

# **Liability of an executive of a limited liability company in insolvency from the perspective of a creditor**

## **Abstract**

The topic of the thesis is the possibility for a creditor to achieve a greater degree of satisfaction of its claim against a limited liability company in insolvency with a temporal determination after the commencement of insolvency proceedings, through the liability of the executive within the institute of the issuance of the benefit and the action for supplementation of liabilities under the provisions of Section 66 of the Commercial Corporations Act and compensation for damages for a late filed insolvency petition under the provisions of Section 99 of the Insolvency Act. The topic is quite recent, as the Companies Act has recently been amended, which has just led to the introduction of the action to supplement liabilities and also to changes in the possibility of imposing the obligation to issue a benefit, including new procedural regulations. At the same time, this change has also affected the creditor's situation if it is considering claiming compensation for damages under Section 99 of the Insolvency Act in the event of a breach of the executive's obligation to properly file an insolvency petition, due to the substantive but also procedural interdependence of all the mentioned institutes.

Therefore, the thesis deals with the assessment of how the current legal regulation of the liability of the executive in terms of the issuance of the benefit, the action for supplementation of liabilities and compensation for damages for a late filed insolvency petition is set up for creditors (groups of creditors) and what its shortcomings are, or how it is appropriate to eliminate the shortcomings. The thesis further examines under what circumstances it is advantageous for a creditor to claim this liability of the executive, or when it should be claimed. Last but not least, the thesis, based on the description and analysis of the mentioned institutes, examines the relationship between the liability of the executive pursuant to Section 66 of the Commercial Corporations Act and the liability of the executive pursuant to Section 99 of the Insolvency Act and determines what these conclusions ultimately mean for creditors.

The thesis is divided into four parts for this purpose, the first part deals with the basic background - the limited liability company, the function of the executive and the creditor and creditor groups. The content of the second part is an analysis of the liability of the executive according to the provisions of § 66 of the Commercial Corporations Act and the third part is an analysis of the liability of the executive according to the provisions of § 99 of the Insolvency Act,

the fourth part contains an analysis of the relationship between these institutes, all from the perspective of the creditor.

**Klíčová slova: creditor, insolvency, liability of an executive of a limited liability company in insolvency**