

## Persons entitled to file an insolvency application and insolvency (IS) proceedings entry criteria:

- 1) A non-secured creditor or a secured creditor (regarding the non-secured part of the claim), in cases where:
  - a) the debtor has not settled debt liabilities exceeding EUR 4,268 (if the debtor is a limited liability company or a joint stock company) or EUR 2,134 (if the debtor is another kind of entity, e.g. a partnership), and the creditor has sent a warning to the debtor's legal address regarding an intention to file an insolvency application, and the debtor has not settled the debt liabilities or raised substantiated objections within 3 weeks;
  - b) it has been impossible to execute a court judgment concerning debt collection from the debtor by applying compulsory execution measures; or
- 2) a debtor's employee if the debtor has failed to pay salary or related payments in full within 2 months;
- 3) the debtor itself if:
  - a) the debtor cannot settle liabilities provided in plan of measures of the legal protection proceedings (LPP);
  - b) the debtor has not fulfilled its debt liabilities due for more than two months;
  - c) the debtor in liquidation lacks assets to satisfy all substantiated creditors' claims in the course of liquidation;
- 4) in case of an EU cross-border insolvency, the insolvency administrator in the main insolvency proceedings.

In certain cases ISP can be commenced in respect of the debtor with regard to which LPP have been implemented.

NB! The subject of the application may not be changed; the debtor may not withdraw the application.

A judge decides on the initiation of the IS case not later than on the day following filing of the application.

Insolvency Register (IR) has public credibility.



After initiating the case, the judge sends a copy of the decision regarding initiation of the IS case to the Insolvency Control Service and to the debtor (if the case is initiated on the basis of a creditor's application).



The court examines the insolvency application within 15 days from the initiation (or within 7 days if the case has been initiated by the debtor). The court declares the debtor insolvent if it establishes an entry criterion of insolvency proceedings indicated in the insolvency application, as well as decides on appointing an administrator. The administrator is randomly selected for the nomination.



**Creditors' claims** must be submitted to the administrator within 1 month from the day when an entry is made in the IR on the commencement of the ISP. A creditor who has missed this deadline may file a claim within 6 months, but no later than the day when a plan for satisfaction of creditor's claims is prepared. However, he will not be entitled to vote at the creditors' meeting. The administrator decides on the acceptance, partial acceptance or rejection of each creditor's claim. The creditor himself, other creditors or a debtor's representative may appeal the administrator's decision.

Competence of the creditors' meeting:

- 1) determine the administrator's remuneration;
- 2) initiate dismissal of the administrator;
- 3) approve the costs of ISP;
- 4) extend the term for sale of the debtor's assets;
- 5) decide on the handling of debtor's assets excluded from ISP (assets that are impossible to sale).

Creditors' meeting is entitled to make a decisions irrespective of the represented amount of creditors' claims. Decisions are adopted by a simple majority of votes of unsecured creditors present except in specific cases indicated by law. To initiate the removal of the administrator – 2/3 of the creditors with voting rights present.

All debtor's assets must be sold within 6 months from the day of announcing the ISP, in compliance with the debtor's assets sales plan prepared by the administrator. The debtor's assets may be sold as a going concern. Assets (including the debtor's undertaking as a whole) may be sold by means of a public auction or otherwise.

After the sale of the debtor's assets, the administrator prepares a list of ISP costs and satisfies creditors' claims from the proceeds of sale of unencumbered debtor's assets in compliance with the plan for settling creditors' claims and in the following priority ladder set by law:

- 1) costs of insolvency proceedings;
  - 2) employees' claims up to a certain amount (or a claim of the guarantee fund for employee claims);
  - 3) tax claims (in the amount of principal debt);
  - 4) ordinary unsecured creditors' claims;
  - 5) ancillary claims of unsecured creditors (interest, contractual penalty etc.);
  - 6) remaining funds are transferred to shareholders pro rata their investment.
- Secured creditors' claims are satisfied from the sale of encumbered assets.



## Consequences of declaring the debtor insolvent:

- 1) the administrator takes over the debtor's assets and documents;
- 2) the administrator performs the functions of the debtor's management institutions;
- 3) interest on loans (credit), statutory interest, contractual penalties, late payment interest ceases to increase;
- 4) all undue claims become due;
- 5) grounds for termination of litigation in monetary claims and debt collection proceedings, as well as for revoking the securing of claims, arise;
- 6) a secured creditor may not request the sale of the debtor's assets serving as collateral for 2 months from the commencement of the ISP.

## Administrator:

- 1) evaluates debtor's transactions and challenges them if necessary;
- 2) evaluates responsibility of board members for debtor's losses and brings claims into court, if necessary;
- 3) requests performance of agreements entered into prior to ISP or unilaterally withdraws from them (the other contracting party is entitled to file a creditor's claim).



If the debtor has no assets, the administrator prepares a notice of non-existence of the debtor's assets and informs creditors. If no suggestion for funding and continuing the ISP is received, the administrator applies to the court to terminate the ISP.

A transition to legal protection proceedings (LPP) is possible with the consent of majority of secured and unsecured creditors. If the court accepts the transition to LPP, the activity of the debtor's management institutions is restored.