

Procedural Role of the Insolvency Trustee

Abstract

The subject of this rigorous thesis is the procedural status and role of the insolvency trustee as a *sui generis* procedural subject appearing in insolvency proceedings, which represents a special type of civil process that is characterized by the collective nature of enforcement and (partial) satisfaction of the debtor's creditors' claims and simultaneous settlement of the debtor's property relations according to the chosen method of bankruptcy resolution.

The aim of the thesis, as its title suggests, is not a general description of the insolvency proceedings, however a thorough analysis of the procedural role and duties of the insolvency trustee during the performance of his obligations in insolvency proceedings. I try to achieve the stated goal by interpreting relevant legal regulations, Czech and foreign expert literature, relevant practice of the higher courts of the Czech Republic, and in some parts of the thesis I also provide my own thoughts and opinions on the given issue.

The actual text of the thesis consists of an introduction, three main chapters, which are further divided into sub-chapters at several levels, and a conclusion, where the most important findings discussed in the text of the thesis are summarized. In the first chapter, as part of a more general introduction, I focus on the nature and purpose of insolvency law, the solution to the problem known as *a common pool* and the hunt for the debtor's property, which are very typical issues when a debtor is under financial stress, and in the insolvency proceedings their negative effects are prevented by enshrining the rule of the highest possible, but proportional satisfaction of creditors instead of the rule of priority in time, which is typical for an individual way of enforcing claims. Furthermore, in the first chapter, I analyze in detail the differences between balance sheet insolvency and cash-flow insolvency as two legally regulated forms of debtor's insolvency in the Czech Republic. In the second chapter, an analysis of the basic aspects of the insolvency administrator's position in insolvency proceedings with an emphasis on the selection and appointment of the insolvency trustee to their position plays a major role. The conclusion of the second chapter is in the spirit of examining the issue of removal and release of the insolvency trustee from office, focusing on the differences between these two institutes, with special attention being paid to the requirement of impartiality of the insolvency trustee. In the third, final and most practically focused chapter of the thesis, I focus on the analysis of the standard of care that the insolvency law requires of the trustee during the performance of duties and on the analysis of the procedure of reviewing registered claims and enforcing the ineffectiveness of the debtor's legal actions by the insolvency trustee.