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Croatia: Wage guarantee in case of insolvency

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Croatia

Phase:

Management

Type:

Wage guarantee in case of insolvency

Last modified: 26 November, 2020

Native name:

Stečajni zakon 71/15, 104/17; Zakon o osiguranju radničkih tražbina 70/17

English name:

Bankruptcy Act 71/15, 104/17; Act on ensuring workers' claims 70/17

Article

Bankruptcy Act: Article 69, 120; Act on ensuring workers' claims: Article 8-15, 39

Description

The law guarantees the payment of employees' claims for earned, yet unpaid, gross salaries and other claims arising from the employment contract for three months prior to the initiation of a bankruptcy process, regardless of the type of employment contracts. The same applies for the three-month period prior to the termination of a contract, if it was terminated within the three months preceding the opening of the bankruptcy proceedings. Therefore, employees' claims arising from their employment prior to the opening of the bankruptcy proceedings have priority over all other creditors and claims.

According to article 8 of the Act on ensuring workers' claims, in cases of standing bankruptcy proceedings, the amounts guaranteed to employees are:

- up to minimum average monthly salary for each month for which the salary has not been paid or for which an employee has the right to receive remuneration for sick leave;
- up to minimum monthly salary for remuneration claims for unused annual leave days;
- up to half of the legally prescribed employer's obligation for severance pay;
- up to a third of non-appealable remuneration for indemnification.

According to article 13 of the Act on ensuring workers' claims, in cases of blocked accounts for the employer, the amounts guaranteed to employees:

- up to three minimum monthly salaries for each month for which the salary was not paid;
- up to three minimum monthly salaries for unpaid sickness benefits for each month spent on sickness.

For part-time employees, the highest monthly amount of entitlements shall be calculated proportionally to the agreed working time in relation to the minimum full-time salary.

Such claims are paid to employees by the agency responsible for ensuring workers' claims in the event of an employer's bankruptcy (Agencija za osiguranje radničkih potraživanja u slučaju stečaja poslodavca). Payments come from the Fund for ensuring workers' claims in the event of an employer's bankruptcy (Fond za osiguranje radničkih potraživanja u slučaju stečaja poslodavca), established by the agency and financed from the state budget for covering bankruptcy costs if the funds available from the bankruptcy are insufficient. Claims can be paid to employees provided that they have reported them to the agency or to the competent office of the public employment service within 30 days from the competent court's decision on the bankruptcy or starting from the eighth day after the announcement of the bankruptcy process in the Official Gazette.

According to article 39 of the Act on ensuring workers' claims, the agency decides on claims within 15 days of submission. Employees can file complaints on the decision, which finally determines the claim's validity after the ministry of labour and pension system makes its evaluations within 30 days of the complaints' submission. Within 15 days from the decision, the agency must pay out claims directly to employees if the company has been closed down. Otherwise, payments are made out to the company's account designated for this purpose, whose transactions are monitored by the bankruptcy manager. The latter must then transfer the received funds to the employees within eight days.

The law prescribes that employees' claims above the guaranteed three salaries included in insured employees' claims, but up to three minimum gross monthly salaries in total, are included in the bankruptcy file of the employer. It concerns the claims of all employees, except those who were in top management positions.

Comments

The agency for ensuring workers' claims in the event of an employer's bankruptcy (*Agencija za osiguranje radničkih potraživanja u slučaju stečaja poslodavca*) is financed from the state budget. It becomes a bankruptcy creditor of the company for employees' claims. Information on payments made to employees is available on the agency's web page.

According to the latest data as at April 2020, the Agency paid for 61 workers' claims HRK 849,900 (€ 113,300) and 44 workers a part of unpaid salaries of HRK 152,000 (€ 20,300).

The Agency responsible for the fund in its annual report for 2019 states that there were 2,589 paid demands for a total amount of HRK 58.4 million (€ 7.8 million), while the total received from bankruptcy procedures was HRK 12.3 million (€ 1.6 million).

According to the Yearly Report by the Agency for 2018, there were 1,775 demands in cases of standing bankruptcy proceedings in 2018, while outlays were HRK 33 million (€4.42 million). In 2018, the total number of employers from bankrupt companies was 91. The agency also covers employees' claims in case of blocked accounts for the employer. For this purpose, in 2018 the agency received 150 demands, of which 124 cases were decided in favor of employees. In this case, expenditures were HRK 47.7 million (€6.40 million).

Subject to approval of the court, the bankruptcy manager can conclude new contracts with employees in order to complete work in process and reduce possible damage. Salaries and other monetary compensations for employees are determined by the bankruptcy manager, based on the approval of the court and in line with the law and collective agreements. Salaries and other employer obligations are covered by the bankruptcy estate. Regional and local governments can award additional one-off payments as an aid to redundant employees, if the bankruptcy concerns the well-being of a substantial part of their citizens. However, this is not prescribed by the law.

Cost covered by

National government

Involved actors other than national government

Public employment service

Regional/local government

Other

Involvement others

Bankruptcy manager, agency for ensuring workers' claims

Thresholds

No, applicable in all circumstances


Sources

 [Bankruptcy Act, consolidated text](#)

 [Bankruptcy Act 71/2015](#)

 [Act on ensuring workers' claims 70/17 \(Zakon o osiguranju radničkih tražbina\)](#)

 [Agencija za osiguranje radničkih potraživanja u slučaju stečaja poslodavca](#)

 [Yearly report on activities of the Agency for ensuring workers' claims for 2018 \(Godišnje izvješće o radu Agencije za osiguranje radničkih tražbina za 2018. godinu\)](#)

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