

This thesis deals with two main topics: the insolvency proceeding in Czech republic according the Incolveny Code, and the Institute of assets. It also provides short comparision of the chosen legal institutes of the assets between Czech and German insolvency codes. The purpose of this thesis is to define and describe the incolveny proceeding and the institute of assets and to evaluate the regulation of the Incolveny code and to predict the possible course of its future changes.

The insolvency proceeding in Czech republic is a part of civil proceeding, and it is very specific because of its purpose, which is to solve the bankruptcy of the debtor and to achieve the maximum able repayments for his creditors. That is the reason why the insolvency proceeding must have its own specific legal principals and many specific rules devoted to achieve its purpose, so the Insolvency code includes many rules to prevent the possible misuse of these institutes for some other goals.

This thesis deals with the subjects of the insolvency proceeding and their interests in the proceeding, their duties and competences and with their mutual relationships. The most importatnt of these subjects is the insolvency administrator, who is mainly responsible for the creation, administration and the final selling of the assets.

This thesis describes the phases of the insolvency proceeding according to the Insolvency Code and gives a brief overview of the insolvency proceeding from its begining to its closing, with the special accent on the traditional bankruptcy. In the first part of the proceeding the insolvency Court has to examine the insolvency of the debtor, and if it is given, the Court decides about the solution of the insolvency. There are three main ways of the insolvency solution according the Insolvency Code: traditional bankruptcy, reorganisation and discharge.

The Institute of assets is the main topic of this thesis. The assets contains all debtors property, all his moveble things, his imobilities, his money and his rights and claims. The insolvency administrator creates the List of Assets, a document which summarizes all contents of the assets and their value. The content of the assets changes during the proceeding, some property could be included into the assets incorrectly and has to be removed from the assets, the administrator can find some new property which shall be included in the assets and has to take the necessary steps to do so, for example interpose against invalidity or unenforceability of the legal acts of the debtor, that lowered the value of the assets and retract the property lost this way back into the assets.

In the traditional bankruptcy proceeding the insolvency administrator is instead of the debtor the person competent to dispose with the assets. This does not mean that the administrator becomes the owner of the assets, but the debtor as the owner loses the competention to dispose and to administrate the assets and this competentions are passed on the administrator. The administrator is also responsible for selling all the contents of the assets. The insolvency Court and the creditors supervise the administrators activity to ensure its legality and usefulness. The cooperation between all subjects, but especially between the debtor and the insolvency administrator, is the necessary condition of the succes of the insolvency proceeding and vastly increases the possible extent of the repayments, which will be distributed from the profits of the asset-sale among the Creditors at the end of the proceeding. The traditional bankruptcy proceeding end when all the contents of the assets are sold, all the cost of the proceeding are covered and all money is distributed between the Creditors. If some claims of the Creditors couldn't be fully covered, those claims do not perish when the proceeding ends and can be further enforced against the debtor. But if the solution of the insolvency is not the traditional bankruptcy, but discharge or reorganisation, the situation is different and the debtor is freed from all debts.

My conclusion of the evaluation of the Insolvency Code is that it is a good and modern law. It provides good balance between the interests of all participating subjects of the insolvency proceeding and the regulation is fully capable of achieving its purposes. The institute of assets is the very center of the conflict of these interests, and is well-protected by the Insolvency Code against illegal treatment of the debtor and even of the insolvency administrator. Still no law can be effective without the people using it co-operating with each other and respecting each others justified interests, so the behaviour of the insolvency administrator and especially of the debtor before and during the insolvency proceeding has a great influence on its succes, or failure.