

English summary

Lien of the share in a limited liability company

The main goal of my thesis „Lien of the share in a limited liability company“ is to analyze provisions of the new Czech Civil Code and Corporation Act, which were passed in the spring of 2012. Both statutes come into effect on 1 January 2014.

At first I briefly describe the historical development of this issue since 1906, when first a statute concerning the limited liability company was passed in our country. Then I describe the main issues in the provisions of Czech commercial Code.

Current legislation concerning the pawn of the share is a very brief one. The main problem, which I introduce, is that the legal possibility of pawning the share depends on the legal possibility of transferring the share. This provision neglects the fact, that the commercial Code defines two types of transfer of the share, that is to another shareholder or to a non-shareholder, i.e. to a person outside the company.

The new Czech Civil Code contains a comprehensive legislation of the pawn. Its main assets are wide contractual freedom and protection of the lien debtor.

Parties of the pledge contract can enter into contract, that enables the lien creditor to exercise voting rights on the General Meeting. Another, in my opinion controversial, new provision is that parties can enter into contract, that enables the lien creditor to become a shareholder after an unsuccessful attempt to sell the shares.

The lien creditor must first send a written notice of the commencement of the performance of the lien. After thirty days the lien creditor can sell the lien share in a public auction, or in a way that the parties agreed on in the pledge contract.

The new Czech Civil Code also widens the number of information, which is submitted to the commercial register. This is to increase the legal certainty of third parties.

In view of the aforesaid, in my opinion, the new legislation concerning the lien increases the legal certainty for parties of the pledge contract and also of the third parties. Thus the pawn of the share in a company with limited liability is to become an interesting but also a safe way to secure the debt.