

Croatia

Rescue procedures in insolvency

Phase	Bankruptcy Act 71/15, 104/17, 36/22; Act on Financial Operations and Pre-Bankruptcy Settlement 108/12, 144/12, 81/13, 112/13, 71/15, 78/15, 114/22; Civil Procedure Act 53/91, 89/14, 70/19, 80/22, 114/22; General Administrative Procedure Act 47/09, 110/21; Enforcement Act 112/12, 73/17, 131/20, 114/22; Act on Ensuring Employees' Claims in Case of Bankruptcy of the Employer 86/08, 80/13, 82/15; Companies Act 111/93, 40/19; 34/22, 114/22, 18/23; Civil Obligations Act 35/05, 29/18, 126/21, 114/22, 156/22; Law on the Executive Administration Procedure in Companies of Systemic Importance for the Republic of Croatia 32/17,
Native name	Stecajni zakon 71/15, 104/17, 36/22; Zakon o financijskom poslovanju i predstecajnoj nagodbi 108/12, 144/12, 81/13, 112/13, 71/15, 78/15, 114/22; Zakon o parničnom postupku 53/91, 89/14, 70/19, 80/22, 114/22; Zakon o općem upravnom postupku 47/09; Ovršni zakon 112/12, 73/17, 131/20, 114/22; Zakon o osiguranju potraživanja radnika u slučaju stečaja poslodavca 86/08, 80/13, 82/15; Zakon o trgovačkim društvima 111/93, 40/19, 34/22, 114/22, 18/23; Zakon o obveznim odnosima 35/05, 29/18, 126/21, 114/22, 156/22; Zakon o postupku izvanredne uprave u trgovačkim društvima od sistemskog značaja za Republiku Hrvatsku 32/17,
Type	Rescue procedures in insolvency
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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.

With this Act (OG 36/22), Directive (EU) 2019/1023 of the European Parliament and of the Council of June 20, 2019 on frameworks for preventive restructuring, debt relief and

prohibitions and on measures to increase the efficiency of procedures related to restructuring, insolvency and discharge is adopted into Croatian legislation. debt and amending Directive (EU) 2017/1132 (Restructuring and Insolvency Directive) (OJ L 172/18).«.

According to the Act of Amendments of the Bankruptcy Act (OG 36/22), after Article 7, Article 7.a and the title above it are added, following title "Early warning of debtors and access to information" Article 7.a (1) The debtor is provided with access to a clear and transparent system of early warning of circumstances that could lead to a threatening inability to pay, especially in the case of his or her failure to make certain types of payments, and through which system the debtor is warned that it is necessary to act without delay. (2) The debtor may use consulting services provided by public or private organizations, in order to create a strategy based on which the imminent inability to pay would be avoided. (3) The employer is obliged to inform the workers at least once a year about the news regarding the early warning system, as well as procedures and measures related to restructuring and debt forgiveness (release from remaining obligations). (4) Debtors and the general public have available relevant and updated information on access to the early warning system, as well as procedures related to debt restructuring and discharge (release from remaining obligations) on the courts' e-Notice board website, where the information must be easily accessible and presented in a user-friendly way. (5) Information on the content and method of drawing up restructuring plans, especially adapted to the needs of micro, small and medium-sized enterprises, is publicly available on the e-Bulletin board of the courts, in Croatian and English. (6) The establishment of an early warning system for small business entities is ensured by the ministry responsible for entrepreneurship and trades. (7) The Minister responsible for judicial affairs, with the prior consent of the Minister responsible for entrepreneurship and trades and the Minister responsible for finance, will regulate the system from paragraph 1 of this article, the method of its use and the method of publishing information from paragraphs 4 and 5 of this article. Article 5. Article 12 is amended to read: »(1) Court documents shall be delivered by publishing the documents on the website of courts, unless otherwise stipulated by this Act. (2) As an exception to paragraph 1 of this article, delivery of documents between the court and the Financial Agency as a body that undertakes actions in accordance with the provisions of this Act and acts according to the decisions of the court is carried out through the unique information system. (3) The delivery referred to in paragraph 1 is deemed to have been made at the end of the eighth day from the day of the publication of the letter on the e-Bulletin Board of the Courts website. (4) The publication of a letter on the e-Notice Board of Courts website is considered proof that delivery has been made to all participants and those for whom this Act prescribes special delivery, except in the case of delivery to the Financial Agency from paragraph 2 of this Article. (5) In each court, a register of letters submitted via the e-Notice Board of courts website will be kept separately for each debtor in electronic form according to the order of publication. The witness's written record is public and must be available to interested persons during the entire working hours of the

court. (6) The register of documents referred to in paragraph 3 of this article shall contain information on the basis of which the identity of the debtor can be determined, the number of cases, the type of court document and the date of publication of the document on the e-Board of Courts website. (7) Documents that the Financial Agency, as a body that undertakes actions in accordance with the provisions of this Act, submits to the court through the e Notice Board unified information system shall be authenticated with the Financial Agency's electronic seal.

Commentary

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 (portal.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](http://www.agrokor.hr) 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.

Bodul (2023) studies court jurisdiction in bankruptcy proceedings, i.e., in general execution proceedings with the aspiration to achieve justice regarding the achievement of the goal of bankruptcy proceedings, i.e., to consistently achieve the principle of creditor equality via the existence of payment queues. Nevertheless, there are wide historical variations in terms of the existence of today's professional standards in the scope of judicial work and judging. The goal is to analyse the justification of the existing solutions, which instead of striving for the bankruptcy (law) trial to become a procedure in which the court in an urgent procedure consolidates and sanctions civil law relations with the authority of its decisions, delegate to it non-judicial affairs that should be de-judicialized or delegated.

Additional metadata

Cost covered by	None
Involved actors other than national government	Court
Involvement (others)	None
Thresholds	Affected employees: No, applicable in all circumstances Company size: No, applicable in all circumstances Additional information: No, applicable in all circumstances

Sources

- [Zakon o izmjenama i dopunama stečajnog zakona \(The Act of Amendments of the Bankruptcy Act\)](#) ~~~ [Bodul, D \(2023\), Opseg administrativno tehničkih poslova sudaca u stečajnom postupku - nužnost promjene paradigme \[The scope of administrative and technical duties of judges in bankruptcy proceedings - the necessity of a paradigm shift\], Radno pravo 19 \(7-8\), pp. 29-34](#) ~~~ [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](#) ~~~ [Bankruptcy Act \(consolidated text\) 71/2015 i 104/2017](#) ~~~ [Statistika FINE: U blokadi čak 24 tisuće tvrtki, najzaduženiji u Zagrebu, tportal.hr, 2018](#) ~~~

Citation

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