

Institute of debt relief in the light of amendments of the Insolvency Act

Abstract

The rigorous thesis is aimed at a thorough analysis of the debt relief process from the perspective of a judicial assistant of an insolvency court judge, not only in theoretical but especially in practical terms. Individual chapters correspond to the systematisation of the Insolvency Act, while taking into account the shortcomings of the legislation that lead to interpretation or application difficulties in insolvency practice. A key role in this respect is played by case law, which further regulates and unifies some institutes, while contributing to the excessive formalism of judicial practice in other cases.

The thesis is structured into seven chapters that provide a comprehensive view of the process of debt relief. The first one focuses on the basic principles, concepts and sources of legal regulation, including the so-called Lex Covid laws. Insolvency law is a very distinct branch that has undergone a really dynamic development in recent years. In this respect, a significant role was played primarily by the so-called debt relief amendment, which fundamentally redefined the conditions of debt relief in favour of debtors. The concept of chapters two to five corresponds to this. They take into account the continuous process of the insolvency proceedings, from the filing of the insolvency petition (together with the application for the authorisation of the debt relief) until the decision on the fulfilment of the debt relief, including the possible (non-)exemption of the debtor from the payment of outstanding claims.

The sixth chapter focuses on the revocation of approved debt relief, with attention also devoted to the relationship between insolvency and inheritance proceedings, since the legal fact of the debtor's death is not explicitly provided for in the Insolvency Act. The thesis concludes with a discussion of the forthcoming transposition amendment to the Insolvency Act, which has caused considerable controversy among the professional community. The individual changes are systematically discussed there, pointing out their shortcomings.

The content of the thesis corresponds to the effective legal regulation on 23 December 2022. It is based not only on legal regulations, but mainly on relevant case law, as well as professional articles, literature and the author's own knowledge gained in the insolvency practice.