

11. Summary in English

The thesis deals with the special regulation of personal bankruptcy in the Czech Republic introduced lately by the Act No. 182/2006 Coll., on bankruptcy and its solutions (the Insolvency Act) (hereinafter the “**InsA**”).

The author presents a short history of the regulations of personal bankruptcy in the Czech Republic along with the problems of the former law with regard to its application on natural persons (consumers), and defines the term bankruptcy as seen from the perspective of the consumers. With this respect also the evolution of the indebtedness of consumers is briefly analysed and compared with the indebtedness in other countries coming to the conclusion that the actual state of indebtedness of consumers in the Czech Republic is not serious yet, though its acceleration might be worrying. Hence, the new regulation on personal bankruptcy was more than needed.

Further on, the author presents an analysis of the special form of bankruptcy solution designed especially for consumers and introduced by the InsA – namely the “**Bankruptcy Discharge**” (hereinafter the “**Discharge**”). The Discharge offers an honest debtor a way out of his debts (“fresh start”). There are two main forms of the Discharge which is Discharge by liquidation of the bankruptcy assets and Discharge by a repayment plan. Important is that the gatekeeper to the Discharge which decides on its admissibility in a particular case is the insolvency court. The creditors only decide on the respective means of the Discharge that shall be carried out. Should they be reluctant or unable (i.e. by even number of votes) to decide on the means of the Discharge the insolvency court gives the ruling in this respect. Therefore, the crucial principle of the civil law “pacta sunt servanda” is allowed to be overruled by the provisions of the Discharge.

Discharge by the liquidation of the bankruptcy assets is achieved by the liquidation of the bankruptcy assets by the means as foreseen by the InsA (e.g. a public auction). The unsecured creditors are then satisfied from the proceeds of the liquidation on the pari-passu concept. The secured creditors are satisfied independently from the unsecured ones from the proceeds of the liquidation of the collateral. However, the standing of the secured creditors with respect to the part of their receivable not covered by the proceeds from the liquidation of the collateral is not clear. The general concept of the InsA that they should be to such extent regarded as the unsecured creditors and given the same rights on satisfaction based on the pari-passu concept seems to be overruled by a special provision of the discharge. However, the author has not come to a clear conclusion on that stating that the interpretation of the law is unclear.

Discharge by a repayment plan is likely to be chosen in case of debtors with no valuable assets but with a regular income. The debtor is bound to the 5 year repayment plan pursuant to which he pays to his unsecured creditors on a pari-passu concept every month a certain portion of his regular income. Also all the eventual extra income gained by the debtor shall be paid to the unsecured creditors. The secured creditors are again satisfied independently from the unsecured ones from the proceeds of the liquidation of the collateral. However, the standing of the secured creditors with respect to the part of their receivable not covered by the proceeds from the liquidation of the collateral is again not clear.

Finally, the author presents a brief analysis on the special provisions which are applied on the personal bankruptcy when not carried out by the Discharge proceeding but by the standard bankruptcy proceeding (konkurs). However, it must be noted that in such a case the debtor is not eligible for the discharge of the rest of his debts which were not satisfied in the insolvency proceeding.