

Abstract

The thesis deals with cross-border insolvencies and insolvency proceedings in the European Union and the Czech Republic. The introductory section of the thesis outlines the current problems of transnational undertaking and the need of a European legislation, that will solve problems of crossborder insolvencies. In the section 2., the thesis focuses on the Council regulation and in section 3., it concerns about the relationship between the Regulation and the national insolvency proceedings of the Czech Republic and the Slovak Republic.

The most important document that addresses cross-border insolvencies within the European Union is the Council Regulation (EC) No 1346/2000. The Regulation entered into force on May 31, 2002. It imposes a body of public international law on cross-border insolvencies that arise in two or more member states of the EU. Legal foundation of the Regulation constitutes Article 249 of the Maastricht Treaty that provides for the judicial co-operation among the EU member states.

The Regulation bounds all the above mentioned states, except for Denmark (Denmark is not bound by Regulation as a result of terms of its accession to the EU). It regulates cross-border reorganisation and liquidation, however, it will not apply, when the insolvency will be beyond the borders of the European Union. The Regulation does not apply to pre-insolvency proceedings either. The word „insolvency“ is not defined by the Regulation, yet the Appendix A of the Regulation states the corresponding proceedings of each EU member country.

The Regulation specializes on three areas of cross-border insolvency proceedings.

- (i) jurisdiction for opening transnational insolvency proceedings and delivering a binding judgements
- (ii) the recognition of such judgements
- (iii) the determination of applicable law, when parties are located in more than one EU states (centre of main interest, COMI)

The Regulation does not apply to insolvency proceedings of credit institutions, insurance businesses or other financial entities. Insolvencies of such institutions will be governed by internal law of each member country.

The Regulation dwells on the problem of *forum shopping* by debtors between EU member states. It addresses this problem because this matter could not be resolved to

a sufficient degree at national level.

The aim of the section 3. of the thesis is to look at the national insolvency proceedings laws of the Czech and the Slovak Republic in comparison to the Regulation. Furthermore, the thesis covers the czech and slovak legal regulation of cross-border insolvencies between states that are not EU members, or it criticizes the absence of such legal regulation.