

Abstract

Reinstatement of liquidation (ss. 208, 209 of the Civil Code)

This diploma thesis deals with the legal regulation of the continuing and reinstated liquidation pursuant section 208 and 209 of Act No. 89/2012 Coll., the Civil Code. The continuing and reinstated liquidation are specific cases to which rather marginal attention is paid within the legal order. The aim of this thesis is to point out the essential aspects of this regulation and to solve some of the cases of doubt concerning them, as well as to outline the actual course of these institutes and the prerequisites that must arise for their implementation.

The diploma thesis deals with the continuing and reinstated liquidation in two separate parts, which form the core of the thesis. In the individual chapters the legal conditions for the continuation and reinstatement of the liquidation are analysed, as well as the prerequisites that were, in relation to this regulation, specified in more detail or deduced only in the decisional practice of the courts. Particular attention is also paid to the nature and the requirements set out for the nature of the previously unknown property, the needs for other necessary measures and other interests worthy of legal protection, which are the essential reasons for carrying out a continuing or reinstated liquidation. The procedure of the liquidator, the courts and other entitled persons during the carrying out of these institutes, as well as in the phase that precedes it, is also addressed. The thesis focuses also on the creditors' status within the continuing and reinstated liquidation and the restrictions which limit the application of these procedures. The part devoted to the reinstated liquidation deals with the real use and accessibility of this institute, whilst comparing the extent of its use at the present with the extent of its use under the previous regulation pursuant section 75b of Act No. 513/1991 Coll., the Commercial Code. The diploma thesis also includes an insight and a comparison with the Slovak legal regulation of the additional liquidation whose content is comparable with the regulation of the reinstated liquidation. Within the entire thesis a comparison of the current regulation of the continuing and reinstated liquidation pursuant ss. 208 and 209 of the Civil Code with the antecedent regulation contained in the Commercial Code is included, whilst assessing the good and worse aspects of both the regulations being compared.