

Reorganisation and restructuring

Abstract

This rigorous work is focused on the issue of reorganization and restructuring. The main goal of the author of this work is to describe some selected current and future remediation processes for entrepreneurs, especially taking into account their real usability in practice. The author specifically focuses on the institutes of reorganization, informal restructuring, and preventive restructuring. In addition to the above, the author considers the advantages and disadvantages of these institutes and critically evaluates their current regulation, while the author complements these critical considerations with *de lege ferenda* considerations, which aim to improve the functioning of restructuring processes in the Czech Republic.

In order to achieve the above-mentioned goals, the author discusses the institute of reorganization in one of the introductory chapters, especially with regard to its actual success and usability in practice, focusing primarily on its current problematic issues. The author also focuses on the institute of the so-called pre-packaged reorganization, due to its consensual nature, which can serve as a source of inspiration for future restructuring institutes, which will have a basis built mainly on consensus between the debtor and his creditors. To determine the actual level of success and usability of the reorganization in the Czech Republic, the author compiled his own statistics, which focuses on determining the total number of permitted reorganizations in the Czech Republic in 2008-2020 and the total number of successful reorganizations in the Czech Republic in 2008-2020. The author interprets the statistical data obtained in this way in the light of recent research in order to describe the basic problems of the current form of the institute of reorganization.

In the next chapter, the author focuses on the institute of informal restructuring, which is a classic example of an informal restructuring process in the Czech Republic. The author discusses its advantages and disadvantages, again taking into account its actual usability in practice, which can often be quite problematic. At the end of this chapter, the author provides a critical view of the current construction of this institute and compares it with its more formal alternative, such as primarily insolvency proceedings, ie reorganization.

The author devotes the last chapter to the institute of preventive restructuring, which is yet to be implemented into the Czech legal system, within the framework of the implementation of the Directive on restructuring and insolvency. In order to obtain sufficient information about this new institute, the author analyses it both in the light

of the Directive on restructuring and insolvency itself and in the light of the current form of the bill that this new institute should implement into the Czech legal system. Given that the actual implementation of preventive restructuring is still ongoing, the author complements the entire chapter with critical observations of the proposed bill of law, while he is also taking into account the institutes of reorganization and informal restructuring.

The author achieves the above-mentioned goals mainly with the help of analysis of domestic and foreign legal regulations, professional literature, relevant case law, research, and statistical data, which were partly collected by the author himself for the purposes of this rigorous work. Such a solid foundation provided the author, together with his personal experience, sufficient objective, and relevant information and materials to achieve the goals he set.

Keywords:

Reorganization, restructuring, preventive restructuring