

THE SYSTEM OF OBJECTS OF CIVIL RIGHTS: PROBLEM OF CONCEPTS

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Abstract. *The Civil Code of Lithuania (1964), in force until 2000, did not regulate the objects of civil rights, thus Chapter V of Part III of Book I of the Civil Code of Lithuania is a significant novelty. Several approaches to an abstract definition of the objects of civil rights still exists in the legal doctrine: whether the object of civil rights and the object of the civil relationship coincide; is the object of civil rights an element of the civil relationship and can separate objects (e.g. actions) be considered as the objects of civil rights. Some authors consider such discussion useless to the practical implementation of the law, however, other authors emphasise that the lack of attention of the theory to this subject causes methodological problems while analysing the functional and systemic links among different types of civil relationships. Therefore, the purpose of this research is to analyse the link between the concepts of the object of civil rights and the object of civil relationship, the link between the objects of civil rights and property objects and the types of objects of civil rights in order to reveal the system of objects of civil rights. The subject-matter of the research is the analysis of legal regulation and legal doctrine of the objects of civil rights and their types and their interrelation with the property objects in order to identify the abstract definition of the object of civil rights and examine the system of objects of civil rights.*

Keywords: *object of civil rights, object of civil relationship, property object.*

Introduction

The Civil Code of Lithuania (1964)¹, in force until 2000, did not regulate the objects of civil rights, thus Chapter V of Part III of Book I of the Civil Code of Lithuania² (hereinafter referred to as the LCC) is a significant novelty. Article 1.97 of LCC lists separate objects of civil rights, i.e. things, money and securities, other property and property rights, results of intellectual activities, information, actions and results thereof, as well as any other material and non-material values. It should be noted that Article 128 of the Civil Code of Russian Federation³ provides a list of objects of civil rights which is almost identical to the one provided in Article 1.97(1) of the LCC.

Other legal norms of Chapter V of Part III of Book I of the LCC provide the definitions of separate objects of civil rights, although the legislator does not give any abstract definition of the objects of civil rights. Such position of the legislator can be explained by several approaches to the abstract definition of the objects of civil rights still existing in the legal doctrine: whether the object of civil rights and the object of the civil relationship coincide; is the object of civil rights an element of the civil relationship and can separate objects (e.g. actions) be considered as the objects of civil rights.

Some authors⁴ consider such discussion useless to the practical implementation of the law, however, other authors⁵ emphasise that the lack of attention of the theory to this subject causes methodological problems while analysing the functional and systemic links among different types of civil relationships.

Considering these differing approaches of the legal doctrine to the abstract definition of the object of civil rights, we must thoroughly analyse the link between the concepts of the object of civil rights and the object of the civil relationship in order to identify the abstract definition of the object of civil rights. Therefore, **the purpose of this research** is to analyse the link between the concepts of the object of civil rights and the object of the civil relationship, the link between the objects of civil rights and property objects and the types of the objects of civil rights in order to reveal the system of objects of civil rights. **The subject-matter of the research** is the analysis of the legal regulation and legal doctrine of the objects of civil rights and their types as well as their interrelation with the property objects in order to identify the abstract definition of the object of civil rights and examine the system of objects of civil rights. The main methods used in this

1 The Civil Code of the Republic of Lithuania. *Official Gazette*. 1964, No. 19-138 (2000-07-05 current version).

2 The Civil Code of the Republic of Lithuania. *Official Gazette*. 2000, No. 74-2262.

3 *Kommentarij k Graždanskomu Kodeksu Rossijskoj Federacij Chasti pervoj* [Commentary to the Part One of the Civil Code of the Russian Federation. Abovoj, T. E.; Kabalkinaju, A. Ju. (red.). Moskva: Jurajt-Izdat, 2003, s. 329.

4 Juzikienė, R.; Mizaras, V.; Smaliukas, A. Civilinių teisių objektai. In: *Civilinė teisė. Bendroji dalis: vadovėlis* [The Objects of Civil Rights. In: Civil Law. General Part]. Mizaras, V. (moksl. red.). Vilnius: Justitia, 2009, p. 454.

5 Pakalniškis, V. Daiktai civilinių teisių objektų sistemoje [Things in the System of Objects of Civil Rights]. *Jurisprudencija*. 2005, 71(63): 77.

research are: document (content of source), linguistic, systematic and critical analyses, historical, comparative, and teleological.

Apart from several publications on the particular objects of civil rights, there are no thorough and systematic researches of the system of objects of civil rights in Lithuania. This research was performed using the sources of the Lithuanian law doctrine, e.g. the works of V. Pakalniškis⁶, P. Vitkevičius⁷ (revealing the common system of objects of civil rights). Due to the scarcity of the national law doctrine on the subject-matter, this research is also based on the foreign scientific literature and researches. The problems analysed in this research are compared to the legal system and legal doctrine of Russia wherein the system of objects of civil rights is analysed more exhaustively. Unfortunately, the scientists of other foreign countries, except for Russia, do not pay attention to this methodological problem.

1. The Concept of the Object of Civil Rights

Prior to the coming into force of the LCC in 2000, according to the prevailing position in the national legal doctrine, the object of civil rights was synonymous to the object of civil relationship, which was defined as one's subject for fulfilling one's needs and interests being a mean of fulfilment.⁸ The concurrence of these concepts was the result of the 1964 Lithuanian Civil Code, which did not regulate the objects of civil rights. While analysing the content of Article 1.97, the authors of the official commentary of the LCC state that the objects of civil rights should be considered 'all that is connected with the rights and obligations of a party to the civil relationship'⁹. Other authors provide the following definition of the object of civil rights: 'the object of civil rights is assets and non-property values protected by civil law'¹⁰. However, this definition lacks abstractive nature because only separate objects of civil rights are listed and no abstract features are given.

Some authors¹¹ state that the position of the legislator that all civil relationships must have an object of civil rights is questionable. Article 1.113 of the LCC provides that actions and their results can be the objects of civil rights, thus in relationships *ad personam* without any material subject-matter (e.g. provision of remunerated services) the subject-matter of the obligation and the object of civil rights shall be the same subject

6 Pakalniškis, V., *supra* note 5; Pakalniškis, V. Turto samprata ir jo formos. In: *Civilinė teisė. Bendroji dalis: vadovėlis* [The Concept of Asset and its Types. In: Civil Law. General Part: textbook]. Vilnius: MRU Leidybos centras, 2007.

7 Vitkevičius, P. Civilinis teisinis santykis. In: *Civilinė teisė. Bendroji dalis: vadovėlis* [The Civil Legal Relationship. In: Civil Law. General Part: textbook]. Vilnius: MRU Leidybos centras, 2007.

8 *Civilinė teisė: vadovėlis* [Civil Law: textbook]. Staskonis, V. (ats. red.). Kaunas: Vijusia, 1997, p. 54.

9 *Lietuvos Respublikos civilinio kodekso komentaras. Pirmoji knyga: Bendrosios nuostatos* [The Commentary of the Civil Code of the Republic of Lithuania. Book One. General Provisions]. Vilnius: Justitia, 2001, p. 213.

10 Juzikienė, R.; Mizaras, V.; Smaliukas, A., *supra* note 4, p. 454.

11 *Ibid.*

– the actions and results thereof, i.e. it seems as if the relationships *ad personam* do not have any object of civil rights.

In private law theory two opposite approaches exist as to the object of civil rights: (i) the object of civil relationship and the object of civil rights coincide; (ii) the object of civil relationship and the object of civil rights are different and self-sufficient concepts.

It should be emphasised that the different approaches to the relation between the object of the civil relationship and the object of civil rights derives from the different conceptions of the legal relationship existing in legal theory. Some authors¹² assert that the legal relationship is a factual social relationship regulated by the legal norms (*material legal relationship*). Other authors¹³ describe the legal relationship as the legal form of the factual social relationship which derives from legal regulation (*formal legal relationship*). Proponents of the third approach¹⁴ state that the legal relationship is a totality of legal form and factual social relationship (*dualistic legal relationship*). Therefore, it is impossible to present an abstract definition of the object of civil rights, as it is crucial to point out which approach of legal relationship is used. In the contemporary Lithuanian legal doctrine the approach that the legal relationship is a factual social relationship regulated by the legal norms although the factual social relationship does not disappear due to the fact that the positive law regulates the social relationship is prevalent. In other words, the law penetrates into the actions of the parties of the factual social relationships, concretised by the subjective rights and obligations, and turns those actions into legal actions, i.e. these actions are integral although consist of two opposites – factual and legal¹⁵. Thus it can be concluded that in the contemporary Lithuanian theory of law the dualistic conception of the legal relationship is prevalent.

Another methodological problem determining different approaches to the relation of the object of civil rights and the object of civil relationship is the structure of the civil legal relationship. The most popular structure of the civil legal relationship is trinomial, i.e. the elements of the civil legal relationship are the parties, the object and the content of the relationship.¹⁶ Some authors¹⁷ add the fourth element to such trinomial structure – the inner form of the legal relationship, which is considered as subjective rights and obligations of the parties. Since the proponents of the trinomial structure of the civil legal relationship ascribe the content of the relationship as the actions of the parties and their subjective rights and obligations, it can be concluded that both of these structures

12 For instance R. O. Khalfina. Belov, V. A. Obekt subektivnogo grazhdanskogo prava, obekt grazhdanskogo pravootnosheniya i obekt grazhdanskogo oborota: sodержanie i sootnoshenie ponjatiy. In: *Obekty grazhdanskogo oborota* [The Object of Subjective Civil Right, the Object of Civil Legal Relationship and the Object of Civil Turnover: the Content and the Interrelation of Concepts. In: The Objects of Civil Turnover]. Sbornik statej. Moskva: Izdatelstvo “Statut”, 2007, s. 20.

13 For instance V. A. Tarkhov. Belov, V. A., *supra* note 12, s. 20.

14 For instance S. S. Alekseev. *Ibid.*, s. 21.

15 Vaišvila, A. *Teisės teorija: vadovėlis* [The Theory of Law: textbook]. 2-asis leidimas. Vilnius: Justitia, 2004, p. 401–403; Baranauskas, E., et al. *Civilinė teisė. Bendroji dalis: vadovėlis* [Civil Law. General Part: textbook]. Vilnius: MRU Leidybos centras, 2007, p. 122–123; *Civilinė teisė. Bendroji dalis: vadovėlis* [Civil Law. General Part: textbook]. Mizaras, V. (moksl. red.). Vilnius: Justitia, 2009, p. 36–38.

16 Vaišvila, A., *supra* note 15, p. 407; *Civilinė teisė. Bendroji dalis: vadovėlis*, *supra* note 15, p. 38.

17 Vitkevičius, P., *supra* note 7, p. 123.

consist of the same amount of the elements of the relationship. Simply the structure of four elements can be considered as more methodologically comprehensive, whereas the inner form of the legal relationship comprising of the subjective rights and obligations, provides all abstractly possible rights and obligations. Meanwhile the parties having their subjective rights and obligations can implement only part of such rights and obligations, thus the content of the civil relationship only consists of the particular actions already fulfilled. Without going into further discussion on the subject-matter, it can be concluded that the actions of the parties as well as the subjective rights and obligations fall into the structure of the civil legal relationship.

It should be noted that another approach exists regarding the structure of legal relationship, i.e. the object of civil relationship does not fall into the structure of the relationship. The proponent of that conception is the Russian scientist D. D. Grimm (rus. – Д. Д. Гримм) who states that the actions of the obliged person aimed at a particular result cannot be considered as the object of the civil legal relationship, as such actions overreach the limits of the legal relationship, i.e. a civil relationship exists without any object¹⁸. This conception has few proponents; therefore we shall follow the prevailing approach that the object falls into the structure of the legal relationship.

Eventually, there are two different approaches regarding the concept of the object of the civil legal relationship. According to the definition of the object of the civil relationship, there are monistic and pluralistic theories of the legal relationship. The *monistic* theory of the legal relationship states that the object of civil relationship is what the rights and obligations of the parties are directed to, i.e. the actions of the parties. Probably the most famous proponent of this theory is the Russian scientist O. Ioffe (rus. – О. Иоффе)¹⁹. Whereas the *pluralistic* theory of the legal relationship states that the values, with regard to which the legal relationship emerges form the object of civil relationship. According to Article 1.97(1) of the LCC it can be concluded that the pluralistic theory is established in Lithuania, i.e. the values regarding which the legal relationship emerges are considered as the object of the civil legal relationship and the subjective rights and obligations are the elements of the structure of the legal relationship²⁰. In conformity with the monistic theory, the object of civil rights and the object of the civil relationship are always different concepts, i.e. the object of the legal relationship is the actions of the parties, because the rights and obligations of the parties are directed to it, whereas the object of civil rights is a particular value regarding which the legal relationship was created by the parties. However, in the contemporary doctrine of private law the pluralistic theory of the civil legal relationship is prevalent. Therefore, it raises a question: if the pluralistic theory considers that the object of the civil relationship is what the relationship was created for, then what is the object of civil rights?

18 Belov, V. A., *supra* note 12, s. 21, 44.

19 For more details see: Ioffe, O. S. *Izbrannye trudy po grazhdanskomu pravu* [Collected Works on Civil Law]. Moskva: 'Statut', 2000, s. 581–604; Ioffe, O. S. *Izbrannye trudy* [Collected Works]. T. 1. SPb. Izdatelstvo „Juridicheskij centr Press“, 2003, s. 110–137.

20 Juzikienė, R.; Mizaras, V.; Smaliukas, A., *supra* note 4, p. 40.

The proponents of the approach that the object of the civil relationship coincides with the object of civil rights²¹ state that it is useless to divide these concepts as the values regarding which the relationship was created *per se* do not fall under legal regulation. These values are the objects of the actions of the parties of the civil relationship, thus the objects of the civil relationship as well as the objects of civil rights are considered to be the values regarding which the relationship was created. Thus, these concepts coincide. It seems logical that the object of civil rights and the object of civil relationship always coincide. That statement is correct in cases of absolute civil relationships, i.e. the relationships *ad rem* and the relationship regarding personal non-material values, as these relationships are static and implemented by the actions of the subjective right holder.

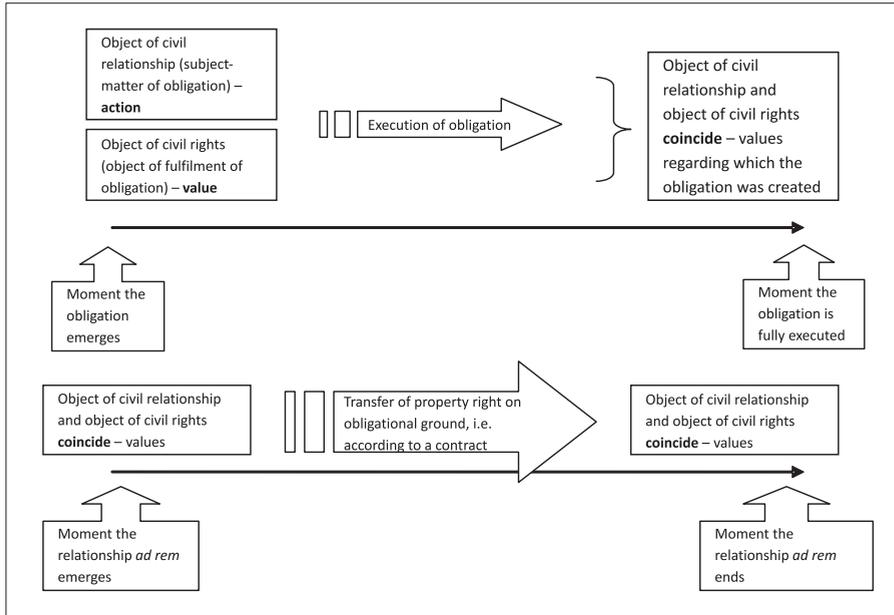
However, it should be noted that in cases of relative (obligational) civil relationships the object of the civil relationship (i.e. the actions of the parties) does not coincide with the object of subjective civil rights (i.e. the values that the creditor receives on the fulfilment of the obligation by the debtor). In the legal doctrine²² such ‘duplication’ of the object in the law of obligations is explained by stating that the obligation has two subject-matters – the subject-matter of the obligation (i.e. the actions of the parties to the obligation) and the subject-matter of the fulfilment of the obligation (i.e. the values that the creditor receives on the fulfilment of the obligation by the debtor). In other words, the actions of the parties to the obligation form the object of the obligational legal relationship by the moment the obligation is fully fulfilled is, and the particular values that the creditor receives on the fulfilment of the obligation by the debtor form the object of subjective rights of the parties to the obligation. The dualistic nature of the object of the civil relationship and the object of civil rights is well illustrated by an example given by V. Pakalniškis²³: by the moment of transfer of a thing on the basis of the sale-purchase agreement between the purchaser and the vendor only the obligational relationship exists the object whereof is the action of the vendor (the transfer of a thing); the vendor retains the property right by the moment of transfer of a thing, i.e. the vendor is the party to a relationship *ad rem* and its object is the thing sold; only at the moment of due execution of the sale-purchase agreement (when the thing is transferred) the new relationship *ad rem* emerges and its object is the thing sold, i.e. the vendor becomes the new owner of the thing²⁴. This situation can be illustrated by the following picture:

21 *Grazhdanskoe pravo* [Civil Law]. Sukhanova, E. A. (red.). T. 1. Obshhaja chast: Uchebnik. 3-e izd. Moskva: Volter Kluver, 2004, s. 393.

22 Ambrasienė, D., et al. *Civilinė teisė. Prievolių teisė: vadovėlis* [Civil Law. The Law of Obligations: textbook]. Vilnius: LTU Leidybos centras, 2004, p. 16.

23 Pakalniškis, V. *Daiktai civilinių teisių objektų sistemoje* [Things in the System of Objects of Civil Rights], *supra* note 5, p. 83–84.

24 In this case the general provision of Article 4.49 states that the property right to a thing is transferred to a person on the moment of transfer although the contract can provide for a different moment of transfer of the property right, e.g. upon the conclusion of the contract or the payment of the price.



Picture 1. The dualistic nature of the object of the civil relationship and the object of civil rights

Therefore, the position of the authors²⁵ stating that the object of the civil relationship and the object of civil rights of the obligations without material subject-matter (e.g. provision of remunerated services) are actions and results thereof is incorrect. In case of obligations, where the subject-matter is of immaterial nature, the object of the relationship shall be the actions of the debtor, e.g. provision of services, however, the object of the subjective rights of the parties shall be the value regarding which the obligation was created, i.e. the result of the action – due provision of services. When such an obligation is duly executed, e.g. the services are duly provided, the object of the civil relationship (the action of the debtor) transforms into the value the relationship was created for – the subject-matter of the execution of an obligation, and on the moment of due execution of the obligation the object of the obligational relationship shall coincide with the object of the subjective rights of the parties. Therefore, the authors²⁶ affirming that the action itself, even when it is impossible to distinguish the action from the result thereof, cannot satisfy the needs of the parties because the obligation is created not for the action but for its result, are right.

In respect of the aforesaid, the position of the legislator to include action in the list of objects of civil rights (Articles 1.97(1) and 1.113 of the LCC) is rather doubtful. This can be explained by the fact that by now, there is no unanimous approach in the Lithuanian legal theory with regard to the interrelation between the object of the

25 Juzikienė, R.; Mizaras, V.; Smaliukas, A., *supra* note 4, p. 457.

26 Vitkevičius, P., *supra* note 7, p. 131.

civil relationship and the object of civil rights. In order to achieve the consistent legal regulation, the legislator should consider revising Articles 1.97(1) and 1.113 of the LCC by deleting actions as the object of civil rights and leaving only the results of actions.

In summarising the discussion regarding the concepts of object of the civil relationship and the object of civil rights, it can be concluded that in the contemporary doctrine of private law wherein the pluralistic theory of the civil relationship is prevalent, the object of the civil relationship as well as the object of civil rights are considered as the values regarding which the relationship emerged. Although the abstract definitions of those terms coincide, the usage of two different terms is justifiable as the object of the civil relationship does not always coincide with the object of civil rights. The actions of the parties to the obligation form the object of the obligational legal relationship by the moment the obligation is fully fulfilled, and the particular values that the creditor receives on the fulfilment of the obligation by the debtor form the object of the subjective rights of the parties to the obligation. When such an obligation is duly discharged, the object of the civil relationship (the subject-matter of the obligation) transforms into the value the relationship was created for – the subject-matter of the execution of obligation, and on the moment of due execution of the obligation the object of the obligational relationship shall coincide with the object of the subjective rights of the parties. Meanwhile, in the absolute civil relationships the object of civil rights always coincides with the object of the civil relationship, as these relationships are static and implemented by the actions of the subjective right holder.

According to what has been stated above, it can be said that the more precise term to ascribe the value the civil relationship was created for is the object of civil rights. Therefore, further in the text we shall use this term – the object of civil rights, understood as the values regarding which the civil relationship emerged.

2. The Link Between the Objects of Civil Rights and Property Objects

In modern private law, the prevailing pluralistic theory of civil objects raises a question whether all objects of civil rights can be considered as property objects. The answer to this question lies in the interrelationship between property law and the law of obligations. From the historical point of view, property relationships emerged earlier than the obligations, as the need for the law of obligations arose only when owners of separate objects needed to transfer their objects to other parties and obtain new objects, i.e. when the economic turnover emerged. Whereas property law emerged prior to the economic turnover, long time before that the only object of property was a thing. That is why property law consists of the relationship *ad rem*, as these relationships emerged regarding things.

At the time of development of the civilisation, people could not satisfy their needs with things only, and thus new property objects emerged that could satisfy the spiritual needs of people, i.e. the results of intellectual conduct. Not only specific (exclusive)

rights to such objects emerged, but also property right²⁷. While the law of obligations evolved, the claim of the creditor that the debtor acted in a particular way or restrained from acting started to be considered as the future economic benefit of the creditor. Only after reaching a rather high level of development of the law, all incorporeal values became the objects of economic and civil turnover²⁸.

Inasmuch as the purpose of the birth of the law of obligations reflecting the dynamics of the civil relationships was to provide efficient economic turnover with the legal mechanism, i.e. to allow the owners transferring, obtaining and using their property in other ways, the law of obligations still serves as a tool for property law. In other words, the law of obligations allows the property objects participating in the civil turnover. Therefore, only the owners or duly authorised persons can participate in the civil turnover²⁹, because the civil turnover emerged only when the property relationships were already formed. Thus the approach³⁰ that only property objects can participate in the civil turnover is acceptable. Consequently, Article 4.38 of the LCC provides that property objects are things and other assets³¹, i.e. incorporeal assets. In the Russian legal doctrine, the objects of property are assets, understood as the totality of objects of civil rights belonging to a particular person by means of property right and distinguished from other objects. Hereby things and property rights are referred to as property objects, however, such objects which cannot be appropriated (e.g. atmosphere, celestial bodies) are not referred to as assets, i.e. property objects. Nevertheless, as the science and technologies develop, the list of property objects is constantly expanding³².

However, the aforesaid does not answer the question whether all objects of civil rights can be considered as property objects. Article 1.97(1) of the LCC lists the objects of civil rights, i.e. things, money and securities, other property and property rights, results of intellectual activities, information, actions and results thereof, as well as any other material and non-material values. Although the list is not exhaustive, it may be concluded that the majority of the objects of civil rights are property objects because the majority of the objects of civil rights are assets and can participate in the civil turnover. However, it should be noted that civil law regulates not only property relationships (although they form the majority of it) but also personal non-property relationships³³.

27 It should be noted that the contemporary intellectual property law is a complex branch of law, thus LCC does not regulate the content of the rights to the results of the intellectual conduct and the ways of implementation thereof. Special norms and international legal acts regulate civil turnover of the results of the intellectual conduct. Further see: Juzikienė, R.; Mizaras, V.; Smaliukas, A., *supra* note 4, p. 493–499.

28 Pakalniškis, V., *supra* note 5, p. 79–81.

29 This fundamental provision is established in Article 4.48(1) of the LCC.

30 Pakalniškis, V., *supra* note 5, p. 79.

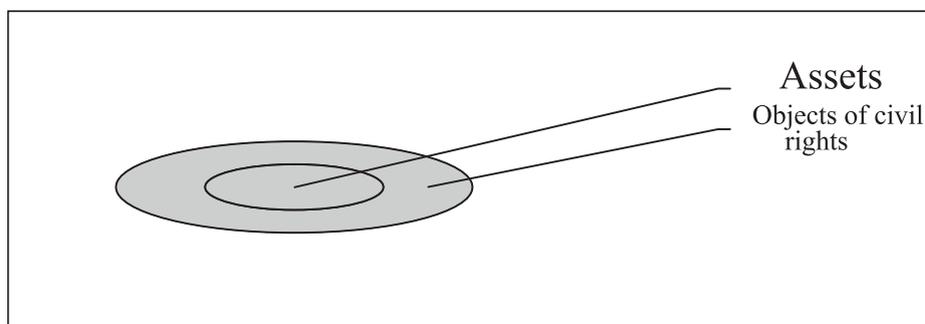
31 For more details on asset and its types see: Jakutytė-Sungailienė, A. *Įmonė kaip civilinių teisių objektas* [Enterprise as an Object of Civil Rights]. Doctor Thesis. Social Sciences, Law (01 S). Vilnius: Mykolo Romerio universitetas, 2010, p. 22–39.

32 *Komentarij k Graždanskomu Kodeksu Rossijskoj Federacij Chasti pervoj*, *supra* note 3, s. 491.

33 Part 1 of Article 1.1 of LCC.

Personal non-property relationships are the exclusive object of regulation of civil law, i.e. civil law regulates only personal non-property relationship that is provided by law³⁴.

Personal non-property relationships can be related to the property relationship (i.e. when one can create property relationship regarding personal non-property values³⁵), or not related to the property relationship, however the object of both is personal non-property value integrally connected with a person, e.g. the name of a person, firm name, image of a person, authorship, etc. Of course, a personal non-property value integrally connected with a person cannot participate in the civil turnover³⁶, thus it cannot be referred to as property object. Civil law protects and safeguards such values³⁷ by providing the order and the means for defending them³⁸, i.e. no property relationship can be created regarding such values. It must be emphasised that if the property relationship emerges regarding the personal non-property value, e.g. an author grants copyright, etc., the property rights to the usage of such values can participate in the civil turnover and thus can be referred to as property objects.



Picture 2. Assets in the system of the objects of civil rights

In summarising the discussion regarding the interrelationship between the objects of civil rights and the property objects, it may be concluded that only the objects of civil rights that can participate in the civil turnover and have economic value can be referred to as property objects, because property law regulates relationships regarding assets. Regarding objects that are not objects of property, personal non-property relationships can emerge safeguarded and protected by civil law.

34 Baranauskas, E., *et al.*, *supra* note 15, p. 47.

35 As personal non-property relationships related to the property relationship are the civil relationships created regarding the intellectual conduct, because the results thereof are connected with the creator's personality, however, due to their objective form they can be separated from the creator and used in the civil turnover.

36 According to Article 1.114(2) of the LCC such values can be transferred only if the law so provides.

37 Articles 1.114(1) and Article 1.115(1) of the LCC.

38 Articles 2.20–2.27 of the LCC.

3. Types of Objects of Civil Rights

In the legal doctrine,³⁹ the objects of civil rights are grouped according to various criteria, e.g. according to the physical form, they are material (things) and immaterial objects (money, property rights, securities, etc.); according to their capacity to participate in the civil turnover, they are objects of unlimited, limited and forbidden turnover⁴⁰. Of course, such classifications are universally accepted, as they reflect the obvious features of the objects.

Some authors give more original classifications of the objects of civil rights. For instance, according to the different nature of the civil relationships, Russian legal scientist E. A. Sukhanov (rus. – *E. A. Суханов*)⁴¹ divides the objects of civil rights into objects of (i) relationships *ad rem*, (ii) obligations, (iii) exclusive rights and (iv) participants in legal persons. Nevertheless, such classification is doubtful, first of all, because only the material thing is an object of the property relationships and other property values are only objects of obligations (e.g. property rights), exclusive rights (e.g. results of intellectual conduct) or relationship of participants in a legal person (e.g. shares). As mentioned above, an object which is not an object of property cannot participate in the civil turnover, thus such classification does not match with the principles of contemporary private law and the pluralistic theory of the objects of civil rights.

While analysing the objects of civil rights listed in Article 1.97(1) of the LCC, many authors arrive at the conclusion that all of those objects are equivalent, therefore, they do not focus on the interrelationship between the material assets and the financial assets. According to the functional interrelationship between material assets and financial assets, the objects of civil rights can be divided into principal (primary) and derivative (secondary) objects. In the Lithuanian legal theory, V. Pakalniškis is the proponent of such classification⁴². It might be affirmed that the main criterion of such classification is the purpose of the objects of civil rights. Material assets (things and proprietary complexes) and the results of intellectual conduct are values that directly satisfy the needs of people or that might be used in order to create other values, thus these objects are considered as principal (primary). Meanwhile, other objects of civil rights, which emerged as a legal fiction or tools of juristic technique (financial assets) in order to facilitate the civil turnover cannot satisfy the consuming and spiritual needs of people. As the financial assets are only a means for obtaining things in the future, they are therefore used to serve the turnover of the principal objects of civil rights (things), because without the possibility to transform the financial assets into material values in the future the financial assets *per se* would lose their worth and purpose. Thus all immaterial assets (property rights, securities, etc.) are referred to as derivative (secondary), designed to serve and facilitate the turnover of the principal (primary) objects of civil rights.

39 *Grazhdanskoe pravo*, *supra* note 21, s. 394–396.

40 For more details see: Jakutytė-Sungailienė, A., *supra* note 31, p. 23–30.

41 Baranauskas, E., *et al.*, *supra* note 15, p. 44–45; *Grazhdanskoe pravo*, *supra* note 21, s. 395.

42 Pakalniškis, V., *supra* note 5, p. 76–85; Pakalniškis, V., *supra* note 6, p. 42–45.

Hence it might be concluded that the classification of the objects of civil rights into principal and derivative objects revealing the functional interrelationship between the material and immaterial assets, might be useful in practice as it makes it easier to understand the genesis and interrelationship between property law and the law of obligations.

Conclusions

1. In the contemporary doctrine of private law, wherein the pluralistic theory of the civil relationship is prevalent, the object of the civil relationship as well as the object of civil rights is considered the values regarding which the relationship emerged. However, the more precise term to ascribe the value the civil relationship was created for is the object of civil rights.

2. Although abstract definitions of the object of civil rights and the object of civil legal relationship coincide, the usage of two different terms is justifiable as the object of the civil relationship does not always coincide with the object of civil rights.

3. The actions of the parties to the obligation form the object of the obligational legal relationship by the moment the obligation is fully fulfilled, and the particular values, which the creditor receives on the fulfilment of the obligation by the debtor form the object of the subjective rights of the parties to the obligation. When such an obligation is duly executed, the object of the civil relationship (the subject-matter of the obligation) transforms into the value the relationship was created for – the subject-matter of the execution of an obligation, and on the moment of due execution of the obligation the object of the obligational relationship shall coincide with the object of the subjective rights of the parties.

4. In absolute civil relationships, the object of civil rights always coincides with the object of the civil relationship, as these relationships are static and implemented by the actions of the subjective right holder.

5. Only the objects of civil rights that can participate in the civil turnover and have the economic value can be referred to as property objects, because property law regulates relationships regarding assets. Regarding objects that are not objects of property, personal non-property relationships can emerge safeguarded and protected by civil law.

6. According to the functional interrelationship between material assets and financial assets, the objects of civil rights can be divided into principal (primary) and derivative (secondary) objects. This classification reveals the functional interrelationship between material and immaterial assets and therefore facilitates the understanding of the genesis and interrelationship between property law and the law of obligations.

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CIVILINIŲ TEISIŲ OBJEKTŲ SISTEMA: SĄVOKŲ PROBLEMA

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Santrauka. Lietuvoje iki 2000 m. CK priėmimo ir įsigaliojimo galiojęs 1964 m. CK išvis nereglementavo civilinių teisių objektų, todėl 2000 m. CK I knygos III dalies V skyrius laikytina viena iš reikšmingesnių naujovių. CK 1.97 straipsnyje įstatymų leidėjas išvardija atskirus civilinių teisių objektus, t. y. daiktai, pinigai, vertybiniai popieriai, intelektinės veiklos rezultatai, informacija, veiksmai, veiksmy rezultatai, turtinės teisės, turtinės ir neturtinės vertybės, kitas turtas. Iki šiol privatinės teisės doktrinoje egzistuoja kelios nuomonės dėl bendrosios civilinių teisių objektų sampratos: ar civilinių teisių objektas sutampa su civilinių teisinių santykių objektu, ar civilinių teisių objektas yra civilinio teisinio santykio elementas bei ar atskiri objektai (pvz., veiksmai) gali būti civilinių teisių objektais. Kai kurių autorių nuomone, diskusija dėl civilinių teisių objekto sampratos praktiniam teisės taikymui ir aiškinimui įtakos neturi, tačiau, kitų autorių nuomone, nepakankamas teoretikų dėmesys šiam klausimui kelia metodologinių problemų, nagrinėjant civilinių teisinių santykių rūšių funkcinius ir sisteminius ryšius.

Atsižvelgiant į tai, šiame straipsnyje, siekiant atskleisti civilinių objektų sistemą, nagrinėjamas teisinių sąvokų „civilinių teisių objektas“ ir „civilinio teisinio santykio objektas“ santykis, ryšys tarp civilinių teisių objektų ir nuosavybės teisės objektų bei civilinių teisių objektų rūšys. Dėl to šio straipsnio tyrimo objektas yra teisinio reguliavimo ir teisės doktrinos, susijusios su civilinių teisių objektais ir jų rūšimis, analizė.

Straipsnio pabaigoje pateikiamos šios išvados: (i) šiuolaikinėje privatinės teisės doktrinoje vyraujant pliuralistinei civilinio teisinio santykio objekto teorijai, tiek civilinio teisinio santykio, tiek civilinių teisių objektu pripažįstama tai (tos gėrybės), dėl ko atsiranda teisinis santykis. Tačiau tikslesnis terminas apibūdinant gėrybę, dėl kurios buvo sukurtas teisinis santykis, yra civilinių teisių objektas; (ii) nors civilinių teisių objekto ir civilinio teisinio santykio objekto apibrėžtys abstrakčiaja prasme iš esmės sutampa, tačiau dviejų teisinių terminų vartojimas yra pateisinamas tuo, kad civilinių teisinių santykių objektas ne visuomet sutampa su civilinių teisių objektu; (iii) prievolinio teisinio santykio objektas iki prievolės visiško įvykdymo yra prievolės šalių veiksmai, o prievolinio teisinio santykio subjektų civilinių teisių objektas yra konkrečios gėrybės, kurias kreditorius gauna skolininkui įvykdžius prievolę. Prievolę įvykdžius tinkamai, prievolinio teisinio santykio objektas iš prievolės šalių veiksmy (prievolės dalyko) transformuojasi į gėrybę, dėl kurios buvo sukurta prievolė (prievolės įvykdymo dalyką) ir prievolės tinkamo įvykdymo momentu sutampa su prievolės subjektų civilinių teisių objektu; (iv) absoliučių civilinių teisinių santykių objektas visuomet sutampa su šių santykių subjektų civilinių teisių objektu, t. y. gėrybe, dėl kurios atsiranda šis teisinis santykis, nes tokie teisiniai santykiai yra statiški ir įgyvendinami paties subjektinės teisės turėtojo veiksmais; (v) nuosavybės teisės objektais gali būti pripažįstami tik tie civilinių teisių objektai, kurie turi civilinio apyvartumo savybę bei ekonominę vertę, nes nuosavybės teisės

reglamentuojami santykiai yra turtiniai. Dėl civilinių teisių objektų, kurie nepriskirtini prie nuosavybės teisės objektų, gali susiklostyti asmeniniai neturtiniai santykiai, kuriuos saugo civilinė teisė; (vi) atsižvelgiant į materialaus ir nematerialaus turto funkcinį tarpusavio ryšį, civilinių teisių objektai gali būti skirstomi į pagrindinius (pirminius) ir išvestinius (antrinius). Ši klasifikacija į pirminius ir išvestinius civilinių teisių objektus atskleidžia materialaus ir nematerialaus turto funkcinį tarpusavio ryšį bei padeda geriau suvokti daiktinės ir prievolių teisės santykį bei šių civilinės teisės požakių genezę.

Reikšminiai žodžiai: civilinių teisių objektas, civilinio teisinio santykio objektas, nuosavybės teisės objektas.

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