

**Examination of the courts' jurisprudence
in respect of the liquidator's legal status in proceedings initiated on the basis of
a complaint defined in section 51 of the Bankruptcy and Liquidation Proceedings Act**

I. The topic to be examined

Differing standpoints have been adopted in the courts' practice as to whether the liquidator acts on his own behalf or acts on behalf of the debtor as the debtor's legal representative in proceedings initiated on the basis of a complaint, defined in section 51 of Act no. XLIX of 1991 on Bankruptcy and Liquidation Proceedings, filed for the liquidator's illegal action or negligence.

The answer to be given to the above question has important practical relevance: it is either the debtor or the liquidator who has to bear the costs of a proceeding that was initiated on the basis of such a complaint if the latter proves successful. In the event that the liquidator has to bear the procedural costs, they could be classified as liquidation costs.

The answer has more far-reaching consequences as well: if obliged to pay the procedural costs as part of the liquidation costs, the liquidator can be held liable for their payment instead of a dispossessed debtor.

II. The tasks of the jurisprudence-analysing working group

- 1) Examination of the subject matter of proceedings initiated on the basis of a complaint defined in section 51 of the Bankruptcy and Liquidation Proceedings Act, the legal relationships affected by them, and the types of cases dealt with in them.
- 2) Decision on whether the liquidator's legal status should be assessed identically in all types of cases or there should be a differentiated approach regarding the different types of cases.
- 3) Decision on whether the preferred regulation could be deduced from the interpretation of the provisions in force of the Bankruptcy and Liquidation Proceedings Act (in the form of a departmental opinion or a uniformity decision) or the legislator should address the problem.

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