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Bulgaria: Rescue procedures in insolvency

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Bulgaria

Phase:

Management

Type:

Rescue procedures in insolvency

Last modified: 30 October, 2019

Native name: **Търговски закон**

English name: **Commerce act**

Article

Part five, chapters 53-57: Merchant restructuring proceedings

Description

Amendments to the [commerce act](#) introduced in 2017 provide for rescue procedures in case of insolvency (restructuring proceedings). The purpose of the merchant restructuring proceedings is to avoid initiation of bankruptcy proceedings by an agreement reached between the merchant and its creditors on the settlement of the merchant's payables, allowing the merchant's business to continue.

The restructuring procedure aims at preventing bankruptcy proceedings through an agreement between the company and its creditors in such a manner of settling the debt, which would allow the company to continue running its business.

Restructuring proceedings may be initiated for any company which is not bankrupt, but is in imminent danger of bankruptcy. An imminent danger of bankruptcy is defined as the risk of not being able to pay pending payables within 6 months. The rescue procedure is not applicable to any public entity exercising a state monopoly or created by a special law, as well as to a bank or to an insurer.

The application for initiating the rescue procedure is submitted by the company to the district court and notification of the application is recorded in the commercial register. The application must include copies of balance sheets, history of past payments and forecast of future payments and all the information necessary for the court to judge on the situation of the company.

The district court of the registered office of the merchant at the time of filing of the restructuring application shall have jurisdiction over the restructuring proceedings. If requested by one of the parties, the court should rule on the case within 3 days. The court decision to accept the rescue application prompts the words 'under restructuring proceedings' to be added after the merchant's name in the commercial register.

Company's finances and asset cannot be used unless agreed by the court, exception is made for amounts necessary to pay outstanding taxes and social contributions.

An administrator or trustee is appointed by the court (according to certain criteria among which the fact that the person should not have been involved in bankruptcy) to assist and supervise operations and the company must collaborate with them. The trustee is in charge of drawing a creditors' list in collaboration with the company and the creditors, including employees with unpaid wages, and presenting it to the court for endorsement.

The restructuring proceedings include participation of all creditors in the creditors' list. Restructuring proceedings are heard by the court and end with the approval of a 'restructuring plan' which is voted by the creditors. This plan includes employees who were employed before the date of opening the restructuring proceedings.

The restructuring proceedings shall be terminated:

- if the merchant withdraws its proposal for a restructuring plan, before the creditors have voted on the plan;
- if a restructuring plan is not endorsed by the court within 4 months after the initiation of the proceedings, regardless of any suspensions thereof;
- if, after initiation of the proceedings, obstacles under article 762, paragraph 3 to conduct restructuring proceedings for the merchant are found (for example initiation of restructuring proceedings or bankruptcy in the previous three years, or if more than one fifth of the creditors have acquired, over the past three years, receivables from the merchant or its related parties) or if it is found that the details provided by the merchant are false;
- if the merchant fails to appear at the court hearing of the plan;

- upon violation of the restrictions on the merchant's actions imposed by the court;
- if the merchant fails to cooperate with the trustee, the court appointed auditor or fails to submit to the court, within the set time limit, any requested information and evidence, or fails to deposit the expenses set by the court for the remunerations of the trustee, the auditor or the forensic expert;
- if the proposed restructuring plan has not been adopted or endorsed;
- upon the endorsement of the restructuring plan.

The restructuring plan approved by the court is mandatory for the debtor and the creditors, including workers, and is not revocable.

Comments

During the past 10 years some 1,200 insolvency cases per year were filed with the district courts. When hearing these cases the courts have three options to rule:

- The most unfavourable outcome, where the property of the merchant does not allow even to launch the proceedings, and the creditors are not able to collect any of their receivables, is the most frequent outcome nationwide.
- In stabilisation proceedings, in rare cases the creditors are able to collect some of their receivables.
- The most favourable outcome, the recovery plan, is also the rarest. For the entire period of existence of this legal provision (since 2000) until 2017 (latest available data) the recovery proceedings were merely 138 cases.

Cost covered by

Employer

Involved actors other than national government

Other

Involvement others

Court; creditors.

Thresholds

No, applicable in all circumstances

Sources

- 📖 [Commercial laws of Bulgaria: An assessment by the EBRD September 2015](#)
- 📖 [Commerce act \(BG\)](#)
- 📖 [Commerce act \(EN\)](#)
- 📖 [Institute for Market Economics \(2018\), Short review of development of insolvency cases in Bulgaria](#)

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Contact us

Eurofound, Wyattville Road, Loughlinstown, Co. Dublin, D18 KP65, Ireland

Phone: (00) 353 1 2043100

E-Mail: information@eurofound.europa.eu

Press: media@eurofound.europa.eu



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