

Abstract

The topic of this diploma thesis is “*Forum Shopping under European Regulation on Insolvency.*” The forum shopping means deliberate transfer of court proceedings from one EU member state to another under the regulation of EC Council No. 1346/2000, on insolvency proceedings. Forum shopping has been immensely developed recently which is evidenced by the fact that British courts have been facing motions for insolvency proceedings regarding debtors with major link to a non-UK country. I have chosen this topic because forum shopping often happens in real word and Czech expert literature keeps quite on this topic.

The Regulation on Insolvency is linked to partly universal effect within the European Union. This means that insolvency proceedings in one Member state will be effective in other member states as well. The insolvency proceedings is commenced in the member state of the debtor’s centre of main interests. COMI as a basic building stone of the Regulation is not precisely expressed, and only a partly construction served by the Court of Justice of the European Union leaves door open for large forum shopping evidenced by abundant decision making by the Court of Justice of the European Union and national courts of member states. Forum shopping is furthered by mutual recognition of decisions in terms of insolvency proceedings.

The Regulation involves efficient concepts preventing change of COMI to another member state to occur, i.e. (i) secondary insolvency proceedings pending in the member state of the debtor’s establishment, and (ii) decisive law, matters not governed by the decisive law respectively.

Since the Regulation on Insolvency proceedings does not prevent negative forum shopping and does not further positive forum shopping, amendments of the regulation on insolvency proceedings are required that will reflect the redress of the defects.