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Thesis: To Which extent are private pensions in life insurances protected in case of bankruptcy?

Supervisor: Doc. JUDr. Ing. Radek Jurčík, Ph.D.

In the sense of the letter of the Dean of the Faculty of Business and Economics, I offer the following **assessment of the dissertation.**

1. Topic of thesis

The development in the financial markets shows us that we live in a turbulent world where no one has a 100 percent certainty that the saved money will retain their value in the future, even though they are well invested. The high volatility of equity prices, combined with a growing national debt - and the resulting effect of the levy capital investment by the state coffers - blurs the boundaries between risk-free and risky investment opportunities. High threat represents bankruptcy risks not only of great importance, but especially for small investors which causes high anxiety in the society. In the real economy, we currently have no one (except small investors) who could repay the debts in the daytime.

The insolvency of the question is the legal and economic framework. Most theories and solutions focused on the economic management of symptoms and eradication of bankruptcy costs. But we feel the lack of currently a legally accepted prevention of insolvency proceedings in combination with the definition of the personal responsibilities. The protection of small investors has increased in the past. This is true partly for the pension and retirement savings - after all, there still remains a very high level of risk that the retired people in 30-40 years will get a very questionable pension. The same applies to the life insurance (within the savings column).

The dissertation is submitted with the title "To Which extent are private pensions in life insurances protected in case of bankruptcy?" which is from the very beginning a research question to the problem of the protection of life insurance by the liquidator, with regard to the respective savers. The legal side of this research question is a very appropriate subject of this dissertation because it allows the author to reflect the economic aspects of bankruptcy law in the context of three states. The focus on Germany, Switzerland and Lichtenstein forms a homogeneous basis that is consistent with tradition, personal responsibility, education and legal security is closely related.

The research problem corresponds, according to my opinion, to the current standard, and it involves the overview of important opinions and statements that describe the current situation and also outline a perspective development. So I can confirm the relevance of the thesis work.

2. The aim of the thesis work and its fulfilment

The objectives of the thesis work can be found on pages 11-12, and they can be identified in two levels:

Research question: To Which extent are private pensions in life insurances protected in case of bankruptcy? The objective is to identification of legal gaps with regard to bankruptcy risks. Conversely, there is the question of scope and contents of statutory pension asset protection in private schemes. On this basis, the limits of private independent contractual regulations are illustrated.

This logical structuring of the problem helps to better understand the bankruptcy (from the perspective of a private saver) and also serves to better stimulate the creation of legal norms that would protect the position of the savers compared to their future.

In my opinion on the fulfillment of the aim is positive. The elaboration of the thesis work, both components - theory and practice - is in a balanced form, with open places where the reader can form own opinions.

3. Selected methods of processing

In solving this problem, the student used the scientific methods that are based on analysis, decomposition, synthesis, generalization - there is a qualitative research. I appreciate especially the practical comparison of the legal bases between Germany, Switzerland and Liechtenstein.

The structure of the dissertation is logical and corresponds to current standards. The PhD student tries - to the extent possible - to compare the legal theory with the usual practice application, which is not always so easy. You have to take in mind that the traditional pension/ pension systems, as well as life insurance face a fundamental change in philosophy.

From the processing of the thesis work, I can deduce that the student knows the scientific methods and can be applied to a sensitive manner. The 57 literature sources used I rate as a balanced opinion broad and representative.

4. The results of the thesis work

In the dissertation, the student brings very interesting ideas, opinions, experiences and results in which one can measure the quality of this work. The main contributions of the PhD student I can, in my opinion, the following list:

The elaboration of the theoretical basis of the legal framework for the protection of small investors (savers) in terms of the minimum standards that must be guaranteed by the State.

The legal representation of each phase of the possible execution - during the savings phase, early payout phase and conventional payout phase - with the outline of improvements.

Very interesting country comparison of traditional pensions and life insurance - Germany,

Switzerland and Lichtenstein - with focus on the protection of the parties, which could be relevant for those countries that are preparing for a pension reform.

The resulting compound to the Welfare Economics and homo economicus closes the circle of thoughts flow and doctoral student returns to education of theoretical conclusions.

5. The observations and further questions on the dissertation

To the submitted dissertation I have questions that I would like to ask the PhD student within the defense:

1. In many European countries, systems are codified, and there is a minimum pension guaranteed by law.

When we come out of the German experience, what risks do you see in a legal enforceability of this idea (a statutory minimum pension), when we speak of a time horizon of 20-30 years? What legal guarantee would be motivating for savers?

2. In Central and Eastern Europe can be found pension schemes, which rely on the inclusion of private institutions (insurance companies). These are under strong regulatory monitoring by the National Bank and Ministry of Finance. In your opinion, what legal protection should the pension savers get in a possible insolvency of pension funds?

Closing remarks

Mr. Johannes Fiala explored in his dissertation an interesting and topical issues. I can state - based on the results of presented dissertation submitted – that the student has demonstrated the ability to creative scientific work; the selection of the theme, its processing and presentation I consider to be an interesting contribution to the discussion. After a successful defense

I recommend

Mr. Johannes Fiala academic degree

Philosophiae Doctor (Ph.D.)

to grant.

In Bratislava, the December 15, 2014


Prof. Ing. Peter Markovič, PhD.

reviewer