

The role of different subjects in reorganisation of the debtor's enterprise (comparative study)

Abstract

This thesis is an analyse of the role of different subjects involved in reorganization. This thesis is composed of four chapters each of them dealing with one of the key subjects. Different legal systems were compared for this purpose. On one hand reorganisation is a sort of civil procedure, on the other hand it is a sort of contract. This thesis tries to describe this ambiguity in emphasising its contractual basis and judicial framework.

Chapter One analyses how the insolvency modifies the position of the management, management is no more completely autonomous in its action. In some cases the placement of the management is necessary, especially when the wrongful trading is proven. In most of cases the debtor files for insolvency, prepares a plan of reorganization and becomes a "Debtor in possession". Different stages of reorganisation in respect with the position of the debtor are examined which shows that the reorganization is a way for the management how to regain the right to act on behalf of the company. The role of shareholders symbolises the changes inside of the insolvent company- on one hand they represent as a shareholders' meeting an organ of the company and the other hand they are also creditors.

The Chapter two focuses on the role of administrator. The scope of his involvement could be different- from a simple consultation and assistance he can be involved entirely in administration of the insolvent company.

The Chapter three is subdivided in several parts and provides an analysis of the role of the court in the reorganization which is very specific. Apart of its discretion the court in reorganization has to coordinate the procedure and sometimes it plays the role of mediator.

The Chapter four deals with the role of creditors whose role is crucial. They play a active role in the procedure through the creditors' body and have a crucial influence on reorganization.

Key words: reorganisation, debtor, creditor, administrator, court