

Substantive consequences of insolvency of an obligor for his business partners

Abstract

This thesis has a goal to describe substantive consequences of insolvency or bankruptcy of an obligor for his business partners. This goal is achieved by a comparison of norms influencing the insolvency proceedings arising from the Act no. 182/2006 Coll., about bankruptcy and methods of its solution (Insolvency Act), with the general norms of obligation law, while using academic literature, case law and legislation. The thesis describes especially single consequences which arise directly from the Insolvency Act and the purpose of these consequences. Additionally, possibilities for the business partners are included regarding avoidance of some of the consequences that might negatively affect them. Particularly, the thesis focuses on existence, extinguishment and enforceability of receivables of obligor's business partners.

The text is divided into three chapters. The first chapter describes basic principles of the insolvency proceedings, which helps to understand the meaning and the purpose of the legislation pertinent to the insolvency proceedings. These principles are also interpretation rules for the Insolvency Act. Furthermore, individual phases of the insolvency proceedings are described in the first chapter of the thesis together with characteristics of particular methods of solution of the bankruptcy. These characteristics help to understand the purpose of single substantive consequences, as these consequences are given by the purpose of the phases of the proceedings or methods of the solution.

Second chapter of the diploma thesis is focused on consequences concerning the existence, possibilities of extinguishment and enforceability of the receivables. The consequences described in the thesis are specific, because they are only possible to happen in connection with the insolvency proceedings as a consequence of the bankruptcy of an obligor. Those consequences are especially extinguishment of receivables and their unenforceability.

In the third chapter, the consequences that determine the possibilities of an extinguishment of the receivables by set-off are described. The Insolvency Act especially limits the possibilities to let the receivables extinguish by set-off.

Abovementioned areas are summarized in the final section of the theses.

Key words: Substantive Consequences, Bankruptcy, Obligor