

Reorganization

Abstract

The subject of this thesis is reorganization as one of conceivable means of resolving insolvency or imminent insolvency within the territory of the Czech Republic. The objective of the thesis is primarily to put this legal institute into the context of the Czech insolvency law and to provide its reader with an insight not only into the legal regulation encompassed in the Insolvency Act but also into all the topical issues that are currently surrounding reorganization.

The first chapter acquaints the reader with the development of the Czech insolvency law, in particular with the process of adopting the Insolvency Act and the pivotal conceptual changes it introduced. Furthermore, the chapter revolves around external influences from abroad that have served the legislator as sources of inspiration and as a consequence of which have to a certain degree shaped the Czech insolvency law into its current form. Last but not least, this chapter deals with the legislation of the European Union which primarily governs insolvency proceedings that entail a cross-border element.

The second chapter, which forms the main part of the thesis, provides a complex and thorough description of the regulation on reorganization which is contained in the Insolvency Act. At the same time, it provides a critical assessment of the relevant rules. In this regard, the thesis follows the structure of the Insolvency Act so as to attain the maximum level of clarity and cohesiveness. Moreover, a part of this chapter deals with a question as to whether reorganization truly represents a rehabilitation method in terms of resolving debtor's insolvency as it is often presented and understood.

In the third chapter, the thesis provides an answer to the question whether reorganization has managed throughout its 12 years of existence to become together with bankruptcy a basic method of resolving insolvency within the territory of the Czech Republic as it has been envisioned during the process the Insolvency Act's enactment. To that end, the thesis makes use of both own and external empirical studies concerning the number of permitted reorganizations during recent years and puts them into comparison with studies that have been carried out before them. Finally, the chapter strives to answer the question what the contemporary direction of the number of permitted reorganizations in the Czech Republic is and whether a change in comparison to previous years has occurred in this regard.

The last chapter revolves around so-called preventive restructuring which is to be implemented into the Czech legal order on the basis of the European Union's Directive on insolvency and preventive restructuring. First, the thesis deals with the underpinning and purpose of this novel mechanism. At the same time, it seeks to demonstrate the primary differences while drawing a comparison to reorganization. Thereafter, the thesis elaborates on what form the preventive restructuring could take within the Czech legal order, inclusive of mentioning the potential advantages it could bring with it.