

Hungary

Wage guarantee in case of insolvency

Phase	Act LXVI of 1994 on Wage guarantee fund; Act XLIX of 1991 on bankruptcy proceedings and liquidation proceedings
Native name	1994. évi LXVI. törvény a Bérgarancia Alapról; 1991. évi XLIX. törvény a csődeljárásról és a felszámolási eljárásról
Type	Wage guarantee in case of insolvency
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Article

Act LXVI of 1994: (the whole act), Act XLIX of 1991: Article 57(2)

Description

Insolvency can be declared by the court if the debtor cannot repay its debts within 20 days of the due date, failed to complete the payment even after the written demand of the creditor, missed the deadline specified by the court thereafter, the enforcement is unsuccessful, the court terminated the bankruptcy proceedings and it is demonstrated that the debtor is unable to repay the debt. With an effect of 1 July 2022, under Article 1 of Act 66 of 1994 on Wage guarantee fund, the provisions apply not only to companies but to insolvent individual entrepreneurs who are registered and conduct their operations domestically. The category is defined in Act CV of 2015.

The Hungarian legislation provides detailed provisions on two insolvency related proceedings: bankruptcy ('csődeljárás') and liquidation proceedings ('felszámolási eljárás').

Bankruptcy proceedings are those where the debtor is granted a suspension of payment (grace period) with a view to seeking an arrangement with creditors or attempts to enter into a composition arrangement with creditors.

In bankruptcy proceedings, worker-related claims (specifically wage/salary claims) are not affected by the moratorium nor enjoy any special priority. Should the insolvent debtor be

able to cover wages and related costs (which is usually the case during the period of the moratorium of 90 days, which could be extended upon the debtor's request), workers receive their wages in due time.

If a company is insolvent, it is subject to liquidation. In liquidation procedures, liquidation costs can be satisfied upon maturity. workers have the opportunity to turn to the labour court to get their wages or to the Wage guarantee fund (see below for more information). This does not mean complete security because the Wage guarantee fund has a maximum limit regarding to the payable wages.

If the insolvent debtor is unable to cover the wages and related costs, the company begins the liquidation procedures. These aim to provide satisfaction to the creditors of an insolvent debtor upon the dissolution of the debtor without legal successor. The employer as a debtor has the opportunity to announce their claim to the liquidator within 40 days from the publication of the liquidation.

In liquidation procedures, liquidation costs can be satisfied upon maturity (if circumstances allow) and as such enjoy a privileged status. Liquidation costs include, among others, wages and other personnel costs payable by the debtor, including severance pay due upon the termination of employment and any other benefits fixed in the collective agreement or in the contract of employment. Liquidation costs also enjoy a similar privileged status when debts are already satisfied from the assets of the debtor subject to liquidation: liquidation costs are the first priority in the payment order.

Act 49/1991, Article 57(2) specifies when the claims must be satisfied in liquidation proceedings (according to the order of priority) and specifies the manner in which the debtor's annuity-type and future guarantees and indemnification obligations will be fulfilled. Debts from the assets of the entity subject to liquidation shall be settled in the following order:

In the first place, are the costs of liquidation, including:

- wages and fringe benefits of the debtor, including, in particular, severance pay, benefits provided in a collective agreement or employment contract, and payment obligations incumbent on the employer in connection with the unlawful termination of employment, as well as the obligations included in a contract concluded with a student cooperative (wages and fringe benefits), and
- tax and contribution liabilities if wages and fringe benefits due before the commencement date of the liquidation were paid by the liquidator after the commencement date of the liquidation.

All further obligations must be fulfilled only subsequently – the law defines the groups (classes) of each claim, also in the order given.

The appointed liquidator can turn to the Wage guarantee fund for an interest-free financial assistance in order to cover workers' wages and related costs if the financial sources of the debtor do not allow their payment in due time. The actual unpaid wages have to be requested as an advancement by the liquidator, but the maximum amount advanced to a worker from the fund within the entire liquidation proceeding cannot be more than five times the [statistical national monthly gross average wage](#) in the second year prior to the year of application to the Fund. The Central Statistical Office ('Központi Statisztikai Hivatal', KSH) set this amount at HUF 2,194,000 (about €5,881) in 2023, as the equivalent of five times the monthly gross average salary. After one year had elapsed from the start of the liquidation procedure, the liquidator can claim an addition amount equal to twice the monthly gross average wage (HUF 877,600 or €2,352 in 2023), if all additional criteria are met (Act 67/1994 Article 7(1-2)).

As of 1 July 2022, under Article 1 of Act 66 of 1994 on Wage guarantee fund, co-operatives that work with schools, parents who stay home with kids or pensioners can obtain assistance that does not have to be refunded within 15 days of the notification of the liquidation procedure.

The Wage guarantee fund is an allocated part of the National Employment Protection Fund, overseen by the Ministry for innovation and technology, which is financed by the social contributions of workers and employers levied on wages by the central state budget and other additional sources. As of January 1 2023, under Article 3 of Act 66 of 1994 on Wage guarantee fund, the name of the National Employment Protection Fund was changed, from now on it is referred to as "Fund". This modification does not entail a structural change of the fund, it is still overseen by the Ministry for Innovation and technology, the change was made only for administration purposes.

Administratively, the public employment services ('Nemzeti Foglalkoztatási Szolgálat', National Employment Service) deal with the applications, make the decisions and order the payments from the fund. There is a standard form to be filled in and submitted by the liquidator. The form may be filled in online. The authority makes its decision on the application within eight days. Transfers are set from the fund within 15 days after the authority's decision. Net wages are directly transferred to employees, while wage-related contributions are transferred separately to the tax offices. All payments from the fund are reimbursable by the debtor in the framework of the liquidation proceeding (as part of the liquidation costs).

Employees can turn to court only during liquidation procedures and they generally do so if they cannot settle with the help of the Wage guarantee fund (because the value of unpaid wages exceeds the guaranteed amount). They must turn to court within three years from the start of liquidation procedure, or the case lapses.

The resolution on insolvency also has, as a third possible consequence (besides bankruptcy procedure or cs deljárás and an insolvency procedure or felszámolási eljárás), the process sometimes referred to as 'voluntary liquidation' – but it is in fact liquidation. This is a procedure in which entities that resolve their termination without a successor satisfy their creditors, including wages and fringe benefits; that is, no debt can remain unsettled. This procedure is regulated by Act V of 2006 on Company disclosure, court company procedure and liquidation.

In connection with the liquidation procedure, note that the rules of this procedure must be applied even if the business organisation is removed from the company register by the court because its operation is illegal. For instance, from 15 March 2014 the new Civil Code increased from HUF 500,000 to HUF 3 million (€8,333 €8,042) the amount that a limited liability company (KFT) must show as assets, and those that did not comply with this, were compulsorily terminated with the application of full liquidation procedure rules.

Commentary

None

Additional metadata

Cost covered by	Companies
Involved actors other than national government	Public employment service Other
Involvement (others)	Wage Guarantee Fund; insolvency practitioner Bérgarancia Biztos
Thresholds	Affected employees: No, applicable in all circumstances Company size: No, applicable in all circumstances Additional information: No, applicable in all circumstances

Sources

- [1994. évi LXVI. Törvény a Bérgarancia Alapról](#)~~~ [Az elmaradt munkabér megfizetése iránt indított perek](#)~~~ [A fizetésképtelenség megállapítása és a felszámolás elrendelése](#)~~~ [1991. évi XLIX. törvény a csődeljárásról és a felszámolási eljárásról](#)~~~ [Tájékoztató Bérgarancia támogatásról \(2023\)](#)~~~

Citation

Eurofound (2015), Hungary: Wage guarantee in case of insolvency, Restructuring legislation database, Dublin