



Impacts of the Electronic Insolvency Register on the Czech Business Environment

Prof. Michal Mejstřík, PhDr. Jana Chvalková

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Insolvency Law

- A branch of law that regulates multiple relations stemming from situations, when debtor is or will soon become unable to pay his due debts to his creditors
- The most important areas governed by the insolvency law:
 - mutual rights and obligations of a debtor and his creditors
 - the procedural rules of insolvency proceedings
 - the role of insolvency court and of insolvency trustees before, within and after the insolvency proceedings
- Set of legal rules ordering the situations of companies and persons in financial distress
- Two types of resolution of the insolvency situation:
 - bankruptcy
 - some type of restructuring of debtor's assets without liquidation
- A well-designed Insolvency law shall set such rules that offer economically efficient solutions to threatening or actual insolvency situations to all parties involved: debtors, creditors, insolvency trustees and other stakeholders



Insolvency Law in the Czech Republic

- New Insolvency Act, n°182/2006 Coll.
- Came into force in January 2008
- Launched a new on-line Insolvency Register
- Due to the actual financial crisis a novelization of the current wording as of January 2008 is on the way



Insolvency Law and the Quality of Business Environment

- Exit of companies from the market is an integral element of any market-based economy
- According to the World Bank the key elements of effective insolvency law shall fulfill the following functions:
 - Provide reliable and affordable means for protecting credit and minimizing the risks of nonperformance and default;
 - Establish reliable procedures that enable credit providers and investors to more effectively assess, manage, and resolve default risks and to promptly respond to a state of financial distress of an enterprise borrower;
 - Offer affordable, transparent, and reasonably predictable mechanisms to enforce unsecured and secured credit claims by means of individual action (e.g. enforcement and execution) or through collective action and proceedings (e.g. insolvency);
 - Support unified policy vision governing credit access, credit protection, credit risk management and recovery, and insolvency through laws and regulations that are compatible both procedurally and substantively.
- Before the new act was passed, Czech Republic had the lowest ranking in terms of ease of business closure among all OECD countries



Insolvency Registries

- Enhances transparencies and reduces risks (asymmetric information, moral hazard)
- Increases the speed of insolvency proceedings
- Pre-insolvency stage
 - A valuable tool enabling its users to check whether their counterparty is undergoing an insolvency
- Insolvency stage
 - Important source of information about the situation of the debtor and of other creditors
 - Reduces the asymmetric information concerning their relation to the debtor
 - Lessens the probability of corruption and improper insolvency procedures
- Ultimate stage
 - Facilitates communication of stakeholders
 - Centralization and publication of all documents reduce administrative costs



Czech Insolvency Register

- Launched in 2008
- Pilot eJustice project of the Ministry of Justice
- Not part of the Commercial register but directly interlinked
- According to the Ministry of Justice it is expected that in the future the Insolvency Register will be interlinked also with the Real Estate Register, Citizens Register and Criminal Register
- Contains straightforward information about whether a company or an individual is currently undergoing insolvency proceedings or not
- Contains electronic versions of all important documents
- Free on-line access, and free download of all documents



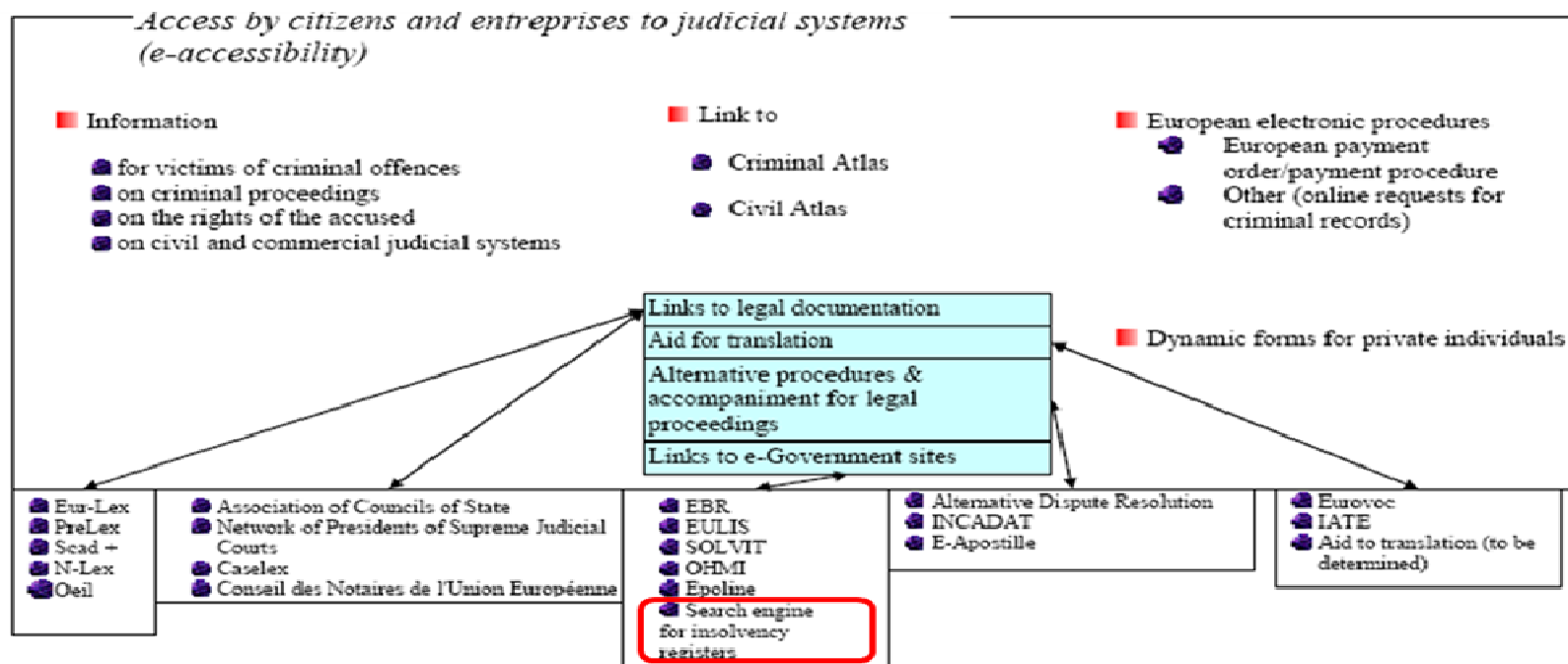
Comparison of Features of Selected Insolvency Registers

Feature of the Insolvency Register	CZ	UK	IRL	F	I	E	SK	D	DK
1. Established by law (public)	✓	✓	✓	X	X	X	X	✓	✓
1. Managed by public entity	✓	✓	✓	X	X	X	X ^f	✓	✓
1. Stand-alone register	✓	✓ ^d	X	X	X	✓	✓	X ^h	X ⁱ
1. Insolvent companies	✓	✓ ^d	✓ ^e	✓	✓	✓	✓	✓	✓
1. Insolvent individuals	✓	✓ ^d	X	X	X	X	✓	X	X
1. Electronic version available	✓	✓	✓ ^e	✓	✓	✓	✓	✓	✓
1. Official electronic delivery	✓ ^a	X	X	X	X	X	X	✓	✓
1. Basic services free-of-charge	✓	✓ ^d	✓	X	✓	✓	✓	✓	✓
1. Advanced services free-of-charge	✓ ^a	✓ ^d	X	X	X	X	X	X	X
1. Watch dog services available	X ^a	✓	X	✓	✓	✓	✓	X	X
1. Statistics publicly available	X	✓	X	✓	X	X	X	X	X
1. Interactive communication with court	X	X	X	X	X	X	X	X	✓
1. Interlink with other registries	✓ ^b	✓ ^d	✓	✓	✓	X	✓	✓	✓
1. Download of documents from debtors file	✓	✓	X	X	X	X	X	✓	✓
1. Possibility to fill in official documents electronically	X	✓	X	X	X	X	X	✓	✓
1. Possibility to exchange information with foreign insolvency registries	X ^c	X	X	X	X	X	✓	X	X ⁱ
1. Possibility of print out of official records	X	X	X	X	X	X	X ^f	✓	✓
E-score ^l (number of ✓ in columns from 4. – 17)	8	11	4	5	5	4	8	8	9



Electronic Insolvency Registers as part of EU eJustice

- According to the EU Communication (COM(2008)329 Final) an interconnection between national Insolvency Registers shall be established
- EU common eJustice Portal
- Potential problems with differences among national registries



Influence of the Czech electronic Insolvency Register on the Business Environment

- Estimated initial and operational costs in 2008 – CZK 180 mil
- Transparency -> makes the business environment more attractive for Czech and foreign investors
- Reduces costs of information collection
- Informal coordination of insolvency procedures
 - Insolvency courts and trustees observe other procedures and their results
- Statistical functions of the Register
 - number of declared bankruptcies, reorganizations and insolvencies in progress



4 Stages of eGovernment Evolution

- The eGovernment stages model – based on Gupta and Jana [6] and Moon [9] - describes four stages of eGovernment tools evolution:
 - 1) information dissemination;
 - 2) interactive 2-way communication (e.g. with insolvency court, trustee etc., integrated watchdog services);
 - 3) vertical integration including financial transactions (e.g. electronic payment of insolvency costs);
 - 4) horizontal integration (interoperability with other public registers, connection to insolvency registers of other countries etc.).

- The Czech Insolvency Register provides only stage 1 services



Qualitative Analysis of Major Benefits of the Czech Electronic Insolvency Register

Benefit	Stakeholder	Type of influence	Results	Costs
Transparency	Public	Spread of information about insolvency law		Initial costs - creation of the web Insolvency Register platform; operational costs - administration of the Insolvency Register, training of insolvency judges, trustees on effective use of the Insolvency Register, cost of monitoring expended by creditors
		External control of insolvency proceedings	Decrease of corruption	
	State	Public free-of-charge consultations	Collection of suggestions and advices from public	
Publicity	Debtors	Availability and accessibility of important information free of charge	Time savings, reduction of counterparty risk, decrease of costs for obtaining information	
	Creditors			
	Public			
	Insolvency Courts	In certain cases electronic delivery	Savings of time and costs	
	State	Efficient regulation	Decreasing the administrative burden of entrepreneurs and citizens	
Coordination	Insolvency Courts	Information about past and ongoing insolvency proceedings on other courts	Spontaneous formation of best practices catalogue	
	Insolvency trustees			
	Debtors	Indirect benefit from enhanced best practices and procedural coordination	Increasing legal certainty	
	Creditors			
Policy tool	Public			
	State	Data source for formation of various policy indicators	Possibility to measure and evaluate results of economic policies	
	Public	Source of information about the business environment etc.		



The Czech Electronic Insolvency Register within 4 stages of eGovernment Evolution

Stakeholders		Stage 1	Stage 2	Stage 3	Stage 4
Internal	Insolvency courts	Coordination of practices among insolvency courts and judges, dissemination of information, electronic delivery	X	X	X
	Insolvency trustees	Coordination of practices among insolvency trustees, dissemination of information	X	X	X
	State administration	Extraction of data about market exits, personal insolvencies for evaluation of policies	X	X	X
External	Debtors	Information dissemination, possibility to quickly publish reactions on information in the register	X	X	X
	Creditors	Information dissemination about the debtor, other creditors etc.	X	X	X
	Public (potential stakeholders)	Information dissemination - catalogue of initiated and running insolvency proceedings	X	X	X
		Basic web technology - board for posting of scanned documents			
			Electronic data interchange by email or electronic forms		
				Electronic signature, electronic filing, interoperable technology	
					Vertical and horizontal integration of technologies from stages 1,2,3, integration with other registers



Conclusions

- Application of Insolvency law in the Czech Republic is facilitated by the electronic Insolvency Register that enables creditors, debtors, insolvency courts and trustees to access all important information in electronic form from the Internet
- The Insolvency law is an important part of regulation of the business environment
- The Czech Insolvency Register is one of the better ones in the EU
- On the other hand – no interactive features (electronic document filling etc.)
- Development of the Register from stage 1 would considerably improve its efficiency
- Cost-benefit analysis – The Register is an efficient tool



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