

## **Discharge of debts of the spouses**

### **Abstract**

Discharge of debts represents, on principle, a new institute, which has been implemented into our law by the Insolvency Act with effect since 1. 1. 2008. However, the lawmakers have only implemented an expressed regulation of the joint discharge of debts of the spouses by the amendment with effect since 1. 1. 2014. In her paper, the authoress has been focused exclusively on the discharge of debts from the perspective of the spouses; therefore, not only the discharge of debts of the spouses as separate debtors but also the spouses as the community of debtors.

In her paper, the authoress has been focused on the interpretation of the historical development of the joint discharge of debts of the spouses from the effect of the Insolvency Act, through its amendments up to the current wording thereof, including the illustrations in insolvency proceedings and judicial decisions. In several points, the prepared amendment to the Insolvency Act, which has been debated by the Chamber of Deputies of the Parliament of the Czech Republic, has also been mentioned in several points.

In this paper, the authoress has outlined a brief introduction to the discharge of debts as a remedial form of the solution of the bankruptcy of the debtor. She has pointed out the development of the proprietary nature of the debtor, the types of the seizable incomes of the debtor that form their proprietary nature for the purposes of the discharge of debts realized in the form of the instalment calendar, the calculation of their amount that may not be seized and the calculation of wage deductions or another income.

The authoress has dedicated an independent chapter to the issues of the clash of the execution and insolvency because in case of the debtors commencing the insolvency proceeding or, as the case may be, applying for the discharge of debts, the reason for their interest in the insolvency proceeding is mainly the very pending execution proceeding, and not just one.

With respect to the incorporation of the Czech Republic as one of the member states of the European Union and, therefore, with respect to the free movement of the people, this paper also elaborates on the international element in the insolvency proceeding, both from the perspective of the European law and from the perspective of the international law. By the

signature of the Treaty of Accession, the Czech Republic has become an ordinary member of the European Union, by means of which its citizens have also obtained the Union rights. The right to the free movement shall not only mean the right to move but also to work, which shall be also related to the possibilities of entering new legal relations, concluding contracts and creating debts with the creditors originating from the countries outside of the Czech Republic.

In conclusion, the authoress has also outlined the legal regulations of the insolvency proceeding and discharge of debts in other countries, with mentioning a specific regulation of the discharge of debts of the spouses in Germany and in the United States of America.

**Key words:**

- spouses
- debtor
- discharge of debts