Summary

European Internacional Civil Procedural Law
with a special focus on insolvency proceedings

The assignment of this thesis is rather broad because it consists of a basic concept of „International Private Law“, „European“ Law, „Civil Law“, „Procedural Law“ and yet „with a special focus on insolvency proceedings“.

The common part is dedicated to the European International Civil Procedural Law. There are stated particular important concepts and the used terminology is also backed up. In this part, law regulating the relationship within the EU is also defined as well as the description of the historical development, new legal amendment solutions in this area. The Regulation No 44/2001 concerning the competence of court and recognition and execution of a judgement in terms of civil and commercial issue is also mentioned (so called Regulation Brussels I).

A specific part of this work**,** which is its focal point, is dealing with particularities of insolvency proceedings including a strange factor and selected issues of the Council Regulation (EC) No 1346/2000, concerning insolvency proceedings. This regulation has come to substantial meaning for the Czech Republic at the point of joining the EU on the 1st May 2004 when a relatively united modification of the International Insolvent Law, which the Czech lagislator tried (not very succesfully) to supplement with provision incorporated in chapter two of the insolvency law, came into operation.

According to this regulation, a close attention has been paid to the issue of an international membership under the terms of its problems of COMI of the debter. Since the current COMI definition of natural persons, legal persons and business groups causes major problems in practice, the future definition should be nailed down so that it was absolutely lucid, accurate and understandable. This way the forum shopping attempts would be eliminated in a long range. Concerning natural and legal persons, it would be possible to follow the current ECJ jurisdiction in so called Concern

Insolvency, of which amendment is not included and a new specific amendment should be taken.

Future legal amendment should be related to other areas as well. Providing knowledgebility of all legal entities about the (instituted or proceeded) insolvency proceedings is supposed to be improved, for example, a uniform European Insolvency Register should be created. This European Insolvency Register should also be accessible to all the insolvency courts of EU member nations, preferably via the internet.

This work is also dedicated to the decree impact on so called cross-border insolvency proceedings in front of the Czech court, therefore with regard for the new insolvency proceedings amendment in Czech legal system that is definitely not perfect. The Insolvency Law has no provision towards the country relationships, which are not EU members and that is why it should be amended as well.

The greatest part of liability for an improvement of a current legal amendment of the insolvency proceedings with a strange factor is up to the European and Czech legislation, which should state absolutely lucidly and sufficiently detailed regulations. By that time it will be up to the ECJ and the Insolvency Court of particular member states to apply the current amendment in an apt and equitable way, primarily in compliance with the sense and purpose of the regulation. Juridical theorists should not be excluded from those processes either. They should contribute with their initiative to discussions, which would lead to an improvement of the actual state of affairs.

Seznam klíčových slov

Evropské mezinárodní civilní procesní právo; insolvenční řízení.

Key words list

European International Civil Procedural Law; insolvency proceedings.