

Bankruptcy as a mode of resolving debtor's insolvency

Abstract

The subject of this thesis is bankruptcy as a mode of resolving debtor's insolvency. Bankruptcy (sometimes also referred to as liquidation) is simply a mode of solving insolvency, which mainly deals with the realization of debtor's assets and is also a universal way of solving bankruptcy available to all debtors. Despite this, it is not paid a lot of attention lately, which is much more focused on remediation methods, such as reorganization and debt relief.

This thesis gradually acquaints the reader with the legal regulation of the most important legal institutions related to bankruptcy and selected connected context, which usually have a major impact on bankruptcy process or can cause problems. The first chapter is devoted to a more detailed introduction into the world of bankruptcy and bankruptcy law in terms of its historical development. The second chapter describes the insolvency petition and the debtor's path to bankruptcy, a prior stage of the proceeding. Its inclusion was necessary due to the many interconnections of insolvency proceedings.

Probably the most important part is concentrated in the third chapter, where the problematic parts of the effects that the declaration of bankruptcy causes in the sphere of the debtor and the mutual functioning of individual involved actors are presented. Furthermore, some specific forms of bankruptcy are discussed and, for illustration, selected parameters of average bankruptcy of business entities in the Czech Republic are presented. As an essential part of the bankruptcy issue is the institute of assets, it also includes an analysis of the regulation of its identification, administration and subsequent realization. In the last chapter there are described other selected most problematic areas of bankruptcy and insolvency proceeding in general, which can be encountered every day in insolvency practice. The international context of bankruptcy issues and comparison with some foreign legal regulations are also not omitted.

However, the content of this work is not an exhaustive description and analysis of the complete bankruptcy legislation. Emphasis is placed mainly on unclear or problematic passages that have appeared and appear in connection with the legislation and which need to be solved primarily through the court decisions. It is the case law that has been given particular attention, as it explains many unclear legal provisions. In some cases, however,

even the case law is not sufficient to overcome the problems encountered, so the thesis outlines, not only in comparison with foreign legislation, possible *de lege ferenda* amendments, which could streamline and speed up insolvency proceedings.

The current regulation of insolvency law is quite modern and as a whole has proved its worth. Despite modern trends in this area of law, bankruptcy will certainly continue to be a widely used method of resolving debtor's insolvency, and it is desirable to continue to pay due attention to and continue to improve it.