

Reorganization as an insolvency method in the Czech law with focus on a prepacked reorganization

Abstract

This thesis deals with one of the insolvency methods in the Czech Republic, a reorganization. Proper definition of a bankruptcy is the crucial and initiatory point of Czech insolvency proceedings. Bankruptcy is defined not only by the introductory provisions of the Insolvency Act, but also by the conclusions of Czech higher courts which are analysed in this thesis. In case that debtor's economic situation overreaches an imaginary bound of bankruptcy the author of this thesis proposes to solve this situation by way of reorganization as a suitable insolvency method. However, not all debtors are eligible to be subject of reorganization. The debtor must be an entrepreneur with an annual net turnover for the last financial year prior to filing for insolvency in the amount of at least CZK 50,000,000 or must have at least 50 employees. The debtor who does not fulfil these criteria may be subject to reorganization at all. The Insolvency Act offers a solution by mean of the prepacked reorganization approved by at least half of all debtor's secured and unsecured creditors. As the title of this thesis suggests, it covers the main attributes of the prepacked form of reorganization, which provides the debtor with a several advantages, such as a possibility to choose its insolvency administrator and the expert for evaluation of the debtor's assets, but in particular, thanks to the prior approval by the creditors, it gives the hope and impulse to solve debtor's bankruptcy effectively while preserving its enterprise, competitiveness and jobs for its employees. This means that debtor's bankruptcy solved by way of reorganization does not have to lead to sell-off of the debtor's assets but to recovery of its business activities. The reorganization is not, however, an easy insolvency method. Following elaboration of the fundamental characteristics of reorganization, this thesis deals with its difficulties based on numerous decisions of Czech insolvency courts. The heart of this thesis is an analysis of a pending insolvency proceeding in which courts of all instances including the Czech constitutional court have dealt with prepacked reorganization issues. Delays in this insolvency proceeding, caused by disputes between the creditors, have contributed to adjudication of essential questions regarding the process of prepacked reorganization and this thesis provides the readers with a detailed elaboration of such conclusions adopted by the insolvency courts in this insolvency proceeding.

Key words: prepacked reorganization, reorganization plan, bankruptcy