

# **PRE-CONDITIONS FOR ADJUDICATION OF BANKRUPTCY**

The thesis is composed of three chapters.

Chapter One is introduction. It presents the aims of the thesis and the reasons for choosing this thesis. The purpose of the study is describing all pre-conditions for adjudication of bankruptcy. I have chosen the thesis within insolvency branch of law because I think, it is very interesting and complicated part of law and because I think that suitable regulation is very important for our society. Given the events of the last four months with the financial crisis in the Czech Republic we can see how the appropriate regulation of insolvency is necessary. But the main reason for my choice was that the new Insolvency Act (Act No. 182/2006 Coll. On Insolvency and Its Settlement Methods) come into effect. This new legal regulation which cover a lot of questions and expectations was the main reason for choosing this thesis.

Chapter Two concerns about pre-conditions. It is the body of the thesis. The chapter is subdivided into eight subchapters.

The first subchapter deals with the regulations of pre-conditions. All the pre-conditions for adjudication of bankruptcy are contained in three codes which are the Civil Procedure Code, the Civil Code and the Insolvency Act. So if you want examine these pre-conditions you must use them. The first chapter includes several notes about the new act and shortly introduce it.

The second subchapter characterises pre-conditions and enumerates them. This chapter mentions how the pre-conditions for adjudication of bankruptcy are divided. In the second subchapter you can find the basic structure of the thesis.

The third subchapter is concerned with the bankruptcy as a first pre-condition. The Czech equivalent for bankruptcy in this sense is “úpadek”. The bankruptcy is the basic pre-condition for adjudication of bankruptcy. The third subchapter consists of short introduction and four sections. In the introduction of third subchapter you can find only general definition of bankruptcy and a few words about it. The first, second and third sections are focused on individual types of bankruptcy. In fact, you can find there

the legal definition of the bankruptcy. The last section is concerned with the decision about bankruptcy.

The fourth subchapter examines the situations when debtor has not enough property for insolvency proceeding and solutions of these situations. The fourth subchapter is also about advance money.

The fifth subchapter examines reorganization and discharge of debts and their transformations to the adjudication of bankruptcy. The fifth subchapter is subdivided into three sections. The first section is focused on legal methods which can be used for solving bankruptcy situations. The second section is concerned with reorganization and situations which cause the adjudication of bankruptcy. The third section is concerned with discharge of debts and situations which cause the adjudication of bankruptcy.

The sixth subchapter is an analysis of conditions of proceedings. The sixth subchapter is divided into six sections. The first section characterises the conditions of proceedings generally. The second section concentrates on the insolvency statement. The third section presents conditions joined with the court. The fourth section is about conditions joined with participants in proceedings. The fifth section analyzes conditions joined with the legal principle „ne bis in idem“. Last section is about conditions which are not conditions of proceeding but which are similar to them.

The seven subchapter shows the pre-conditions for adjudication of bankruptcy sui generis. The subchapter consists of two sections. The first section presents moratorium. The second section reports on exclusion subjects.

The eight subchapter mentions the definition of bankruptcy. The eight subchapter also mentions the special trivial bankruptcy.

Conclusions are drawn in Chapter Three. The main idea is that only practical application will show if the new regulation is suitable. I outline possible improvements. My suggestions are the unifications of pre-conditions for adjudication of bankruptcy, well-informed public and conformation to the circumstances following from application.