

Action for the replenishment of the liabilities

Abstract

The topic of the diploma thesis is an action for the replenishment of the liabilities. The aim of the work is twofold, firstly to analyse in detail the elements of the institute and secondly, based on the analysis performed, to evaluate whether the institute fulfils the goals or at least has the potential to fulfil the goals with which it was adopted into the Czech legal order.

The institute of an action for the replenishment of the liabilities is an adaptation of the French liability for deficiency in assets (*responsabilité pour insuffisance d'actif*), for this reason, in addition to the method of description, analysis and partially also synthesis, the method of comparison is also used in the work. The method of comparison is also used when comparing with the institute of sanction liability, which was replaced by the institute of an action for the replenishment of the liabilities.

The diploma thesis is divided into an introduction, six chapters and a conclusion. In the first chapter, the author places the institute in context and thus defines the position of the institute as a so-called bankruptcy tort, its functions and nature. In this chapter, the author also generally introduces the French legal regulation and defines some terms of French insolvency law, with which she works further in the text.

Chapters two to four are devoted to the analysis of the institute, for which the author uses, among other things, the case law of the French *Cour de Cassation*. In the second chapter, the author analyses the conditions for imposing a special obligation, which is the essence of the institute. The key is the subchapter devoted to the principle of proportionality. The third chapter discusses some procedural aspects of the institute and active and passive standing. In the fourth chapter, the author discusses the special obligation to replenish the assets of a bankrupt company and briefly pauses over the possible competition of this obligation and the obligation to compensate for damage for late filing of an insolvency petition.

In the fifth chapter, the author indicates the possible problematic temporal effect of the legal regulation of an action for the replenishment of the liabilities.

The content of the sixth chapter is first a description and brief analysis of the institute of sanction liability and its interpretative and practical problems, to which the graduate immediately follows the evaluation of the change in the legal regulation of bankruptcy torts and the evaluation of the institute of an action for the replenishment of the liabilities as such.

Key words:

obligation to replenish the assets, incidental dispute, proportionality of the sanction