

Abstract

The objective of this thesis, entitled “Protection of Employees in the Event of the Insolvency of their Employer from the Perspective of the EU Law“ is to analyse European legislation in the field of protection of workers with regard to selected aspects and specifics of Czech national regulations. One of the main reasons for the adoption of national Act No. 118/2000 Coll. was the transposition of the Directive 2008/94/EC, which represents European legislation in this area. While protection of employees in the event of the insolvency of their employer was adopted at the community level in the early eighties, in the Czech Republic, the Act No. 118/2000 Coll. entered into force on the 1st July 2000.

The thesis also deals with the broader context of the EU law, case law of the Court of Justice of the European Union, and selected legislation on the field of protection of employees in the event of the insolvency of their employer in certain Member States of the EU. The aim of this thesis also lies in description of not only the European legal framework, but also in an analysis of the area of protection of employees in the of employer's insolvency, which may have not been adequately transposed at all or has been transposed too widely. The typical case is, in my opinion, section 2, paragraph 5 of the Act No. 118/2000 Coll. This provision seems to be too restrictive from employees' point of view and on contrary to the above mentioned Directive. On the other hand, the concept of insolvency defined in the law of the Czech Republic seems to be very generous and easily exploitable by employees, since filing an insolvency proposal is very simple and the employer does not need to be really insolvent.

Institutes and definitions contained in the labour law of the Member States are not equal; therefore orientation in the different jurisdictions is not quite easy. Nevertheless, it can draw attention to an entirely different transposition of the Directive 2008/94/EC made especially by older Member States of the European Union, notably Spain. Some of these states have established a completely new and independent public institution to protect employees in the event of the insolvency of their employer, while the Czech Republic uses the services of an already existing public organization - the labour offices (currently The Labour Office of the Czech Republic). Another difference of the Czech legislation can be seen in the fact that there is no guarantee insurance paid by an employer and wage compensation paid by the Labour office of the Czech Republic come directly from the state budget. The thesis, of course, refers to other different aspects of the various legislations of the Member States.

I dare say that protecting employees through the Act No. 118/2000 Coll. and the Directive 2008/94/EC is an effective tool how to ensure employees, who were not paid wage claims due to employer's insolvency, at least basic social security. However, this protection (under condition of the Czech law) cannot replace the wages paid by the employer in full. It should therefore be the main task of the state to create conditions so that the employers would not become insolvent. To prevent insolvency situations, it is necessary to use appropriate and complement employment policy.