

The procedure of the insolvency administrator in incidental disputes and his procedural strategy

Abstract

This text is focused on the description of the practical procedure of the insolvency administrator in incidental disputes. These are disputes arising and related to insolvency proceedings. Their administration is one of the major agendas of insolvency administrators, as a profession within the system of Czech insolvency law. The administration of incidental disputes, in contrast to, for example, the property agenda, is a purely procedural issue.

The main aim of this text is to offer insolvency administrators a specific procedural strategy. Such a strategy shall include the procedure for (i) the drafting of the lawsuit, (ii) the processing of evidence, (iii) the conduct of court proceedings and (iv) the approach toward the judge. An effective procedural strategy for incidental disputes is an individual extension of the necessary minimum for the insolvency administrator, which is the fulfilment of his legal duties and obligations. An effective procedural strategy is also a competitive advantage and an individual feature of an insolvency administrator.

I define the procedural strategy of an insolvency administrator in incidental disputes as a plan of activities of the insolvency administrator aimed at achieving success in an incidental dispute while fulfilling all legal duties obligations of the insolvency administrator.

In elaborating the topic, I based on personal experience and knowledge of the environment, the experience of my colleagues, as well as the current state of regulation and current case law.

The insolvency administrator's procedural strategy shall be based on the principles of insolvency proceedings (none of the participants must be unfairly harmed or unduly favoured, creditors' satisfaction must be rapid, cost-effective and as high as possible, creditors who have the same or similar status must have equal opportunities). If the strategy is a long-term plan of activities leading to the achievement of the goal, then the insolvency administrator's procedural strategy in incidental disputes is a long-term plan of activities and procedures of the insolvency administrator leading to success in incidental disputes, which is a case victory.

Key words: the insolvency administrator, the procedural strategy, the incidental dispute