

Registration of claims in insolvency proceedings

Abstract

In the financial world it is not uncommon for debtors to find themselves in a situation of being insolvent and unable to fulfill their obligations to creditors. Insolvency proceedings were created to resolve such a situation, enabling the creditors to have their claims registered and satisfied en masse (collectively). However, the registration of claims is a complex process consisting of several phases, namely the registration of claims *stricto sensu*, their verification and satisfaction. Proper understanding of each of its individual aspects is crucial for the creditors. However, constant changes by the legislator to the rules of this process make it difficult for creditors to understand them.

The newest changes to the “rules of the game” are a result of two acts by which the Act No. 182/2006 Coll., on insolvency and its resolution (insolvency act) was amended and which came into effect in 2017. The amendments brought a number of changes, but changes to the registration of claims occurred mainly in the verification of filed claims, the status of claims registered by the homeowner association and in the filing of contingent and future secured claims.

The most significant change brought about by one of these amendments is the disuse of the verification meeting as a platform for the verification of filed claims, if the debtor's insolvency is resolved by debt relief (in Czech “*oddlužení*”). The verification meeting was replaced by a less formal personal meeting between the insolvency administrator and the debtor. Despite the concerns of certain institutions, the elimination of the verification meeting should not be viewed as jeopardizing to the purpose of the insolvency proceedings or to be viewed as having a negative impact on the debtor or the creditors. Verification of claims in other countries could serve as an example of that. For example, in the Netherlands, if the debtor's insolvency is resolved by debt relief, the court most often orders only a so called *pro forma* verification meeting, which is unattended. All claims are considered to be verified on the day of this meeting was “held”. Slovakia is a more extreme example as Slovak insolvency law does not foresee the institute of a verification meeting and the conducted verification process is a written one. Nonetheless, it is necessary to state that the legislator made several legislative omissions when drafting the two amendments and did not properly justify many changes that are of a great impact to certain creditors.

However, even without these amendments the registration of claims is subject to constant review, as many interpretative problems still exist in insolvency law and others arise.

Also, the jurisprudence and opinions of the professional public are subject to constant changes and thus affect the interpretation and application of insolvency law.

This diploma thesis aims to analyze the entire process of claim registration, assess and critically evaluate selected provisions, which were affected by the aforementioned amendments, and to criticize a few selected types of claims.

To this end, the diploma thesis is divided into four chapters. The first chapter is, in a certain way, separated from the others, as it categorizes and examines claims according to their type and nature. The remaining three chapters each mirror a certain phase of the process of claim registration and each chapter contains in its subchapters and parts, at the relevant places, the changes and shifts which occurred as a result of amendments, jurisprudence or expert literature.

Key words: Insolvency proceedings, Claims, Creditor