

# **Restructuring and Reorganization of Capital Company**

## **Abstract**

There is no doubt that the insolvency of a capital company is an undesirable event that negatively affects a significant number of parties. However, it can also have an impact on a much larger (e.g. macroeconomic or social) scale. It is therefore important that there are mechanisms in place that can help to resolve a company's (particularly financial) distress in a way that not only avoids (likelihood of) insolvency but allows the company's business to remain in operation and restore its profitability. In other words, mechanisms that may enable a remedial solution to the company's distress, as long as such solution makes sense. The mechanisms in question are the subject of this thesis which is currently gaining importance in view of the threat of increasing amount of corporate bankruptcies in the context of the covid-19 disease pandemic.

For these purposes, the first half of the thesis (represented by the first four chapters) aims to introduce the reader in more detail to out-of-court restructuring and preventive restructuring procedures that can help to address the less severe intensity of company's distress. In case that a company's distress worsens to such extent that it cannot be resolved informally or semi-formally, or if for some other reason formal collective (insolvency) proceeding needs to be initiated, the reorganisation is available. Specifically, this thesis identifies and analyses the nature, objectives, use, means, individual phases and persons involved in relation to each of the means of resolving a company's distress. The thesis further shows the advantages and disadvantages of these different solutions, resulting from their comparison with each other and from the comparison with the liquidation solution as well.

Nevertheless, it is important to note that the mechanisms that enable remedial distress solutions are not usually sufficient on their own. At the same time, it is necessary for the persons involved to be motivated to avert the company's distress or to remedy it. Especially in the early stages of distress, the greatest emphasis will be placed on the activity of the statutory body (including its members) of the company and, where appropriate, company's shareholders. For this reason, the second part of the thesis (chapter 5) is devoted to the analysis of the position of the members of the statutory body of the company and its shareholders in each remedial way of solving the distress of the company presented in the first part. Specifically, it concerns the duties and responsibilities of the members of the statutory body and the fundamental rights of the company's shareholders. The second part of the thesis aims to describe the changes in the position of these persons using analysis. At the same time, it provides an answer to the question of whether, in the event of a company's insolvency and its resolution

by reorganisation, the position of the debtor's shareholders is weakened to such extent that they may be against their will deprived of their participation in the debtor represented by shares.

**Key words:** restructuring, reorganization, remedial solution to distress of a capital company