

19. Resumé

The objective of this work is the detailed analysis of discharge from debts. This is a new institute, which was embodied to the Czech legal system by a new act, more specifically by the law number 182/2006 Coll., insolvency law. The new institute, called discharge from debts, brings new options of solving a bankruptcy. This institute is mainly applicable for natural person, who are not enterprisers. In the beginning there was an effort to make this institute applicable even for small enterprisers, but this wasn't approved in the end. So nowadays the institute "discharge from debts" is applicable only for persons, who are not enterprises, and their debts are not from enterprise.

There are two forms of discharge from debts. First form is discharge from debts by fulfilling the timetable for repayment. This form is very popular and almost 98 % of all discharge from debts is being fulfilled this way. The other form is discharge from debts by converting into cash the bankrupt's estate. As I mentioned earlier, this form is used by Czech debtors very rarely. This is caused by the structure of debtors, who take use of the discharge from debts. In most cases, debtors who are willing to take use of the discharge from debts are in a deep bankruptcy and they have no assets. All they have left are debts and so there is nothing that can be monetized. The intention of the legislator was however different. The institute of discharge from debts should be used by debtors who are in a threatening bankruptcy, in other words, by debtors who know that they will be in a bankruptcy, but they haven't reached the bankruptcy yet. But this was just a wishful desire of the legislator. In real life the institute of discharge from debts is used mainly by debtors who are in a deep bankruptcy.

The essence of the discharge from debts by fulfilling the timetable for repayment, consists in settling debts from a part while the other part is being forgiven. The debtor has to pay monthly to his unsecured creditors a specific sum of money for five years. If the debtor settle at least 30 % of all debts of his unsecured creditors after five years, the rest of his debts will be forgiven. In the beginning a lot of debtors thought that the settle of 30 % of their debts of their unsecured creditors will lead to an end of the timetable for repayment and that the rest of the debts will be automatically forgiven to them. But this was an inappropriate understanding of this institute. The main feature is that the proceeding of discharge from debts by fulfilling the timetable for repayment will end, firstly after five years or secondly if all of the debts will be fulfilled. By other words, it doesn't matter if the debtor settles his unsecured debts from 30 % after for example two years, because until all of the

debts are settled, the timetable for repayment remains. It is obvious that the institute discharge from debts has a big issue according to motivational effect. The debtors are not motivated to pay their debts from the biggest part possible because they know, that settling debts from 30 % is absolutely enough. Settling debts from a bigger part has basically no benefit for the debtor.

Despite the lack of motivational effect, the discharge from debts requires an active doing from the debtor. On the first place, only the debtor can make a proposal of the discharge from debts. Creditors are not allowed to make this kind of proposal. By other words, the debtor can not be forced to solve his debts throughout discharge from debts. It is only up to the debtor if he decides to solve his financial situation by this institute. And if he does, he has to be active. The discharge from debts is in principle an aid to the debtor to solve his financial and life situation. That is why the debtor can use this institute only once. It is forbidden to use this institute repeatedly. In fact it is even more strict. The debtor can make a proposal of the discharge from debts only once while it is irrelevant if the discharge from debts will be approved or not. If the debtor makes any kind of mistakes, which will lead to rejection of his proposal, he can't make the proposal ever again. That is why debtors should be more than careful when completing the proposal for discharge from debts. During the main process the debtors have a lot of other obligations. They have to pay to the unsecured creditors exact sum of money. Basically only a minimum wage will remain to the debtors. It can be said, that discharge from debts isn't a walk-over. If the debtor loses his job it doesn't automatically end the discharge from debts, but the debtor is obliged to find a new job as soon as possible. The debtor also has to convert into cash all gifts he obtains. Of course under a condition, that the gift has some value. If the debtor breaks any of his obligations, the process of discharge from debts can be ended.

There are two main benefits of the discharge from debts. The first is, that no distraint can be executed while the process of discharge from debts is in progress. This means that the debtor can keep at least some norm of level of living. The second is that, if the discharge from debts is successful, than the rest of all his debts will be forgiven to him. And when I say all debts, I mean all debts. Even those debts, which wasn't applied by creditors to the proceeding of discharge from debts. So it can be said that after successful discharge from debts the debtor is as blanket as a sheet of paper. It is then only up to him. If he learned from his previous mistakes he will be able to start his personal life all over again, or if you like, start to dispose of his property responsibly. If he didn't learned from his previous

mistakes he will get to financial problems again, but he will not be able to take advantage of discharge from debts again.