

# **The Position and Application of Claims of the Secured Creditor in Insolvency Proceedings**

## **Abstract**

The topic of this thesis is the position and application of claims of the secured creditor within the special and to some extent independent type of civil court proceedings, which is insolvency proceedings. The object of insolvency proceedings is the bankruptcy or imminent bankruptcy of the debtor and the method of its resolution. It is more than clear, that the creditors who are involved in this proceedings have an interest in ensuring that their claim is satisfied as much as possible.

The aim of the paper, as its name itself suggests, is not a general description of the course of insolvency proceedings, but a comprehensive analysis of the position and application of claims of the secured creditors. In the insolvency law, we understand the concept of secured creditor somewhat more narrowly compared to the general substantive law, which is based on the Civil Code. Indeed, the Insolvency Act defines who is deemed to be a secured creditor for the purposes of insolvency proceedings, and this definition does not include all types of security institutes known to us from substantive law. When examining the issue, I proceed from the relevant legal regulations, relevant case law of the higher courts of the Czech Republic and leading publications on this topic.

The thesis is divided into three chapters, which are then subdivided into different levels of subchapters. In the first chapter, the more general introduction deals with the definition of bankruptcy and the role of a creditor in it, especially the number of creditors needed in order to proclaim bankruptcy. Furthermore, I focus on the general principles of the civil proceedings and insolvency proceedings. Subsequently, I move on to the crucial definition of a secured creditor in insolvency proceedings, and at the end of the first chapter I also describe the creditor insolvency petition along with the infamous bullying insolvency petitions. In the second chapter, the application of creditors' claims plays a primary role as I point out the differences applicable to secured creditors as well. Then, I move on to the possibility of satisfying interest of pre-insolvency claims and once more, I stress the differences applicable to secured creditors. Then, at the end of this chapter, I focus on the process of assessing the claims and the role of the individual entities in it. Finally, in the third, last chapter, I analyze the satisfaction of the secured

creditor's claim in the insolvency proceedings and I point out the differences that arise for the secured creditor, depending on how the debtor's insolvency is dealt with.