

Discharge of debt of a natural person

Abstract

Inability to repay debts is a long-term problem in the Czech Republic. This problem is exacerbated by the coronavirus epidemic SARS-CoV-2, as a result of which many people have lost their regular income. Especially for natural persons, an attractive solution to their unfavourable financial situation is the institute of discharge of debt. Its aspects are dealt with in this thesis. Through discharge of debt, the debtor can break free of the spiral of debt and return to active economic life.

Recently, discharge of debt has undergone significant changes, which were introduced by the so-called Discharge of Debt Amendment and the so-called Lex Covid I and Lex Covid II. The Discharge of Debt Amendment aimed to make the discharge of debt available to a wider group of debtors. Lex Covid I and Lex Covid II were primarily intended to mitigate the adverse economic effects of measures against COVID-19. However, they also introduced permanent changes in the institute of discharge of debt. All these amendments have significantly simplified the conditions for discharge of debt in favour of debtors. However, they are associated with a number of issues that this thesis deals with from a theoretical and practical point of view.

In addition, an amendment to the Insolvency Act, which implements the Directive on restructuring and insolvency into the legal order, is currently being discussed. This Amendment should have a major impact, in particular on the duration of discharge of debt. Although the Directive explicitly lays down a reduction in the duration of discharge of debt only to natural persons – entrepreneurs, the Amendment has also the ambition to reduce the duration of discharge of debt to consumers. There is no consensus upon this solution yet.

This thesis evaluates the effects of all above mentioned amendments on the institute of discharge of debt. The individual changes are placed in the context of insolvency proceedings. In connection with the planned amendment, the thesis also deals with the issue of future development of discharge of debt. The process of discharge of debt is analysed chronologically using the literature, case law of the upper courts and the knowledge of the author from practice. Due to the two applicable legal regulation, the differences between the individual regulations are continuously pointed out.

The thesis corresponds to the effective legal regulation on 30 March 2021.