

Insolvency Crimes

Abstract

The submitted rigorous thesis elaborately discusses primary insolvency crimes, implying crimes closely connected with contractual obligations between the debtor and creditors, bankruptcy and its resolution in insolvency proceeding. Although, the new criminal codex passed by Act. No. 40/2009 Coll., Criminal Code, does not give the definition of the matter of bankruptcy, neither contains separate part related to insolvency crimes, theory and practice consider to be the primary insolvency crimes damage of the creditor, preferential treatment of the creditor, causing bankruptcy, breaching the obligation in the insolvency proceeding and plotting in the insolvency proceeding, contained in articles no. 222 up to no. 226 of the Criminal Code.

The aim of the thesis is to offer a synthetic presentation, pleasant for the readers and offers the maximum knowledge of insolvency crimes and its relation to insolvency law, of its offender, as well as the requirements of criminal and non criminal responsibility for their committing in regard of the subsidiarity of criminal repression principle. All of this in assumption of understanding broader social scope included historical context of criminal and noncriminal legislation referred to protection of contractual obligations on the territory of the Czech Republic.

The thesis is divided into five chapters. Initially, it offers historical context of the development of protection of contractual obligations, simply of the protection of the creditors in perspective of the criminal law and, from the very beginning, in perspective of prevailing noncriminal law. The second chapter aims to outline the link between penalizing for committing of insolvency crimes and social–economic matters, and so on in basic manner defines the relationship between civil law and insolvency law, which contains basic commentary referred to institutes of insolvency law common to all insolvency crimes. The third chapter deals with subsidiarity of criminal repression principle in relation to insolvency crimes, including entrepreneurial risk and its exceeding in respect to constitution of causing the bankruptcy crime contained in article no. 224 sub. 1. type e) of the Criminal Code. The fourth chapter contextually delimits range of insolvency crimes,

including other crimes related to the insolvency, in the chronological viewpoint referred to the period preceding the insolvency of the debtor and their duty to file an insolvency petition and to period in which they de facto are insolvent or they are a procedural subject of the insolvency proceeding. The chapter also deals with non-reasonable, even fraudulent insolvency petition and responsibility for that in view of criminal and noncriminal law. The main, fifth part of the work, introduce a detailed and comprehensive commentary of particular insolvency crimes and its legal constitutions with the aid of actual and previous practise of the courts. The final part of the thesis summarizes crucial issues referring to insolvency crimes, including *de lege ferenda* proposals.

Key Words: Insolvency crimes, Creditor, Debtor, Bankruptcy