

RAISING CLAIMS IN INSOLVENCY PROCEEDINGS – ABSTRACT

The purpose of my thesis is to analyse the process of raising, review and settlement of the claims in the bankruptcy (insolvency) proceedings pursuant to the Act No. 182/2006 Coll., on bankruptcy and means of resolution thereof (hereinafter “The Insolvency Act”). The other important aim of this thesis is to discuss important pros and cons of the contemporary Insolvency Act which has replaced the Act No. 328/1991 Coll., on bankruptcy and settlement (hereinafter “The Bankruptcy and Settlement Act”). In general, the thesis primarily describes the kinds of the claims and all legal requirements for their proper raising. The special attention is paid to the claims of the secured creditors. The end of the thesis contains the reflection of the contemporary legislation and its outlook to the future. The introduction of the thesis submits the definition of the basic terms used in the thesis and it describes the basic aim of the following chapters. The thesis is then divided into five chapters.

Chapter One is further divided into two parts. Part One contains the description of the basic principles of the bankruptcy proceedings and a place of the insolvency proceedings in the legislation of the Czech Republic. Part Two concerns with the history of the bankruptcy proceedings till the effectiveness of The Insolvency Act.

The following Chapter Two contains in its Part One the closer description of the formal structure of The Insolvency Act. Part Two submits the explanation of the principles which the Insolvency Act stands upon.

Chapter Three might be considered as the most important of the whole thesis. It is divided into nine parts. Chapter Three provides the reader with the thorough information of the process of raising the claims. The special attention is paid to the proof of claim form and its content. It especially focuses on the legal requirements for the proof of claim and on the description of the legal instruments that might be used by the creditors. Chapter Four is further concerned with the time frame of the proper raising of the claims. Part seven describes the process of the review of the claims with

an accent to the possible penalties for the raising overrated claim. Finally, Chapter Four deals with the related issues of the claims excluded from the satisfaction and the questions of raising the secured claims.

Chapter Four is pointed at the problems of the satisfaction of the creditors' claims and it is divided into three parts. In accordance with the stages of the bankruptcy proceedings, Chapter Four connects itself with the topic of Chapter Three. Part One explains the satisfaction of the claims in the Bankruptcy. Part Two reviews the satisfaction of the claims during Reorganization or Debt relief. Part Three is dedicated to the special status of the secured creditors during the satisfaction of their claims.

The subject of Chapter Five is to investigate the raising of claims in the light of the prepared amendment of the Insolvency Act. Such amendment has not yet come through the legislative procedure, however, it is considered to be very important and it is highly appropriate to include it to the framework of this thesis.

In comparison with The Bankruptcy and Settlement Act represents The Insolvency Act a complex legislation and a significant progress of the bankruptcy legislation. The insolvency Act led to the increase of the speed and effectiveness of the bankruptcy proceedings and such statement is also proven by numerous statistics. However, The Insolvency Act can't be considered as flawless, since its legislation had been partially enforced by the judicatory invention of The Constitutional Court. The Insolvency Act has also been numerously amended. In conclusion, The Insolvency Act still represents a new legislation and it is impossible to avoid its further changes and specifications. The amendment of The Insolvency Act is being discussed at The Chamber of Deputies at the time of finishing this thesis. Its definite aim is to eliminate a deficit of the contemporary Insolvency Act.