

Abstract

The topic of this thesis is ineffectiveness of legal acts within the insolvency proceedings. This legal concept forms an integral part of modern insolvency law, since it can be considered an essential and the most frequently used instrument, on the grounds of which the insolvency trustee is able to challenge the insolvent debtor's fraudulent acts that are detrimental to their creditors, who are exercising their rights within the insolvency proceedings. Otherwise stated, this legal concept is crucial for the purposes of protection of the debtor's creditors within the insolvency proceedings.

The aim of this thesis is to provide a comprehensive analysis of the effective legal framework of ineffectiveness of legal acts within the insolvency proceedings, as well as of current doctrinal opinions, specialised publications and relevant decision-making practice of courts. The thesis is not limited to a mere adoption of the aforementioned sources, as at many parts of the thesis these are being disputed, criticised or confronted with the author's own conclusions. Where appropriate, the thesis identifies shortcomings of the effective legal framework and presents the author's *de lege ferenda* considerations related to such.

The thesis is comprised of introduction, eight chapters that are systematically structured into the respective subchapters, and conclusion. The first chapter briefly touches the general legal framework of relative ineffectiveness laid down in the Civil Code, specifically dealing with the definition of basic terms "ineffectiveness" and "unenforceability" of a legal act, spirit and purpose of legal concept of relative ineffectiveness, procedure of its application and legal consequences of declaration of a certain legal act ineffective. At the end of the first chapter, the thesis deals with the issue of relationship between legal concepts of ineffectiveness and invalidity of legal acts, which is still considered controversial. The subject of the second, fundamental chapter of this thesis is the general framework of ineffectiveness of legal acts laid down in the Insolvency Act. Initially, the focus is aimed at terminological discrepancy between the language used in the Civil Code and the Insolvency Act, and further the thesis advances to analysis of all substantial aspects of the effective legal framework, i.e. general definition of ineffective legal acts, all modalities of ineffectiveness of legal acts stipulated by the Insolvency Act, framework of insolvency action to set a transaction aside and legal consequences of success of such action. Subsequently, the subject of research is the spirit and purpose of this legal concept, as well as the differences between the general legal framework laid down in the Civil Code and special legal framework laid down in the Insolvency Act. Chapters three to five focus on the respective categories of ineffective legal acts performed prior to the

commencement of the insolvency proceedings, i.e. undervalue transfers, preferential transfers and fraudulent transfers, the essential aspects of which are being analysed. Chapters sixth and seventh deal with the modalities of ineffectiveness of legal acts performed after commencement of the insolvency proceedings, *in concreto* the debtor's legal acts performed contrary to restrictions on dispositions affecting the debtor as a result of commencement of the insolvency proceedings, and the debtor's legal acts performed contrary to transfer of disposition rights to the insolvency trustee as a result of declaration of bankruptcy liquidation, while the latter presents a special regime of ineffectiveness of legal acts arising *ex lege*. The last, eighth chapter examines the issue of unenforceability, and hence ineffectiveness of two specific types of legal acts, namely the deposition of assets into the trust fund and the transformations of business corporations. In relation to these specific types of legal acts, the thesis initially defines their specific aspects relevant for the issue of their unenforceability, and subsequently the aforementioned issue is being thoroughly analysed.