

## Spain

# Rescue procedures in insolvency

<b>Phase</b>	Law on urgent measures on insolvency proceeding (Law 9/2015 of 25 May 2015); Insolvency Law (Legislative Royal Decree Law 1/2020); Law 16/2022, of 5 September, on the reform of the revised text of the Insolvency Law
<b>Native name</b>	Ley 9/2015, de 25 de mayo, de medidas urgentes en materia concursal; Ley Concursal (Real Decreto Legislativo 1/2020); Ley 16/2022, de 5 de septiembre, de reforma del texto refundido de la Ley Concursal
<b>Type</b>	Rescue procedures in insolvency
<b>Added to database</b>	02 December 2016
<b>Access online</b>	<a href="#">Click here to access online</a>

## Article

Article 1 Law 9/2015 of 25 May 2015; Art 3,4,5,6,7,8, Legislative Royal Decree Law 1/2020; Ley 16/2022

## Description

A company or an individual person may apply for insolvency procedures before reaching the stage of insolvency ('concurso voluntario'). If the company is already insolvent, the procedure before the court can be started by the company, a creditor or a shareholder ('concurso necesario'). The court responsible for the judgement is the court of the district ('juzgado mercantil') where the debtor is registered (not applicable if the debtor has moved its residency/registration in the previous six months). A company must file for insolvency within two months from reaching insolvency, that is, the condition of being not able to pay creditors.

The company must present a set of documents to the court:

- declaration stating that the claimant has the right to appeal to the court;

- balance sheets and financial report;
- inventory of the debtor's assets;
- a list of the creditors.

Once the procedure is open, the judge appoints an administrator who must ensure collaboration with the judge, protection of the creditors' interests and, where possible, the return of the company to a normal activity regime.

There are two possible solutions to an insolvency procedure: agreement or liquidation. If the company reaches an agreement with the creditors, the debt reduction must be no more than 50% and the timeline no longer than five years. If the agreement is not fulfilled, the company can be wound up. The second solution is liquidation which may imply sale of assets, winding up, or acquisition by third parties.

The insolvency declaration must be published in the Official state journal ('Boletín Oficial del Estado') and registered with the Registry for insolvency procedures ('Registro de Procedimientos de Insolvencia').

The Insolvency Law (Law 22/2003 of 9 July 2003) was reformed in 2015 (Law 9/2015), introducing clauses aiming to make the transmission of the business activity, or part of it, of the company that is under insolvency procedure more flexible. The goal of these clauses is to facilitate viable companies to maintain their activity or at least some sections, after the insolvency agreement.

In May 2020, the Royal Decree 1/2020 repealed chapters 1 and 2 of Insolvency Law (Law 22/2003 of 9 July 2003) and the Law on urgent measures on insolvency proceeding (Law 9/2015 of 25 May 2015) in order to establish the new insolvency law. This new regulation introduces modifications on appeals against the rejection of the insolvency application, extension of the judge's powers and the possibility of modifying the judicially approved liquidation plan (as well as a description of the necessary formalities).

In 2022, Law 16/2022, of 5 September, on the reform of the consolidated text of the Insolvency Act, transposed Directive (EU) 2019/1023 of the European Parliament and of the Council of 20 June 2019 into Spanish law, on preventive restructuring frameworks, debt waivers and disqualifications, and on measures to increase the efficiency of restructuring, insolvency and debt waiver proceedings. Among the most noteworthy innovations are: the introduction of restructuring plans and the abolition of refinancing agreements and out-of-court settlements; the reform of insolvency proceedings through a single insolvency procedure (to increase efficiency and facilitate the approval of an agreement); and the reform of the second chance procedure.

## Commentary

[The Registrars of Spain]

([https://www.registradores.org/actualidad/porta-estadistico-registral/estadisticas-concursales#portlet\\_com\\_li](https://www.registradores.org/actualidad/porta-estadistico-registral/estadisticas-concursales#portlet_com_li))

provide statistics on insolvency proceedings, including data on the number of companies applying for insolvency procedures.

## Additional metadata

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

## Sources

- [Law on urgent measures on insolvency proceeding \(Law 9/2015 of 25 May 2015\)](#)~~~  
[Insolvency Law \(Legislative Royal Decree Law 1/2020\)](#)~~~ [Law 16/2022, of 5 September, on the reform of the revised text of the Insolvency Law](#)~~~ [European Commission, 'Bankruptcy - Spain'](#)~~~ [Infoautonomos/elEconomista.es, 'El concurso de acreedores'](#)~~~ [Thomson Reuters, 'Restructuring and insolvency in Spain: overview'](#)~~~ [El País, 'Las empresas y familias en quiebra bajan un 17,3% en 2016'](#)~~~ [Law 22/2003](#)~~~ [Law 9/2015](#)~~~ [Law 1/2020](#)~~~ [Estadística del Procedimiento Concursal](#)~~~

## Citation

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