

GIESE & PARTNER

kompetent & engagiert

# CZECH INSOLVENCY LAW

## Lease and Sublease

JUDr. Ondřej Rathouský

August 27, 2014

# CZECH INSOLVENCY LAW - Lease and Sublease

## 1. Introduction

- Czech insolvency law is relatively young and is continuously developing

1st Insolvency Act                      1. 10. 1991

New Insolvency Act                      1. 1. 2008

Substantial Amendment                      1. 1. 2014

- Decision making practice of Czech higher courts (although not formally binding) substantially influences the development

## CZECH INSOLVENCY LAW - Lease and Sublease

- Importance of insolvency law is increasing together with the number of initiated insolvency proceedings

2008	5306
2009	9514
2010	16011
2011	24553
2012	32656
2013	37634
2014 (30. 6.)	17826

## CZECH INSOLVENCY LAW - Lease and Sublease

### 2. Reasons for initiation of the insolvency proceedings

a) inability to pay debts  
(generally applicable)

or

b) overindebtedness  
(applies to legal persons and natural persons ó entrepreneurs)

## CZECH INSOLVENCY LAW - Lease and Sublease

### a) Inability to pay debts

- plurality of creditors
- outstanding payment obligations with more than 30 days after due date
- inability to fulfill these payment obligations

## CZECH INSOLVENCY LAW - Lease and Sublease

### b) Overindebtedness

- plurality of creditors
- the amount of the payment obligations is higher than the value of the property

## CZECH INSOLVENCY LAW - Lease and Sublease

### 3. Key Moments of Insolvency Proceedings

- a) Filing of the insolvency application
- b) Decision on insolvency
- c) Decision on form of solving insolvency



## CZECH INSOLVENCY LAW - Lease and Sublease

### 4. Forms of solving insolvency

- a) bankruptcy
- b) reorganization
- c) debt forgiveness



## CZECH INSOLVENCY LAW - Lease and Sublease

### a) Bankruptcy

- property of the debtor is sold by the insolvency administrator
- receivables of the creditor are paid proportionally
- unpaid receivables or their parts **do not** cease to exist

## CZECH INSOLVENCY LAW - Lease and Sublease

### b) Reorganization

- the business of the debtor continues in operation
- the receivables of the creditors are paid partially
- operation of the business and payment of the receivables proceeds according to the reorganization plan
- unpaid receivables or their parts cease to exist

## CZECH INSOLVENCY LAW - Lease and Sublease

### c) Debt forgiveness

- property of the debtor is sold and the receivables of the creditors are paid proportionally
- instalments for the period of 5 years
- unpaid receivables cease to exist

## CZECH INSOLVENCY LAW - Lease and Sublease

### 5. Lease and sublease in bankruptcy

- after the bankruptcy is declared the insolvency administrator is entitled to terminate the lease / sublease contracts by notice
- the notice period is governed by the act or contract, however, shall not be longer than 3 months
- special regulation regarding termination of the lease / sublease of the apartments remains unaffected

## CZECH INSOLVENCY LAW - Lease and Sublease

### 6. Debtor as a landlord

- tenant is entitled to request the insolvency court to cancel the termination
- must file the request within 15 days from delivery of the termination
- must prove that the termination causes disproportionate harm or substantial damage
- the court must cancel the termination if the tenant is prepared to buy the respective property and provides sufficient collateral

## CZECH INSOLVENCY LAW - Lease and Sublease

### 7. Debtor as a tenant

- after the insolvency is declared the landlord is not entitled to terminate lease / sublease contract for delays in payments by the debtor originating in period before the insolvency is declared or due to worsening of the debtor's situation



## CZECH INSOLVENCY LAW - Lease and Sublease

### 8. Rent and Other Payments

- rent and other payments related with the lease / sublease not paid by the debtor before the bankruptcy is declared must be registered in the insolvency proceedings and would be paid proportionally
- rents and other payments paid by the creditor as a tenant in advance shall be registered as conditional receivables in the insolvency proceedings and should be also paid proportionally
- rent and other payments related with the lease / sublease to be paid after the bankruptcy is declared shall be paid by the insolvency administrator



## CZECH INSOLVENCY LAW - Lease and Sublease

### 9. Withdrawal from the Lease / Sublease Contract

- if at the time when the bankruptcy is declared the property is not handed over, the insolvency administrator as well as the other party to the contract may withdraw from the lease / sublease contract
- if the insolvency administrator withdraws from the contract the other party may claim damages by registering such claim in the insolvency proceedings
- both parties are obliged to state upon request of the other party whether they intend to withdraw from the contract or not

## CZECH INSOLVENCY LAW - Lease and Sublease

### 10. Lease and Sublease in Reorganization

- the same principles as in bankruptcy
- the rights of the insolvency administrator in bankruptcy belong to the debtor
- consent of the creditor's committee is needed

## CZECH INSOLVENCY LAW - Lease and Sublease

### 11. Lease and Sublease in Debt Forgiveness

- the same principles as in bankruptcy
- the rights of the insolvency administrator in bankruptcy belong also to the insolvency administrator

## CZECH INSOLVENCY LAW - Lease and Sublease

### 12. Reasoning

#### Debtor as a landlord

- easier sale of the debtor's property free of leases / subleases

#### Debtor as a tenant

- reduction of the debtor's cost



*Your complimentary  
use period has ended.  
Thank you for using  
PDF Complete.*

[Click Here to upgrade to  
Unlimited Pages and Expanded Features](#)

GIESE & PARTNER

kompetent & engagiert

**Thank you very much for your attention**

**Czech Republic**

**Giese & Partner, s.r.o.**  
Palác Myslbek  
Ovocný trh 8  
CZ - 117 19 Praha 1

Tel.: +420 221 411 511  
Fax: +420 222 244 469

E-mail: [office@giese.cz](mailto:office@giese.cz)  
[www.giese.cz](http://www.giese.cz)

**Slovak Republic**

**Giese & Partner, s.r.o.**  
**- organizačná zložka**  
Lazaretská 12  
SK - 811 08 Bratislava

Tel.: +421(2)20 510 110  
Fax: +421(2)20 510 199

E-mail: [office@giese.sk](mailto:office@giese.sk)  
[www.giese.sk](http://www.giese.sk)