

SUMMARY

Issues Relating to the Application of Creditors' Rights in International Insolvency Proceedings

The subject of this thesis is the legal position of creditors in international insolvency proceedings and various issues linked to the enforcement of their rights. After defining some basic concepts and a broader context of the issue in question in Part I, having regard to the rights of creditors the thesis mainly deals with relevant sources of international insolvency law (Part II). Finally Part III outlines selected issues related to the application of the central source of international insolvency law - Council Regulation (EC) No 1346/2000 on insolvency proceedings (Regulation 1346/2000) – in the Czech Republic.

International insolvency law has been regulated traditionally very sparsely in the Czech Republic. National law, as well as international conventions on cooperation in civil matters paid almost no attention to this topic. The accession of the Czech Republic to the European Union (May 2004) changed this situation: a relatively comprehensive legal frame of international insolvency in the form of the mentioned Regulation 1346/2000 on insolvency proceedings came into force. It is applied to those cross-border insolvency proceedings that have a relevant relation to one of the other Member states except Denmark. Czech legislators have tried, unfortunately not very successfully, to add some complementary provisions following the Regulation 1346/2000 to the Insolvency Act. Regrettably the sphere of relations with third (non-member) states remains unregulated. This situation requires a legislative change.

The concept of an insolvency creditor is not defined in the Regulation 1346/2000. The Regulation is above all a particular set of conflict rules and therefore it depends on the law of the Member state concerned who is to be defined as a creditor and with which rights and duties he is to be endowed. With regard to the criteria of the governing law (*lex concursus*), the fulfillment of the principle of equal treatment of creditors in cross-border insolvency proceedings and the guarantee of a minimum

standard of rights of foreign creditors (including their exercise) the Regulation can be considered an effective instrument of a sufficient protection of their rights and interests.

Klíčová slova:

Mezinárodní insolvenční právo

Práva věřitelů

Nařízení Rady (ES) č. 1346/2000 o insolvenčním řízení

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