

The Bankruptcy Detection in Insolvency Proceedings in the Czech Republic

Abstract

This rigorous thesis presents a detailed interpretation of the term “bankruptcy” and its detection in insolvency proceedings in the Czech Republic.

Detection of bankruptcy is considered to be the initial phase in the insolvency proceeding and is, in fact, identical for all insolvency proceedings. Despite common lack of attention, it is indeed a crucial stage since without proper hearing about bankruptcy and its adjudication one cannot continue in the insolvency proceeding. Eventually, the whole proceeding is encumbered with defect. Therefore, this thesis aims at introducing complex analysis of the first phase of each insolvency proceeding.

This study first examines the term ‘bankruptcy’, both in the form of equity insolvency and balance-sheet insolvency. It lays particular emphasis on the latest amendment of act which came into effect in the second half of 2017 and which significantly adjusted definition of bankruptcy. This section also discusses imminent bankruptcy and conditions of its detection.

Next chapter addresses the commencement of the insolvency proceeding and its impacts as well as all necessary requirements and appendixes of the insolvency petition. This paper distinguishes between insolvency petition filed by the creditor and by the debtor, which has major impact on legal requirements of such insolvency petition. Apart from judicative findings the thesis again highlights the latest amendments of act, especially those which concern increased protection for debtors against chicaning attempts of creditors. In particular, preliminary judgment of insolvency petition filed by the creditor and advance payment of the costs associated with proceedings which are due with filing the petition of insolvency.

Last but not least, the work focuses on hearing a declared bankruptcy by the insolvency court, again with the difference whether the insolvency petition was filed by the debtor or the creditor. Furthermore, this section argues on individual adjudications on

insolvency petition (denial of the petition, suspension of the proceeding, refusal of the petition, bankruptcy detection) and consequences which arise from the bankruptcy.

Finally, this thesis describes and compares the initial phase of insolvency proceeding with the United States of America which treats this issue as a judicial adjustment on federal level.