and the digital economy necessitates the unification of legal approaches to securing, transferring and protecting property rights. The problematic aspect is the coordination of traditional national systems (Roman-Germanic and Anglo-American) with modern models of legal regulation, which requires a comprehensive analysis of contractual and property rights in the context of foreign civil legislation.

The purpose of the study is to comprehensively study the legal regulation of property rights and other property rights in the civil law of foreign countries.

Presentation of the main provisions. In foreign legal systems, property law is traditionally considered as a complex legal entity that combines the rights to own, use and dispose of property. It acts as a fundamental basis for private law relations and defines the boundaries of a person's autonomy in the field of material goods. Comparative legal analysis allows us to identify two leading approaches to understanding this law: continental (Roman-Germanic) and Anglo-American. In the states of the continental system, property law is codified in detail, which provides a clear regulatory distinction between types of property, methods of acquisition and mechanisms of protection. At the same time, in the common law system, judicial precedents and doctrinal categories are of key importance, which form the content of property rights and consolidate them through the practice of interpretation by judicial bodies [1, p.65].

In most modern legal systems, property is perceived not only as static possession of a thing, but also as a dynamic process of its circulation, within the framework of which the state establishes special regimes of legal regulation. Codified acts establish the main criteria for classifying property, distinguishing objects by material nature, mobility and economic purpose. Such a distinction determines the legal consequences when concluding agreements, transferring ownership or applying measures of compulsory protection. For example, immovable objects are subject to mandatory state registration, which serves as a guarantee of the stability of property rights, while for movable things, in particular vehicles or technical means of production, simplified registration mechanisms are provided, aimed at ensuring rapid turnover [2].

A significant role in ensuring property rights is played by the principle of publicity, which provides for the openness of information about objects and legal subjects. This principle is recognized as fundamental in most legal systems, because it is it that ensures the predictability of civil turnover, the reliability of investments and the trust of market participants. Registration systems, covering both land registers and specialized cadastres for movable property, create legal certainty, make double alienation impossible and increase the level of protection of bona fide purchasers. The very fact of entering an entry in the register gives the owner a legal advantage in the event of a dispute, and failure to enter may lead to a loss of priority over other creditors or counterparties [3, p.26].

In addition to absolute property rights, limited property rights are widely used in foreign countries, which contribute to the effective use of property and ensure a balance between private and public interests. They allow third parties to use someone else's property without depriving the owner of its title. In continental codes, such rights have a clearly defined legal nature and procedures for establishment, and their content and limits are enshrined in the relevant articles of civil codes. In contrast, in common law countries, the development of limited rights is largely based on court decisions, where precedent is a source of specifying the rights and obligations of the parties [4].

Common to all systems is the desire to ensure a harmonious relationship between the individual freedom of the owner and the needs of social development. Restrictions on property rights are allowed only when they are aimed at protecting the common good or the rights of others, which corresponds to the principle of the social function of property. This approach reflects the modern trend towards combining private and public law elements in the regulation of property relations. As a result, property acquires not only economic, but also socio-legal content, acting as a means of realizing the right to development, entrepreneurial activity and safe use of property.

Property rights in foreign legal systems are a complex, multifaceted construct that combines traditional civil principles with flexible mechanisms for adapting to new economic realities. Regardless of the differences between codified and precedent models, the main values remain common: stability of rights, protection of a bona fide acquirer, guarantee of publicity and efficiency of turnover. This combination allows property rights to play the role of a system-forming element of private law, ensuring a balance between legal certainty and economic flexibility in the conditions of a globalized legal system [5].

Security rights to property are an integral part of modern commercial circulation, because they guarantee the fulfillment of obligations and create the basis for the stability of credit relations. In the

private law system, these rights are considered as a tool for balancing the interests of the debtor, the creditor and third parties. Their essence lies in the ability of the creditor to obtain a preferential right to satisfy his claims from the value of the debtor's property in the event of the latter's failure to fulfill his obligations. The right of pledge or mortgage is not only protective, but also preventive in nature, as it provides confidence in the stability of commercial transactions and increases the level of trust between subjects of civil turnover [6, p. 293].

In different legal systems, approaches to regulating security relations differ significantly. In countries of the Romano-Germanic tradition, the emphasis is on codified forms of pledge, which apply to both movable and immovable property, while Anglo-American law provides more flexible mechanisms based on judicial precedent and agreement between the parties. At the same time, a common trend is the desire to unify regulation, in particular by developing model norms that harmonize national systems with generally recognized international standards. This provides predictability in contractual relationships and facilitates interaction between market participants regardless of jurisdiction.

One of the most complex aspects in the field of security rights is the issue of priority of creditors. In many countries, state registration systems have been formed that allow publicly recording encumbrances on property and determining the priority of satisfaction of claims in the event of liquidation of the debtor. Such registers serve as a means of protecting bona fide parties and prevent abuse. In other countries, especially with developed judicial practice, preference is given to judicial mechanisms for determining priorities, which can be supplemented by extrajudicial enforcement procedures. This creates conditions for the effective functioning of the credit market, but requires a high legal culture and transparency of the actions of subjects [7, p. 119].

In the field of commercial law, security and property rights are of particular importance, as they directly affect the security and effectiveness of international agreements. The issues of transfer of ownership, liability for risks, preservation of goods until payment or transfer become key when concluding contracts between counterparties from different countries. Commercial codes, as well as international documents aimed at harmonizing rules, establish general principles regarding the moment of origin of property rights, obligations of the parties and methods of ensuring the fulfillment of obligations. This forms a single logic of commercial transactions, which is based on the principles of good faith, justice and legal certainty [8, p. 29].

Of particular importance is the institution of obligations, which serves as the basis for the emergence of most property relations. In foreign civil law systems, it covers a wide range of grounds for the emergence of obligations from contractual to non-contractual, in particular tortious or related to unjust enrichment. Obligations are a dynamic element of civil turnover, which determines the procedure for the realization of private interests, regulates the methods of execution, liability for violations and means of protecting rights. The stability of economic relations and the degree of trust in the legal system as a whole depend on the effectiveness of legal regulation in this area.

The international legal community is actively working on harmonizing approaches to regulating obligations. Principles and model acts developed by leading international institutions contribute to the formation of uniform standards in contractual practice, simplify the resolution of conflict issues and strengthen predictability in the field of transnational relations. They define the basic requirements for the validity of transactions, the limits of freedom of contract, the principles of interpreting the will of the parties and the conditions for terminating obligations. As a result, a higher degree of mutual trust between subjects of private law is ensured, which is especially important in the context of economic globalization and the strengthening of integration processes in the world legal space [9, p.136].

Within the framework of the Roman-Germanic legal tradition, the institution of the law of obligations occupies a central place in the system of private law and has a clear structure within the framework of civil codes. In such legal systems, the regulation of obligations is built on the concept of the unity of general provisions and special norms that define individual types of obligations. It covers the issues of the emergence, content, performance and termination of obligations, and also determines the conditions of liability for their violation. Particular attention is paid to the concept of proper performance, good faith of the parties and the balance of interests of the creditor and the debtor. The civil codes of the countries of this group, as a rule, provide

comprehensive regulation, which allows avoiding excessive judicial discretion, characteristic of the Anglo-American approach [10, p.88].

Unlike the continental system, in Anglo-American law, the doctrine of contract plays a fundamental role, which has developed mainly through case law. Its basis is the principle of freedom of contract and the obligation to fulfill the obligations assumed, as well as a broad interpretation of the grounds for non-contractual liability. A significant part of the norms is formed not in the form of codified provisions, but through precedents that establish approaches to determining damages, remedies and fair distribution of risks. It is case law that ensures the flexibility of the system, allowing the application of law to be adapted to specific economic and social conditions. In modern contractual practice, the issues of validity of transactions and proper expression of the will of the parties are of great importance. The institutions of invalidity of the contract, mistake, fraud, duress or unlawful purpose remain key mechanisms for controlling the legality of obligations. At the same time, the provisions on force majeure and impossibility of performance allow the parties to avoid excessive liability for circumstances beyond their control. An important role is also played by legal means of ensuring the performance of obligations - pledge, guarantee, surety, security orders, which guarantee the reality of performance and protect the interests of creditors in the event of breach of contract [11].

In the field of transnational agreements, the issue of applicable law and determination of jurisdiction becomes particularly relevant. Parties participating in international commercial relations often provide for special provisions in contracts that determine the law by which their obligations are interpreted, as well as which court or arbitration will consider possible disputes. This practice ensures the stability of legal relations and allows avoiding conflicts between different legal systems, while at the same time contributing to the harmonization of private international law. The development of unified rules that enshrine common principles of contract law creates the basis for increasing the predictability of legal regulation [3, p. 29].

In the European context, there is a systematic integration and harmonization of norms that regulate binding legal relations. The introduction of regulations determining the law applicable to contractual and non-contractual obligations, as well as directives aimed at unifying corporate and civil law, has significantly influenced the convergence of national legal systems. Other regions of the world are also gradually introducing model acts that adapt national norms to international standards, expanding the boundaries of legal compatibility and contributing to a more efficient functioning of the global market. At the same time, harmonization is accompanied by the emergence of complex conflict-of-law issues that require clear resolution mechanisms to ensure legal certainty. The current stage of development of the law of obligations and security is characterized by intensive reforms aimed at increasing the efficiency of law enforcement. Considerable attention is paid to the digitalization of legal mechanisms, the modernization of property rights registration systems and the improvement of financial security instruments. In this context, the key issues remain the balance between the stability of property rights, the protection of bona fide participants in circulation and ensuring credit transparency. Therefore, current trends demonstrate the desire to create a flexible, but at the same time stable legal system capable of effectively responding to the challenges of the global economy [6, p.293].

Conclusion. Thus, the legal regulation of property and other property rights in foreign legal systems is based on a combination of traditional civil law principles and modern mechanisms for ensuring the stability of commercial transactions. In the continental model, the central place is occupied by codified law, which regulates in detail the acquisition, transfer and protection of property rights, as well as security rights to property. In the Anglo-American system, the emphasis is on judicial precedents and flexible mechanisms of contractual regulation, which allows for an effective response to economic changes. The current trend is the gradual harmonization of approaches, in particular through model acts, electronic pledge registers and unified rules for movable property, which ensures transparency and predictability of property relations in the international context.

Mandatory law in foreign countries is a dynamic instrument of private law regulation, which combines the contractual freedom of the parties with the principles of good faith and justice. It covers a wide range of mechanisms from classical contractual institutions to modern

forms of financial security and guarantees of performance of obligations. International practice demonstrates the desire to unify the norms that determine the grounds for the emergence, performance and termination of obligations, as well as the means of their enforcement. The development of property law and the law of obligations in different legal systems indicates a common tendency to combine the stability of legal traditions with the modernization necessary for the functioning of the global economy.

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ABSTRACT

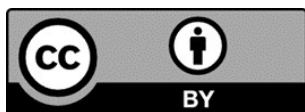
The paper explores the legal regulation of property rights and other real rights in the civil and commercial law of foreign countries, as well as the general provisions on obligations within their legal systems. It analyzes the main approaches of the Romano-Germanic and Anglo-American legal families to defining the content of property rights, methods of acquisition, limitations, and protection mechanisms. Particular attention is given to systems of property rights registration, security instruments, and the principles of publicity, which ensure the stability of civil turnover and the protection of bona fide participants.

The study reveals the specifics of security rights such as pledge, mortgage, and other forms of asset securitization that play a key role in the development of commercial circulation. It also characterizes the role of international unification in the field of movable and immovable property, as well as current trends toward the digitalization of registration procedures and the implementation of model laws.

In the context of the law of obligations, the paper highlights the fundamental principles governing the creation, performance, and termination of obligations, examines the legal consequences of contract breaches, and identifies the available means of protection for the parties. It emphasizes the distinctions between the codified approaches of continental Europe and the precedent-based nature of the Anglo-American system, which shape different mechanisms for maintaining legal stability.

The research identifies modern trends in the harmonization of private law institutions aimed at enhancing the efficiency of international commercial exchange. It concludes that property law and the law of obligations in foreign countries are gradually acquiring universal characteristics, contributing to the formation of a unified legal framework in the sphere of proprietary relations.

Keywords: *property law, real rights, obligations, civil law, commercial law, foreign countries, unification, registration of rights, security instruments.*



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