

# LEGAL PROTECTION PROCEEDINGS (LPP)

under law in force as at 01.11.2010

Debtor files an LPP application

A judge decides on initiation of an LPP case not later than on the following day

The LPP case is initiated, an entry is made in the IR

Refusal to initiate the LPP

### Legal consequences of LPP case initiation:

- 1) compulsory execution is suspended;
- 2) secured creditors are precluded from claiming sale of pledged property; but if this prohibition significantly harms a creditor's interests, then if a secured creditor applies, a court can permit sale of the pledged property;
- 3) creditors are prohibited to file an application to initiate the debtor's insolvency proceedings;
- 4) liquidation of the debtor is prohibited;
- 5) accumulation of contractual penalty, late payments and delayed tax claims are stayed;
- 6) accumulation of interest exceeding interest set by law is stayed.

The debtor drafts and agrees on a LPP plan within 2+1 months plus agrees with creditors on a candidate for LPP administrator.

### Approval of LPP plan required from:

- 1/2 unsecured creditors (total of main claims);
- 2/3 secured creditors (total of main claims).

**Who may not vote** (only to approve the plan): persons in the same group of companies, shareholders (natural persons) with decisive influence and persons who acquired claims against the debtor from the above listed persons within the previous 2 years.

After approval the LPP plan is filed with the court

If agreement is reached on the administrator, the administrator's opinion is attached to the LPP plan

If no agreement is reached on the administrator, the court asks the Insolvency Administration to suggest an administrator

The court appoints the administrator

The court appoints the administrator and within 15 days requests administrator's opinion

The court reviews LPP application and decides on approval of the LPP plan

### The court approves LPP.

**Maximum length of LPP is 2+2 years.**

After approval by the court, the plan is binding on all creditors including those who did not approve it. The LPP plan can be amended only with creditors' consent and court approval.

**Secured creditors may not use their rights in relation to property indicated in the LPP plan until end of the LPP.**

The court rejects LPP if creditors do not approve the LPP plan or the LPP plan does not comply with legal requirements (if 2<sup>nd</sup> unsuccessful attempt during one year, the court initiates the debtor's insolvency proceedings).

Debtor applies to end the LPP

if he has successfully completed the plan

if he cannot fulfil the plan

Administrator applies to end the LPP

if the debtor has not performed acts specified by law or has provided false information

if the debtor fails to perform the LPP plan for at least 30 days and has not filed amendments to the LPP plan with the court

if the debtor violates limitations on specified activity set by law

### Preconditions for starting an LPP:

- 1) no liquidation initiated against the debtor;
- 2) in the previous 5 years, the debtor has not successfully implemented and completed a LPP;
- 3) in the previous 4 months, no termination of debtor's LPP due to lack of creditors' support or noncompliance of the LPP plan with legal requirements.

Insolvency Register (IR) has public credibility.

### The LPP plan should indicate:

- 1) liabilities, incl. payments to related enterprises;
- 2) schedule for payment settlement;
- 3) prognoses of planned income and expenses;
- 4) LPP methods;
- 5) list of property needed during the LPP;
- 6) payments to secured creditors;
- 7) LPP term;
- 8) types of transactions that can be performed without coordination with the administrator;
- 9) grounds proving that creditors who did not approve the plan benefit more than in case of insolvency.

**Prognoses of cash flow** are attached to the plan.

The plan can include advantages to providers of funding.

### LPP methods:

- 1) stay of payment settlement;
- 2) alienation, encumbrance of property or real estate;
- 3) increase of share capital, incl., replacing claims with shares;
- 4) reorganisation;
- 5) other methods complying with the LPP aim.

**Decrease of payments** is possible **only by a proportionate decrease** within the group of creditors for each type of claim (principal claim, contractual penalties or interest).

**Tax administration and employee claims cannot be decreased without their consent.**

**Set-off** is allowed if claims existed at least 3 months before initiating the LPP case.

### Debtor's obligations during the LPP:

- 1) to fulfil the LPP plan, notify the administrator of performance of the LPP plan, ensure business activities and documents are open to inspection;
- 2) to use profit for implementation of the LPP;
- 3) to cover LPP costs;
- 4) to immediately notify the administrator if and why the debtor will not be able to perform the plan;
- 5) to notify the administrator of changes to legal address;
- 6) to notify the administrator of significant events in operations.

### During implementation of the LPP, the debtor may not:

- 1) enter into transactions or perform activities that can worsen the financial situation or harm creditors' interests;
- 2) issue loans or credits;
- 3) issue sureties, grant, donate, pay bonuses;
- 4) alienate or encumber real estate;
- 5) pay dividends;
- 6) make payments not indicated in the LPP plan except if below 2% of the total of creditors' claims and the administrator approves.