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## Croatia: Rescue procedures in insolvency

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Croatia

Phase:

Management

Type:

Rescue procedures in insolvency

Last modified: 22 March, 2023

Native name:

Stecajni zakon 71/15, 104/17; Zakon o financijskom poslovanju i predstecajnoj nagodbi 108/12, 144/12, 81/13, 112/13, 71/15, 78/15; Zakon o parnicnom postupku 53/91, 89/14; Zakon o opcem upravnom postupku 47/09; Ovrсни zakon 112/12, 73/17; Zakon o osiguranju potraživanja radnika u slučaju stečaja poslodavca 86/08, 82/15; Zakon o trgovačkim društvima 111/93, 40/19; Zakon o obveznim odnosima 35/05, 29/18; Zakon o postupku izvanredne uprave u trgovačkim društvima od sistemskog značaja za Republiku Hrvatsku 32/17

English name:

Bankruptcy Act 71/15, 104/17; Act on Financial Operations and Pre-Bankruptcy Settlement 108/12, 144/12, 81/13, 112/13, 71/15, 78/15; Civil Procedure Act 53/91, 89/14; General Administrative Procedure Act 47/09; Enforcement Act 112/12, 73/17; Act on Ensuring Employees' Claims in Case of Bankruptcy of the Employer 86/08, 82/15; Companies Act 111/93, 40/19; Civil Obligations Act 35/05, 29/18; Law on the Executive Administration Procedure in Companies of Systemic Importance for the Republic of Croatia 32/17

### Article

Bankruptcy Act: Article 2-20; Act on Financial Operations and Pre-Bankruptcy Settlement: Article 3, 17, 18; Civil Procedure Act: whole regulation; General Administrative Procedure Act: whole regulation; Enforcement Act: whole regulation; Act on Ensuring Employees' Claims in Case of Bankruptcy of the Employer: whole regulation; Companies Act: whole regulation; Civil Obligations Act: whole regulation

### Description

The pre-bankruptcy proceedings shall be conducted in order to regulate the legal position of the debtor and his relation to creditors and to maintain his activity (bankruptcy act, article 2). Bankruptcy proceedings instead, aim primarily at repaying debts and may envisage the dissolution of the company and of its assets.

The debtor is required to prepare and submit an initial draft of the pre-bankruptcy restructuring plan (Bankruptcy Act, article 26). During the procedure, the debtor is required to adjust the plan in accordance with the accepted and challenged claims of the creditors. According to article 37 of the Bankruptcy Act, employees and previous employees of the debtor in pre-bankruptcy proceedings cannot file a claim for unpaid wages and salaries and severance payments up to the amount prescribed by law or collective agreements. That applies as well to claims on compensation for damages due to work injury or occupational disease.

The application for the restructuring plan must include information on liabilities and securities of the debtor as well as a list of the creditors and employees. If the court approves the plan, it is published on the official journal. From that moment on, assets of the company are protected against seizure and the company can carry on its operations, provided that the funds are used to satisfy the creditors' claims. The restructuring plan is monitored by a pre-bankruptcy trustee whose appointment can be revoked by the court (Bankruptcy Act, article 27).

The Law on the Executive Administration Procedure in Companies of Systemic Importance for the Republic of Croatia (article 4) applies if a company with at least 5,000 employees fails to secure agreements with creditors and suppliers and is intended to protect the economy in the event of future corporate failures. Under the law, devised for financially troubled companies with at least 5,000 employees and a debt of €1 billion, the state is able to appoint an executive to steer a restructuring plan at the request of the debtor as well as at the request of creditors with the company agreement. The law envisages a company reaching a restructuring deal within 15 months. The law prevents creditors from launching litigation, administrative and security procedures or procedures for out-of-court debt collection against the debtor, its subsidiaries, affiliated companies and suppliers during the period of extraordinary administration.

### Comments

## Rescue procedure and bankruptcy

The Bankruptcy Act provides uniform procedures that serve the purpose of collective satisfaction of creditors by liquidation of the debtor's assets and distribution of the proceeds or by reaching an arrangement in a bankruptcy plan, particularly in order to maintain the enterprise alive. The law also provides personal management of the debtor as well as possible discharge of the residual debt of a natural person. The Bankruptcy Act also allows for an automatic initiation of bankruptcy proceedings against companies whose accounts have been blocked for more than 120 days (approximately 24,000 companies in Croatia (tportal.hr, 2018)). In these cases, the Financial Agency (FINA) has the duty to initiate bankruptcy proceedings within eight days from the expiry of this period.

The grounds for initiating bankruptcy proceedings are restricted to insolvency and over-indebtedness: lack of liquidity does not constitute sufficient ground. Insolvency of a debtor is presumed if a debtor has one or more due and unsettled obligations recorded in the register for more than 60 days or if a debtor has failed to pay three consecutive salaries to its employee(s). A company is deemed to be over-indebted when its liabilities exceed its assets. The Bankruptcy Act has reintroduced restructuring plans and the possibility of the debtor to continue operating its business during bankruptcy proceedings. The continuation of debtor's business operations is allowed for a maximum of one and a half year as of the day of the reporting hearing, unless the restructuring plan has been submitted to the court.

### Executive administration procedure in companies of systemic importance for the Republic of Croatia

On 6 April 2017, the parliament passed an emergency law to shield the economy from big company failures after the country's largest private firm [Agrokor](#) piled up debts, leaving it struggling to pay creditors and suppliers. Food producer and retailer Agrokor with 60,000 employees built up debts of about HRK 45 billion (€6 billion), equivalent to six times its equity. The government wants to protect the Croatian financial system, economy, employment, family businesses and all other stakeholders involved in developments around Croatia's biggest firms.

#### Cost covered by

Not applicable

#### Involved actors other than national government

Other

#### Involvement others

Court

#### Thresholds

No, applicable in all circumstances

#### Sources

-  [Enforcement Act, differences Croatia, Spain, Hungary, Italy](#)
-  [National Reform Programme 2016 - Croatia](#)
-  [Executive Administration Procedure in Companies of Systemic Importance for the Republic of Croatia](#)
-  [Fund for ensuring workers' claims in the event of an employer's bankruptcy](#)
-  [Bankruptcy Act \(consolidated text\) 71/2015 i 104/2017](#)
-  [Statistika FINE: U blokadi čak 24 tisuće tvrtki, najzaduženiji u Zagrebu, tportal.hr, 2018](#)

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