

Advokátní kancelář Brož & Sokol & Novák

„Žijeme právem“



Some practical issues before filing for debtors' insolvency



 Brož
Sokol
Novák
ADVOKÁTNÍ KANCELÁŘ



Commercial Register

- Valuable public source of information
- Full access on www.justice.cz (free of charge)
- Collection of documents
- Annual reports, auditor's reports, reports on transactions with related parties etc.



Register of executions

- Valuable source of information - www.ceecr.cz
- Paid access
- Information about all execution proceedings held against individuals and companies in Czech Rep.



Insolvency register

- Valuable public source of information
- Free access to all insolvency files (isir.justice.cz)
- Full transparency of the insolvency register
- Quick publication of all filings
- Practical experience



Freedom of information act

- Availability of court judgements in anonymized form
- Relevant judicature of the Constitutional Court
- Mostly free of charge (depending on number of documents)
- Other unofficial sources of information (legal.pecina.cz/psj/)



Definition of insolvency

(1) A debtor is insolvent if he has

(a) several creditors and

(b) financial liabilities overdue for more than 30 days and

(c) is not able to fulfil such liabilities (hereinafter referred to as „financial insolvency“)



- (2) It is presumed the debtor is not able to fulfil his financial liabilities if
- a) he stopped payments for the substantial part of his financial liabilities, or
 - (b) his financial liabilities are more than 3 months overdue,
 - (c) fulfillment of any outstanding financial receivables against the debtor may not be achieved by the enforcement of a decision or the execution, or
 - (d) he failed to comply with his obligation to submit the lists referred to in Section 104 par. 1, imposed upon him by the insolvency court.

(3) A debtor who is a legal entity or a natural person (in the position of entrepreneur) is considered insolvent also if he is overindebted. A debtor is overindebted, if he has several creditors and the total of his liabilities exceeds the value of his property. When estimating the value of the debtor's property, the further management of his property or the further operation of his business shall be taken into account, provided that given all the circumstances it can be reasonably assumed that the debtor will be able to continue with the management of his property or the operation of his business.

(3) An imminent insolvency accrues when given all the circumstances, it can be reasonably expected that the debtor will not be able to duly and in time fulfil the substantial part of his financial liabilities.



Application for insolvency

- In the creditor's application for debtor's insolvency, the creditor must describe all important information attesting the debtor's insolvency or imminent insolvency. Sufficient evidence must be submitted to the court.
- The creditor must prove he has a receivable, which is overdue. If the debtor is a bookkeeping legal entity, it must submit also the debtor's acknowledgement of debt (with verified/notarized signature of the debtor), or enforceable decision, or enforceable notary's or bailiff's deed, or possibly also by auditor's, court-sworn expert's or tax advisor's confirmation that the receivable is in the creditor's accounting books.
- Payment of up to 50.000 CZK to the court is necessary.

„Vigilantibus iura scripta sunt.“

The law comes to the assistance of those who are vigilant with their rights,
and not those who sleep on their rights.

