

# THE DEVELOPMENT OF ENFORCING RECEIVABLES IN THE CZECH REPUBLIC

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## Abstract

This paper is focused on a enforcing receivables process in the Czech Republic. There are two basic possibilities how to enforce receivables when the debtor does not want or is not able to repay. The first one is an individual enforcing where on one side there is a affected creditor and on the other side there is a debtor. When the individual enforcing process is organised there are also other related entities as court enforcing agents, lawyers etc. The second type is a collective enforcing when the debtor has more creditors who are joined together in insolvency proceedings. This paper will compare data available for individual and collective enforcing. It will show if there are differences in the development of enforcing receivables. This time development will be compared with the country economic development, especially presented by the gross domestic product. The used methods will be based on a current state description and analysis using statistic methods as descriptive statistics and regression analysis. The limitation of this research (or its broadness) is data availability.

**Key words:** enforcing receivables, insolvency proposals, Czech Republic

**JEL Code:** G33

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## Introduction

It has a serious impact on creditors when their receivables are not paid until maturity. The creditors are affected by the behavior of a debtor when the debtor does not want or is not able to pay his/her payables. Each creditor compares a value of unpaid receivable, probability of enforcement and a value of additional costs (could be discussed as transaction costs). The creditor decides if possible income from enforcement exceeds additional costs and effort. There exist two basic possibilities how to enforce receivables. The first is individual enforcement which starts with phone calls, goes on with reminder letters and finishes as the enforcing of the last instance as forfeiture proceedings with court permission. The second kind of enforcement is collective which is carried out according to the Insolvency Act (no. 182/2006 Coll.) in the Czech Republic. There has to be fulfilled several conditions otherwise

the enforcement remains individual. According to § 3 of Insolvency Act the debtor has to have more creditors, his/her payables have to be at least 30 days after maturity or in the case of entrepreneur entities it is talked about other condition – over indebtedness. Over indebtedness is a situation when the total value of debtor's liabilities exceeds the total value of debtor's assets.

The main aim of this paper is a comparison of amount of cases enforced individually and collectively in the Czech Republic. The analysed time period covers years 2008-2015. It should detect if there are any differences between these two kinds of enforcement process. The amount of cases depends generally on the country economic development (for example measured by the gross domestic product), level of law enforcement and transparency of entrepreneurial environment.

## **1 Relevant literature review**

Trends in amount of insolvency proposals and insolvency proceedings are a popular research topic in the Czech Republic which is analyzed by many authors from different points of view. The popularity of the issue is caused by the new Insolvency Act which came into force in 2008 unfortunately accompanied by the last global economic crisis as well. There are many discussions about shortcomings of this act or data availability in a legal (Richter, 2011) and business way or Kislingerová (2012).

Trends of insolvency proposals were analyzed by Svobodová (2013), who focused on the time development of different kinds of proposals, Louda (2016), who tried to connect the development of proposals with macroeconomic data, or Paseková (2013), who described the overall environment. On the other hand Kislingerová and Arltová (2013) have not only described the current situation but tried to forecast future development. Some authors focus only on particular kinds of proposals as Čámská (2013), who values companies in liquidation (valid insolvency proposal), Randáková and Bokšová (2012), who emphasized only reorganization procedure, or Randáková et al. (2014), who worked with development of personal bankruptcies. Personal bankruptcies are first allowed in the Czech Republic due to the new Insolvency Act. They should enable to solve personal difficult debt situation in the period not longer than five years and start again without any lasting debts anymore.

The data availability is limited and therefore there are not many researches about the satisfaction rate of enforcement for creditors. Most published papers are concentrated around the research team from University of Economics, Prague. Contributions as Kislingerová et al.

(2013) or Smrčka et al. (2015) can be mentioned here in the case of insolvency proceedings in other words collective enforcement. Availability of data in the case of the individual enforcement is even worse and therefore it is possible mentioned only contribution of Arltová and Smrčka (2015) which is based on a unique cooperation with several systematic creditors.

The processes of the individual and collective enforcement have many common features if we do not take into account the legal side. There is on one side always a debtor and on the other side there is/are creditor/s who try to recover their claims. Individual and collective enforcement may be considered in the case of natural and also legal persons. Numbers and amount of individual and collective cases should be connected because when insolvency proceeding starts individual enforcement cannot start anymore. According to literature review there has not been detected any single contribution which would cover the development of individual as well as collective enforcement. The aim of this paper is to connect these two kinds of enforcement together.

## **2 Data samples and methods**

The research paper uses data describing the amount of forfeiture proceedings (individual enforcement) published by Chamber of Executors Czech Republic, amount of insolvency proceedings (collective enforcement) published by Ministry of Justice and real gross domestic product published by Czech Statistical Office. The time period covers years 2008-2015 from the year when the new Insolvency Act came into force to present. The used research methods are based on a current state description and analysis using especially linear regression analysis.

Table 1 consists of data describing the development of numbers of forfeiture proceedings and insolvency proposals in the Czech Republic during the time period 2008-2015. The number of insolvency proceedings had increased till 2013 when it has started decreased. In comparison the number of forfeiture proceedings does not have such a stable development because it is increasing and decreasing several times during the analysed time period. Real gross domestic product significantly decreased in 2009 then the growth rates were not high and even sometimes slight negative (2012 and 2013) and since 2014 it has started to growth significantly and in the year 2015 it finally exceeded the level of the year 2008 (Czech statistical office).

**Tab. 1: Forfeiture proceedings and insolvency proceedings - time development**

Year	Forfeiture proceedings			Insolvency proposals		
	Number of cases	Growth		Number of cases	Growth	
2008	554 128	---	---	5 236	---	---
2009	760 923	37.32%	↑	9 396	79.45%	↑
2010	701 900	-7.76%	↓	16 101	71.36%	↑
2011	936 219	33.38%	↑	24 466	51.95%	↑
2012	820 420	-12.37%	↓	32 656	33.48%	↑
2013	714 000	-12.97%	↓	37 613	15.18%	↑
2014	828 000	15.97%	↑	35 140	-6.57%	↓
2015	729 000	-11.96%	↓	32 353	-7.93%	↓

Source: own processing based on data of Chamber of Executors Czech Republic and Ministry of Justice

### 3 Results

Modeling relationship between number of insolvency proposals, their kinds (personal bankruptcy, enterprise bankruptcy, reorganization or without proposal how to solve insolvency) and development of gross national product is not necessary because it has been processed by Louda (2016). According to results in Louda (2016) the number of insolvency proposals or their specific types can be explained by gross domestic product or its real growth rate. Explanatory variable is significant and over 80% of data variability is explained (R-squared).

This paper is focused on number of forfeiture proceedings which are other way how to enforce receivables. There could be a relationship between number of forfeiture proceedings and macroeconomic indicators. From the economic point of view worse overall macroeconomic situation should lead to higher proportion of bad debts and finishing in increasing number of enforced cases as forfeiture and insolvency proceedings. This economic point of view should be modeled statistically using regression analysis. Unfortunately how it was aforementioned the development of number of forfeiture proceedings is not stable because it decreased and increased several times during the analysed time period. The results of linear regression are displayed in table 2 and they show that the explanatory variable real gross domestic product is insignificant (P-value higher than 0.05 or even 0.1). It means that

the relationship between number of forfeiture proceedings and overall economic situation has not been proved.

**Tab. 2: Results of regression, explanatory variable real GDP, dependent variable number of forfeiture proceedings**

Variable	Coefficient	Std. Error	t - Statistic	P - value
Constant	1093119	1770256	0.617492	0.5596
GDP_real	-0.08398	0.440288	-0.19073	0.855026

Source: own processing based on data of Chamber of Executors Czech Republic and Czech Statistical Office

The second economic idea says that number of forfeiture proceedings and number of insolvency proceedings should be connected because creditors included in insolvency proceeding cannot obtain forfeiture title for the same case anymore. This economic point of view should be modeled statistically using regression analysis. Regression is displayed in Table 3. The better results are gained with the model without constant. The explanatory power of this model is very high because R-squared coefficient is 0.849.

**Tab. 3: Results of regression, explanatory variable numbers of insolvency proposals (NoIP), dependent variable number of forfeiture proceedings**

Variable	Coefficient	Std. Error	t - Statistic	P - value
NoIP	26.25187796	4.181149661	6.278626715	0.000412577

Source: own processing based on data of Chamber of Executors Czech Republic and Ministry of Justice

It is possible to write the final regression formula by equation 1.

$$\text{number\_of\_forfeiture\_proceeding} = 26.25 \times \text{number\_of\_insolvency\_proposals} \quad (1)$$

The modeled relationship does not respect the economic point of view because it was expected that increasing number of insolvency proposals would decrease the number of forfeiture proceedings. It is also an incentive for the possibility of insolvency solving in the case of natural non-entrepreneurial persons. Personal bankruptcy should enable persons and their families start the life again after recovering at least 30% of their debts in period not longer than 5 years. Personal bankruptcy proposals create more than 80% of all insolvency proposals. Economically we would expect negative relationship but statistically the positive relationship is proved.

## 4 Discussion

The relationship between number of forfeiture proceedings and real gross domestic product has not been detected with the use of regression analysis. On the other hand the relationship between number of forfeiture proceedings and number of insolvency proposals has been detected with the use of regression analysis but the detected relationship does not respect the economic sense discussed above. It is possible to mention several reasons of this state. From the statistical point of view the length of time series is strictly limited because it covers years 2008-2015. The time series cannot be longer because the new Insolvency Act came into force in January 2008. The data about insolvency proposals before 2008 are not comparable because of inconsistent methodology and legal framework. The data published by Chamber of Executors Czech Republic are not enough detailed because they display only the number of total cases. We could come to better conclusions if the data would be divided into cases connected with natural person debtors and legal entities. Also more forfeiture proceedings can be connected with one debtor that is not possible in the case of insolvency proceedings. In the case of insolvency proceedings all bad debts of one debtor are included in one proceeding. One of the last reasons is that the economic environment was not stable during the analyzed time period because the beginning was connected with the last global economic crisis and then the recovering came.

## Conclusion

This paper was focused on a enforcing receivables process in the Czech Republic. There are two basic possibilities how to enforce receivables – individual and collective enforcing. This paper compared data available for individual and collective enforcing and tried to identify difference in the development. It will show if there are differences in the development of enforcing receivables. This time development of number of forfeiture proceedings and number of insolvency proposals were compared with the real gross domestic product of the Czech Republic. The dependence between number of forfeiture proceedings and macroeconomic indicator has not been proved although there is dependence between number of insolvency proposals and overall macroeconomic situation. The idea that increasing number of insolvency proposals (majority personal bankruptcies) would decrease significantly number of forfeiture proceedings has not been proved by current data analysis. Although the

basic hypothesis is based on the realistic assumptions there are other determinants which influence the relationship. It could be a task for a following research.

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## References

- Arltová, M., & Smrčka, L. (2015). *A statistical analysis of the efficiency of asset forfeiture proceedings in the Czech Republic*. In Loster, T., Pavelka, T. (Eds.), *The 9th International Days of Statistics and Economics (MSED 2015) at VŠE* (pp. 55-70). Slaný: Melandrium.
- Čámská, D. (2013). *Základní charakteristiky podniků v insolventci*. In Jedlička, P. (Ed.), *Sborník recenzovaných příspěvků z mezinárodní konference Hradecké ekonomické dny 2013, Díl I., Ekonomický rozvoj a management region at University Hradec Králové* (pp. 83-88). Hradec Králové: Gaudeamus.
- Czech Statistic Office (2016). *Česká republika: hlavní makroekonomické ukazatele*. Retrieved April 20, 2016, from [https://www.czso.cz/csu/czso/hmu\\_cr](https://www.czso.cz/csu/czso/hmu_cr).
- Kislingerová, E., & Arltová, M. (2013). *Forecasting the Number of Insolvency Petitions and Bankruptcies for 2013-2014*. In Jirčíková, E., Knápková, A., Pastuszková, E. (Eds.), *Proceedings of the 6th International Scientific Conference: Finance and the performance of Firms in Science, Education and Practice at Thomas Bata University in Zlín* (pp. 336-347). Zlín: Univerzita Tomáše Bati, Fakulta managementu a ekonomiky.
- Kislingerová, E., Richter, T., Smrčka, L, & et al. (2013). *Insolvenční praxe v České republice v období 2008-2013*. Prague: C. H. Beck. 2013.
- Kislingerová, E. (2012). *Lack of Insolvency-Related Information as a Factor Limiting the Reform of the Insolvency System*. In *Proceedings of the 1st WSEAS International Conference on Finance, Accounting and Auditing (FAA '12) at Thomas Bata University in Zlín* (pp. 180-185). Athens: WSEAS Press.
- Louda, L. (2016). *Trends in the Number of Insolvency Proposals*. In Jedlička, P. (Ed.), *Hradec Economic Days 2016 at Univeristy Hradec Králové* (pp. 532-540). Hradec Králové: Gaudeamus.

- Ministry of Justice, Insolvency Act, Expert group 22. (n.d.). Statistics. Retrieved September 8, 2015, from <http://insolvenčni-zakon.justice.cz/expertni-skupina-s22/statistiky.html>.
- Ministry of Justice. (2016) Přehled o průběhu insolvenčního řízení. Retrieved Apr. 20, 2016, [http://cslav.justice.cz/InfoData/servlet/FileServlet?tabulka=ccav\\_dokument\\_sestavysloupec=obsah\\_dokumentu\\_html&where=id\\_dokumentu=1042330&typSloupce=html&fileName=null](http://cslav.justice.cz/InfoData/servlet/FileServlet?tabulka=ccav_dokument_sestavysloupec=obsah_dokumentu_html&where=id_dokumentu=1042330&typSloupce=html&fileName=null).
- Paseková, M. (2013). The Development of Insolvency Proposals in the Czech Republic. *International Advances in Economic Research*, 19(2), 207-208.
- Randáková, M., & Bokšová, J. (2012). Linkage of Czech Insolvency Proceeding to Bankruptcy Reorganization. In *Proceedings of the 1st WSEAS International Conference on Finance, Accounting and Auditing (FAA '12) at Thomas Bata University in Zlín* (pp. 186-191). Athens: WSEAS Press.
- Randáková, M., Bokšová, J., Maixner, J., & Hospodka, J. (2014). *Personal bankruptcies of individuals in the Czech Republic in relation to different groups of creditors*. In Čulík, M. (Ed.), *Managing and modelling of financial risks at VŠB-TU Ostrava* (pp. 80-86). Ostrava: Technická univerzita v Ostravě.
- Richter, T. (2011). Reorganizing Czech Businesses: A Bankruptcy Law Reform under Recession Stress-Test. *International Insolvency Review*, 20(3), 245 – 254.
- Smrčka, L., Schönfeld, J., & Malý, T. (2015). Results from Researching Insolvency Processes in the Czech Republic. *International Advances in Economic Research*, 21(1), 123-124.
- Svobodová, L. (2013). *Trends in the number of bankruptcies in the Czech Republic*. In Jedlička, P. (Ed.), *Sborník recenzovaných příspěvků z mezinárodní konference Hradecké ekonomické dny 2013, Díl III., Ekonomický rozvoj a management region at university Hradec Králové* (pp. 393-399). Hradec Králové: Gaudeamus.



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