

Debt relief amendment (Act No. 31/2019 Sb.) and its impact on the activities of the insolvency administrator - Abstract

The thesis deals with the Debt relief amendment (Act No. 31/2019 Sb.) and its impact on the activities of insolvency administrators. This rigorous thesis is divided into introduction, nine chapters and a conclusion. The aim of this paper is to describe the fundamental changes that the debt relief amendment brought into the legislation concerning insolvency law, and to describe the impact of these changes to the activities of insolvency administrators in comparison with the previous regulation. Furthermore, the aim of the thesis is also to evaluate these changes and, eventually, to propose some changes *de lege ferenda*.

In the first chapter, the terms „bankruptcy“ and „debt relief“ are analysed and the rehabilitative solution of bankruptcy of a debtor is specified, with emphasis on the institutions of release of the debtor from payment of the unpaid parts of their outstanding obligations, the extent of the right to dispose of the debtor’s assets, the social dimension of debt relief and the honest intention of the debtor in comparison with the liquidation solution of solving debtor’s bankruptcy.

The second chapter is devoted to the legislative proceedings of adopting the debt relief amendment into law and the reasoning of the lawgiver to change the existing conditions of debt relief.

The third chapter deals with the impact of the debt relief amendment on the activity of the insolvency administrator when reviewing the creditors’ claims in insolvency proceedings, especially in the matter of the subordinated claims.

In the fourth chapter, I describe the impact of the debt relief amendment on the activities of the insolvency administrator when composing and filing the reports for debt relief proceedings. The chapter further deals with the issue of approval of debt relief, especially the manner in which the minimal economic bid of the debtor is judged and how the fulfilment of the conditions of debt relief approval by court is evaluated. Special emphasis is put on the assets which the debtor is required to surrender to the insolvency administrator for the purpose of its liquidation, especially the institution of protected housing, the excess money remaining after the liquidation of the assets to be returned to the debtor or of property seized in judicial enforcement of decision or execution proceedings. The chapter also describes how the suitable form of debt relief is selected and how the duration of the debt relief proceedings is examined, with special accent to so-called “especially vulnerable persons”, such as the so-called “child debtors”.

The fifth chapter summarises substantial changes in comparison with the legal regulations applicable before the adoption of the debt relief amendment as law in the case of debt relief of a natural person who is an entrepreneur.

The sixth chapter is devoted to the newly introduced institutions of suspension and prolongation of debt relief proceedings.

In the seventh chapter, the performing of oversight of the insolvency administrator over the debtor over the course of the debt relief proceedings as well as oversight over the fulfilment of the debtor's duties under section 412 of the Insolvency Act is analysed, focusing on the delegated regulation in the form of regulation No. 121/2019 Sb. In this sense, the duties of the debtor to perform adequate gainful employment and to exert all effort which may be reasonably expected of them to fulfil the claims of the debtors, to hand over any inheritance, gift or extraordinary income to the insolvency administrator for liquidation and not to accept any new obligations, whereby breach of these duties may lead to cancellation of a debt relief previously approved by court.

The eighth chapter is dedicated to the course of action of an insolvency administrator when submitting the report on fulfilment of debt relief conditions, especially the sources they use when compiling the report and fulfilment of which conditions is examined. The chapter is further aimed at the decision of the insolvency court on fulfilment or non-fulfilment of the conditions of debt relief and eventual conferring of debt relief unto the debtor.

The last chapter evaluates the relevant legal regulations and presents suggestions *de lege ferenda* to the above stated areas, which are thoroughly addressed throughout the rigorous thesis.