

## Bulgaria

# Rescue procedures in insolvency

<b>Phase</b>	Commerce act
<b>Native name</b>	Търговски закон
<b>Type</b>	Rescue procedures in insolvency
<b>Added to database</b>	07 December 2016
<b>Access online</b>	<a href="#">Click here to access online</a>

## Article

Part five, chapter 52'a': Insolvency of the entrepreneur; chapters 53-57: Merchant restructuring proceedings. Law for amending and supplementing the Commerce Act (adopted by the 49th National Assembly on July 20, 2023)

## 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.

The bankruptcy court is the district court at the seat of the merchant, registered no later than 6 months before the filing of the application to open bankruptcy proceedings.

This Law for amending and supplementing the Commerce Act introduces the requirements of Directive (EU) 2019/1023 of the European Parliament and of the Council of June 20, 2019 on the frameworks for preventive restructuring, on remission of obligations and the ban on carrying out an activity, on measures to increase efficiency of restructuring, bankruptcy and discharge proceedings and amending Directive (EU) 2017/1132 (OJ, L 172/18 of 26 June 2019). New Art. 693 (2023) is introducing a standardized samples of application for presenting the claims and for lists of accepted and rejected claims prepared by the receiver. In this connection, it is also foreseen to supplement Art. 685 of the current Commerce Act and creation of texts regarding the presentation of claims according to a model determined by an ordinance of the Minister of Justice.

## Commentary

When hearing an insolvency case, the district 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 with the least number of rulings.

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Pursuant to Directive (EU) 2019/1023 (on bankruptcy and restructuring), it is stipulated that the Minister of Justice together with Minister of Economy and Minister of Innovations (Art.770(9)) draw up and publish the practical guidelines for drawing up a recovery plan.

Due to duration (3.3 years compared to the EU average of 2 years) and costs, insolvency proceedings tend to result in very low recovery rates for creditors (35% compared to an EU average of 65% ( World Bank, 2017c). The ineffectiveness of the bankruptcy regulation slows down the deleveraging of private sector and restructuring of non-performing loans.

The latest changes at the Commerce Act (2023) aim to speed up and reduce costs in bankruptcy proceedings; to increase the efficiency of the process of cashing out the property; and to achieve more effective regulation of the activities of bankruptcy administrator. The introduction of standardized samples of the application for the presentation of claims and for lists of accepted and unaccepted claims drawn up by the bankruptcy trustee, introduction of sale by electronic public auction (using the electronic platform for open bidding under Civil Procedure Code) of the property from the bankruptcy estate, which does not require the actual physical presence of participants in the auction, reduces the administrative burden and facilitates access to justice.

## **Additional metadata**

<b>Cost covered by</b>	Employer
<b>Involved actors other than national government</b>	Other Court
<b>Involvement (others)</b>	Creditors, Insolvency Administrators, Bankruptcy attorneys, Ministry of Justice, Ministry of Finance, Ministry of Economy.
<b>Thresholds</b>	Affected employees: No, applicable in all circumstances Company size: No, applicable in all circumstances Additional information: No exact number can be given for parties to bankruptcy proceedings as the number of parties to each case varies. As can be seen from the summarised statistical tables quoted by the Law assessment for the activity of the courts for 2019, the number of resolved cases is 1,469, and the number of cases received is 1,931.

## **Sources**

- [Commerce Act](#)~~~ [Institute for Market Economy, Short review of development of insolvency cases in Bulgaria](#)~~~ [LAW amending and supplementing the Commercial Act \(28.07.2023\)](#)~~~ [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](#)~~~ [This Law for amending and supplementing the Commerce Act \(promulgated, SG No. 48 of 1991; amended, No. 25 of 1992, Nos. 61 and 103 of 1993, No. 63 of 1994, No. 63 of 1995, Nos. 42, 59, 83, 86 and 104 of 1996, Nos. 58, 100 and 124 of 1997, Nos. 21, 39, 52 and 70 of 1998, Nos. 33, 42, 64, 81, 90, 103 and 114 of 1999, No. 84 of 2000, Nos. 28, 61 and 96 of 2002, Nos. 19, 31 and 58 of 2003, Nos. 31, 39, 42, 43, 66, 103 and 105 of 2005, Nos. 38, 59, 80 and 105 of 2006, Nos. 59, 92 and 104 of 2007, Nos. 50, 67, 70, 100 and 108 of 2008, Nos. 12, 23, 32, 47 and 82 of 2009, Nos. 41 and 101 of 2010, Nos. 14, 18 and 34 of 2011, Nos. 53 and 60 of 2012, No. 15 and 20 of 2013, No. 27 of 2014, No. 22 and 95 of 2015, No. 13 and 105 of 2016, No. 62 and 102 of 2017, No. 15, 27 and 88 of 2018, No. 28, 33 and 83 of 2019, No. 64 and 104 of 2020 and No. 25 of 2022\)](#)~~~ [Ministry of Justice, Partial pre-impact assessment, in force since 01 January 2021](#)~~~ [Statement of Bulgarian Industrial Capital Association within the public consultations.](#)~~~

## Citation

Eurofound (2016), Bulgaria: Rescue procedures in insolvency, Restructuring legislation database, Dublin