Insolvency/bankruptcy

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Lithuania

1 Who may insolvency proceedings be brought against?

Insolvency proceedings may be brought against legal and natural persons.

Legal persons are subject to bankruptcy proceedings, out-of-court bankruptcy proceedings and restructuring proceedings.

Bankruptcy proceedings or out-of-court bankruptcy proceedings may be brought against legal entities of any type, except budgetary bodies, political parties, trade unions and religious communities and associations.

Upon institution of bankruptcy proceedings or out-of-court bankruptcy proceedings, the assets of the legal entity are sold and the proceeds used to satisfy the interests of creditors, while the legal entity itself is wound up on the grounds of bankruptcy.

Restructuring proceedings may be commenced against legal entities of any legal type, except budgetary bodies, political parties, trade unions, religious communities and associations, credit institutions, paying bodies, electronic money institutions, insurance and re-insurance companies, management companies, investment companies and brokers trading in public securities. Restructuring proceedings are designed to allow legal entities encountering financial challenges to restore solvency, maintain and develop their operations, pay their debts and avoid bankruptcy whilst continuing their business operations. To that end, the commitments of the legal entity under restructuring are distributed over a four -year period based on a restructuring plan, which must be approved by both the members and the creditors of the legal entity. The period for plan implementation may be extended for another year. Extra-judicial restructuring proceedings are not possible.

Bankruptcy proceedings may be brought by one natural person against another, including farmers and the self-employed. Extra-judicial bankruptcy in respect of a natural person is not possible.

2 What are the conditions for opening insolvency proceedings?

Bankruptcy proceedings may be brought against a legal person where the court has determined the existence of at least one of the following circumstances:

- the company is insolvent;
- the company is late in making payments relating to employment relationships to its employees;
- the company is or will be unable to meet its obligations.

Company insolvency is understood to be a state where a company is unable to meet its obligations (does not pay debts, does not perform work paid for in advance, etc.) and the overdue obligations of the company (debts, overdue work, etc.) exceed one half of the book value of its assets.

An out-of-court bankruptcy procedure is also possible for a legal entity, provided that there are no ongoing court proceedings with property claims filed against the company and that no recovery is being pursued against the company based on enforcement instruments issued by courts or other authorities. In extra-judicial bankruptcy

proceedings, the issues falling within the competence of the court, are decided by the meeting of the company's creditors.

Restructuring proceedings may be brought against a legal person that:

- has not terminated its operations;
- is not going bankrupt or already bankrupt;
- was established at least three years before filing the restructuring petition was filed with the court;
- if at least five years have passed since:

(a) the court decision closing the restructuring case;

(b) the court order to terminate the restructuring because all the creditors withdrew their claims or the company being restructured satisfied the requirements of all creditors before the deadline set in the restructuring plan.

Bankruptcy proceedings may be instituted in respect of a natural person who is insolvent and acting in good faith. A natural person may be declared insolvent if he or she is unable to discharge his/her overdue debt obligations for an amount exceeding 25 minimum monthly wages, as approved by the Lithuanian Government.

Good faith on the part of a natural person is determined based on the assessment of whether he or she has provided full and accurate information and whether he or she became insolvent while acting in good faith, i.e. whether or not the natural person's actions over the last three years satisfied the criteria of due care and diligence and did not knowingly allow the accumulation of the outstanding debts.

3 Which assets form part of the insolvency estate? How are the assets treated which are acquired by or which devolve on the debtor after the opening of the insolvency proceedings?

All the assets of a company going bankrupt or being restructured, irrespective of their nature (movable or immovable, tangible or intangible, property rights, etc.) or location, make up the company’s estate. The assets or revenues acquired by the company in the process of bankruptcy or restructuring also fall within the company’s estate and are used to satisfy creditors’ claims. In the event of bankruptcy, the ranking of creditors’ claims is set by law, whilst for restructuring, ranking is shown in the restructuring plan. Under the bankruptcy procedure, the entire bankruptcy estate is realized and the income received is used to cover the bankruptcy administration costs and the creditors’ claims. In the case of restructuring, by contrast, only the assets specified in the restructuring plan are realised.

A special procedure applies to revenue from the business operations of an the enterprise in bankruptcy: this revenue is used to cover the respective operating costs. All the payments related to business activities are processed through the company’s special account designated for business activities (the company’s business account), which may not be used for payments to other creditors.

In the event of a natural person going bankrupt, his or her entire assets, whatever their nature (movable/immovable, tangible/intangible, property rights, etc.) or location, are accounted for. Only cash money held by the natural person not exceeding one minimum monthly wage is excluded from the accounts. Creditors’ interests are satisfied from the proceeds of selling the person’s entire assets (with the exceptions enumerated below).

Under the bankruptcy procedure for natural persons, a natural person going bankrupt has the right to use a certain amount of his/her income to satisfy his/her basic needs. That amount is set by the court upon institution of bankruptcy proceedings, with regard to the needs of the natural person and his dependants; once the court has approved the natural person’s solvency restoration plan, the amount available to the natural person is set in that plan.

Special status is also granted to the natural person’s only dwelling necessary for the basic needs of the natural person and/or their dependants as well as any assets necessary for the natural person’s self-employment and/or farming operations. A natural person in bankruptcy may also retain the right to the property in question, even if mortgaged, provided that he/she has agreed so with the mortgagee and such retention does not infringe the

rights of other creditors.

4 What powers do the debtor and the insolvency practitioner have, respectively?

Under corporate bankruptcy proceedings, the appointed bankruptcy administrator takes over the company's management, disposes of its estate, organises the sale of the estate and settles with creditors using the proceeds, and takes any steps necessary to wind up the company. The key functions of the corporate bankruptcy administrator are as follows:

- to represent the company and to defend its interests and those of all its creditors;
- to take over the management of the company in bankruptcy and the bankruptcy estate;
- to terminate company contracts that will no longer be implemented (including contracts with members of the management bodies and staff);
- to apply for money from the Guarantee Fund in order settle up with creditors/employees;
- where necessary, to enter into temporary work or service contracts required for the purposes of the bankruptcy procedure;
- to verify the creditors' claims filed and to submit the list of these for approval by the court;
- to oversee the business operations of the company in bankruptcy;
- to check the company's transactions entered into over the three-year period prior to the institution of the bankruptcy proceedings;
- to dispute the company's transactions in court if they are contrary to the company's operating objectives and may have contributed to the company's inability to pay its creditors;
- where justified, to apply to the court to have the bankruptcy declared intentional;
- to convene creditor meetings;
- to draft activity reports and to submit them to the meeting of creditors;
- to compile and deliver the company's annual and intermediate financial statements;
- to implement the decisions of the court and the creditors' meeting;
- to provide information on the bankruptcy procedure;
- to organise the sale of the bankrupt company's assets;
- to use the funds obtained in the course of the bankruptcy procedure to settle up with the creditors;
- to perform any actions necessary to wind up and unregister the company.

In the case of a company restructuring, the assigned restructuring administrator acts as a professional consultant and independent person in control of the restructuring procedures. The key functions of the restructuring administrator are as follows:

- to contribute to the drafting and consideration of the company's restructuring plan and to take measures to ensure that the restructuring plan is drafted, submitted for approval and implemented within the deadlines set by the court;
- to prepare a written conclusion on the feasibility of the draft restructuring plan;
- to oversee the activities of the management bodies of the company being restructured in as far as they relate to the implementation of the restructuring plan, to notify the members of the company's management bodies of the shortcomings found in their activities and set a deadline for rectifying these, and to apply to the court for removal of the management bodies of the company;
- to convene meetings of the company's members, owners of the representatives of the body exercising the rights and obligations of the owner of a State or municipal enterprise and to participate in those meetings without voting rights;
- to supply information concerning the restructuring proceedings and to inform the court about the progress of the restructuring plan.

The restructuring administrator, together with the management bodies of the company being restructured, are responsible for the implementation of the court-approved restructuring plan.

In the case of bankruptcy of a natural person, the assigned bankruptcy administrator disposes of the assets of the natural person organises their sale, and uses the proceeds to settle with the creditors. The key functions of the natural person bankruptcy administrator are as follows:

- to dispose of the assets of the natural person and the funds in the deposit account;
- to keep the accounts of all the funds received by the natural person and of the use thereof;
- to organise the sale of the natural person's assets and settle up with the creditors;
- to convene creditor meetings and take part in them without voting rights;
- to provide information on the bankruptcy procedure for the natural person and to deliver the restoration plan implementation report;
- to initiate amendments to the solvency restoration plan;
- to represent the natural person in proceedings for recovery of assets on behalf of the natural person in bankruptcy and take action to recover debts from the debtors;
- to defend the rights and legitimate interests of the natural person and all creditors;
- to evaluate the expediency of a natural person’s self-employment and/or farming activities .

A natural person going bankrupt must make every effort to satisfy the creditors’ claims. To that end, the natural person in bankruptcy must, as far as possible, have a job or other income-generating activities, be actively seeking employment or looking for a higher-paying job, allocate income to satisfy creditors’ claims and draft and, upon the court’s approval, implement the solvency restoration plan and cooperate with the assigned bankruptcy administrator.

In the course of the bankruptcy proceedings, a natural person in bankruptcy has the right to obtain information from the bankruptcy administrator, attend creditor meetings and challenge illegal decisions thereof, request replacement of the bankruptcy administrator and seek compensation for damage in the event of the administrator's failure to properly carry out its functions.

5 Under which conditions may set-offs be invoked?

For corporate bankruptcies as well as those of an individual, the set-off of claims between the person in bankruptcy and those of the creditors is prohibited as of the court’s ruling commencing the bankruptcy proceedings, except for set-offs allowed by the provisions in tax laws concerning set-offs in the event of tax overpayment (tax difference).

From the day restructuring proceedings are commenced in respect of a company by a court ruling until the day of the court ruling approving the restructuring plan, any set-offs of the claims of the company against those of its creditors is suspended. Subsequently such set-offs are possible in accordance with the court-approved restructuring plan.

6 What effect do insolvency proceedings have on current contracts the debtor is a party to?

In the case of company bankruptcy, within 30 days of the entry into force of the court ruling instituting bankruptcy proceedings, the assigned bankruptcy administrator informs the persons concerned that the company’s current contracts (except for employment contracts and contracts giving rise to a right of claim on the part of the company in bankruptcy) will not be implemented and should be deemed to have expired.

With the entry into force of the court ruling instituting bankruptcy proceedings, the company’s management bodies lose their powers and the company’s administrator, with a written prior notice of 15 days, terminates the employment or civil contracts with the company’s board members and the executive.

The bankruptcy administrator notifies other employees of the upcoming termination of their employment contracts within three working days of entry into force of the court ruling instituting bankruptcy proceedings against the company and terminates the employment contracts with the employees within 15 working days of the said notice. Fixed-term employment contracts are concluded with dismissed employees which are still needed to carry out the company’s bankruptcy proceedings. The required numbers of such staff by post are defined by the creditors’ meeting.

The company’s restructuring does not have an effect on the current agreements of the legal entity. All the contracts signed are evaluated from the standpoint of expediency and the restructuring plan provides for termination of unviable contracts. They are terminated in accordance with the general procedure, as the law makes no specific provision for termination of contracts during restructuring proceedings.

For bankruptcy proceedings relating to a natural person, the solvency restoration plan specifies the contracts to be terminated and those whose implementation is to continue. Once the court has approved the solvency restoration plan, the natural person going bankrupt must inform the persons concerned of the contracts to be terminated according to the solvency restoration plan.

7 What effect does an insolvency proceeding have on proceedings brought by individual creditors (with the exception of pending lawsuits)?

In the event of the bankruptcy of a company or natural person, the claims of individual creditors must be transferred to the assigned bankruptcy administrator. Subsequently the claims are approved by the court, while the dispute about the factual basis for or the amount of any specific claim is dealt with in the bankruptcy proceedings.

In the case of company restructuring proceedings, the claims pre-dating the institution of the restructuring proceedings are filed with the assigned restructuring administrator within the deadline set by the court. Subsequently the claims are approved by the court, while the dispute on the factual basis for or the amount of any specific claim is dealt with in the restructuring proceedings. The claims of individual creditors emerging after the institution of restructuring proceedings are submitted and relevant disputes are resolved under the general procedure.

After the institution of bankruptcy or restructuring proceedings, the bailiff must suspend enforcement actions and enforcement proceedings and forward the enforcement instruments to the court that commenced the respective bankruptcy or restructuring proceedings.

8 What effect does an insolvency proceeding have on the continuation of lawsuits pending at the moment of the opening of the insolvency proceeding?

Where it appears, prior to the issue of the court order assigning a hearing for the case in which proprietary claims have been filed against the defendant, that bankruptcy proceedings have been initiated against the defendant, the proceedings concerning the property claims against the defendant are suspended and referred to the court seized of the bankruptcy case.

In other instances, i.e. (a) where the court order assigning a hearing for the case has been already issued at the moment when the fact of bankruptcy proceedings instituted against the defendant becomes known or (b) where restructuring proceedings are instituted in respect of the defendant, the fact of institution of restructuring proceedings in respect of the defendant does not give grounds for referring the case to the court seized of the respective bankruptcy or restructuring lawsuit.

9 What are the main features of the participation of the creditors in the insolvency proceeding?

The key rights of creditors in corporate bankruptcy proceedings are as follows:

- to apply to the court requesting bankruptcy proceedings against the insolvent company;
- to decide on the initiation of the out-of-court bankruptcy procedure;
- to refer their claims to the assigned company bankruptcy administrator within the deadline set by the court;
- to attend creditor meetings and vote on:
    - approval of the activity reports presented by the administrator;
    - approval and modification of the administration cost estimate;
    - approval of the price of sale of the company's assets;
    - approval of the annual financial statements drawn up in the course of the company’s bankruptcy procedures;
    - the company’s business activities (their continuity, renewal, limitation and discontinuation, approval of the cost estimate, etc.);

    - the number and positions of staff to be employed in the course of the company's bankruptcy procedures;
    - the administrator's remuneration;
    - arrangements with creditors;
    - a motion for removal of the administrator;
    - other issues;
- to receive, under the procedure prescribed by the creditors' meeting, information on the progress of the company's bankruptcy proceedings from the administrator;
- to challenge the transactions concluded by the company (*actio Pauliana*);
- to appeal to the court for the bankruptcy to be declared intentional;
- to challenge the decisions of the meeting of creditors;
- to appeal to the court for removal of the administrator;
- to satisfy their claims from the assets and income received by the company in bankruptcy.

The key rights of creditors in natural person bankruptcy proceedings are as follows:

- within the time limit set by the court, to file with the bankruptcy administrator their claims that emerged before the institution of the natural person bankruptcy proceedings;
- to request satisfaction of claims in accordance with the procedure prescribed by the plan;
- to attend creditors' meetings (after the adoption of the solvency restoration plan for a natural person in bankruptcy, creditor meetings must be convened at a minimum frequency of once every six months) and vote on:
    - creditors' complaints against the actions of the bankruptcy administrator;
    - the requirement that the bankruptcy administrator deliver its activity reports;
    - approval and modification of the bankruptcy administration cost estimate;
    - approval of the price of sale of the debtor's assets;
    - the natural person's self-employment and/or farming activities (their continuity, commencement, renewal, limitation, termination etc.);
    - proposals to update the solvency restoration plan;
    - a motion for replacement of the bankruptcy administrator;
    - other issues;
- to receive, under the procedure prescribed by the creditors' meeting, information on the progress of the bankruptcy proceedings from the bankruptcy administrator;
- to provide assistance in meeting debt obligations;
- to put forward proposals regarding the solvency restoration plan;
- to address the creditors' meeting concerning the activities or replacement of the bankruptcy administrator or to propose another candidate for the bankruptcy administrator;
- to file an appeal against the decisions of the creditors' meeting within 14 days of the day when they became aware, or should have become aware of, those decisions;
- apply to the court for termination of the natural person bankruptcy proceedings;
- apply to the court for removal of the bankruptcy administrator;
- to satisfy their claims from the assets and income received by the natural person in bankruptcy;

The key rights of creditors in company restructuring proceedings are the following:

- to file with the assigned restructuring administrator claims that emerged before the institution of the restructuring proceedings in respect of the debtor;
- to attend creditors' meetings and vote on:
    - approval of the restructuring plan;
    - removal of the restructuring administrator and proposal of another candidate for the restructuring administrator;
    - a motion for restriction of the competence of the company's management bodies;
    - a motion for termination of the company's restructuring proceedings in the event of non-implementation or inadequate implementation of the restructuring plan;
    - the request to extend the period for the implementation of the restructuring plan;
    - other issues;
- to receive information on the company's restructuring, except for information constituting a commercial/industrial secret, from the company's management body and the restructuring administrator;
- to provide assistance in meeting debt obligations;

- to submit proposals on the restructuring plan to the restructuring administrator or the company's management body;
- to address the creditors' meeting concerning the restructuring administrator's activities or replacement thereof;
- to file an appeal against the decisions of the creditors' meeting/committee within 14 days of the day when they became, or had to become, aware of those decisions;
- to satisfy claims during the restructuring period.

10 In which manner may the insolvency practitioner use or dispose of assets of the estate?

In the case of a company in bankruptcy, once the court ruling instituting bankruptcy proceedings against the company has come into effect, its management bodies lose their authority, while the assigned bankruptcy administrator manages and uses the assets of the company in bankruptcy and disposes of the company funds in bank accounts. The administrator organises the sale of the bankrupt company's assets and sells or transfers them to the creditors. Different procedures apply to the sale of different types of assets. For instance, real estate or mortgaged property as well as assets with a value exceeding 250 basic social benefits are sold at public auction, while perishable items are sold at a price set by the administrator based on market prices. The procedure and the price of sale of other assets are set by the creditors' meeting of the company in bankruptcy. Moreover, there are additional regulatory requirements on the sale of assets of certain types (such as securities and radioactive materials).

When a company is being restructured, the company's management bodies continue to supervise its activities and dispose of its assets, yet they must adhere to the approved restructuring plan. In the course of restructuring, the activities of the company's management bodies are overseen by the court-appointed restructuring administrator. In the period from the commencement of the restructuring proceedings to the approval of the restructuring plan (i.e. during the period of restructuring plan preparation), it is prohibited, without the court's permission, to sell, transfer the ownership of or make available for gratuitous use the company or a part thereof, its long-term assets, the real property classified as short term-assets or property rights, while the company being restructured is not allowed to provide any guarantees or sureties or otherwise secure the performance of the obligations of other parties.

A natural person going bankrupt is not allowed to dispose of the assets in his or her possession. The assets of a natural person going bankrupt are disposed of by the bankruptcy administrator based on the court-approved plan for the restoration of the natural person's solvency. A natural person going bankrupt can only make use of the monthly amount allocated for his/her basic needs as well as the funds necessary to continue his/her activities. The amount necessary to meet the basic needs in the period from the institution of the bankruptcy proceedings to the approval of the solvency restoration plan is set by the court; once the solvency restoration plan has been approved, that amount is identified in the plan.

In the course of the bankruptcy proceedings for a natural person, the sale of assets required in order to meet the creditors' claims is organised by the bankruptcy administrator in accordance with the sequence and time limits defined in the solvency restoration plan. In view of the assets sale price specified in the solvency restoration plan and the market price of the assets being sold, the initial sale price of the assets is approved by the creditors' meeting. Assets may be sold at a price lower than that specified in the solvency restoration plan only with the consent of the natural person in bankruptcy.

Immovable property and mortgaged property is sold at public auction (except property initially priced lower than the compensation for organising the public auction). The price of assets that could not be sold at two public auctions as well as the sale price and procedure for other assets are set by the meeting of creditors. Unsold assets may be handed over to the creditors at their request and with the consent of the creditors' meeting.

Where minor children (adopted children) and/or persons under guardianship/custody live with a natural person, their only dwelling (whether mortgaged or not) may be sold based on a court decision no sooner than 6 months after the approval of the plan. During that period, the natural person must find a new home to buy or rent. A natural person is entitled to agree with the mortgagee that title to the mortgaged property (usually the dwelling) will be retained in the course of the bankruptcy procedures. Such property may not be sold.

Additional regulatory requirements may apply to the procedure for the sale of certain types of assets (such as securities and radioactive materials).

11 Which claims are to be lodged against the debtor's insolvency estate and how are claims arising after the opening of insolvency proceedings treated?

Upon the institution of bankruptcy proceedings against a company, its business operations are typically terminated, and therefore no new claims can arise from them in respect of the company. Where a company continues its operations upon the institution of bankruptcy (this is possible where the operations reduce the losses), the claims arising out of those activities are covered from the revenues generated by those operations. Any claims that could not be covered from those revenues are third-rank claims to be satisfied under the general procedure (also see the answer to question 13).

Claims that appear following the start of company restructuring are satisfied under the general procedure, as the legislation does not contain any special provisions in that regard.

Following the commencement of bankruptcy proceedings for a natural person, the court accepts and approves creditors' claims directed at self-employment and/or farming activities as well as debt obligations undertaken by the natural person in bankruptcy to carry out those activities and/or to perform bankruptcy procedures. Once those claims have been approved, the solvency restoration plan for the natural person in bankruptcy is updated. Other claims brought following the institution of bankruptcy proceedings against a natural person are satisfied under the general procedure, as the legislation does not contain any special provisions in that regard.

12 What are the rules governing the lodging, verification and admission of claims?

In the event of bankruptcy of companies and natural persons, and in the event of company restructuring, the court commencing bankruptcy or restructuring sets a time limit during which creditors are allowed to file their claims with the assigned bankruptcy or restructuring administrator and to submit relevant evidence to substantiate those claims. A maximum period of 45 days is set in the case of corporate bankruptcy or restructuring and a period of at least 15 days but no longer than 30 days is set in the case of bankruptcy of a natural person. The assigned administrator verifies the claims filed and, in the absence of any dispute as to their existence or amount, presents them to the court for approval. A challenge to the claims or a part thereof from the administrator is resolved by the court. The court ruling approving a creditor's claim is subject to appeal. If claims are submitted after the deadline for submission thereof set by the court, the deadline may be extended if the reasons for missing it are recognised to be valid.

13 What are the rules governing the distribution of proceeds? How are claims and the rights of creditors ranked?

Creditors' claims secured by means of pledge or mortgage are initially settled from funds generated from the sale of the debtor's mortgaged property or by transferring the mortgaged property to the creditor. Where the value of mortgaged property is insufficient to cover the mortgagee's claim, the remaining unsatisfied part of the claim is a third-rank claim for corporate bankruptcies and a second-rank claim for restructuring or natural person bankruptcy. In the event of bankruptcy of a natural person, an agreement may be reached not to sell the property under mortgage. In that case, the solvency restoration plan provides for monthly payments to the mortgagee.

Where the sale of mortgaged assets generates more funds than is necessary to settle with the mortgagee, the remaining portion of the funds is allocated to pay the claims of the other creditors.

The claims of the other creditors are satisfied based on claim ranking and stages.

In company bankruptcies, creditors' claims are satisfied in two stages. At the first stage, creditors' claims are paid without the interest and default penalties; interest and penalties are paid at the second stage. At each

stage, the creditor's claims of each lower rank are satisfied after the creditor's claims of the superior rank in the respective stage have been completely satisfied. If the assets are insufficient to fully satisfy the claims of one rank in one stage, the said claims are to be satisfied in proportion to the amount due to each creditor.

First-rank claims are employee claims arising out of the employment relationship; claims for damage compensation due to mutilation or other bodily injury, contraction of an occupational disease or death as a result of an accident at work (these claims may be covered from the Guarantee Fund); and claims of agricultural businesses requesting payment for agricultural products sold (up to 40 per cent of such claims may be paid from the State budgetary funds allocated by the Ministry of Agriculture for that purpose).

Second-rank claims are claims in respect of taxes and other contributions to State and social insurance budgets and compulsory health insurance contributions; in respect of money borrowed on behalf of the State and loans secured by a guarantee provided by the State or a guarantee institution vouched for by the State; and in respect of support granted from European Union funds and State budget funds.

All other claims from creditors are third-rank claims.

In company restructuring, creditors' claims are satisfied in two stages. At the first stage, creditors' claims are paid without the interest and default penalties; interest and penalties are paid at the second stage.

First-rank claims are employee claims arising out of the employment relationship; claims for damage compensation due to mutilation or other bodily injury, contraction of an occupational disease or death as a result of an accident at work; claims from natural and legal persons requesting payment for agricultural produce delivered for processing; and creditors' claims secured by pledge and/or mortgage not exceeding the value of the assets that have been pledged and are not for sale during the restructuring.

Second-rank claims are the remaining claims from creditors, except third-rank claims and secured claims, where the pledged assets are not offered for sale during the restructuring.

Claims in respect of loans granted during the restructuring and not secured are satisfied after settling those of the first rank and before settling those of the second right.

Third-rank claims are non-employment claims from the members of the enterprise undergoing restructuring who became creditors of the enterprise before the institution of the restructuring proceedings and who, either alone or with other members, are in control of the enterprise undergoing restructuring.

At every stage, the creditors' claims of each lower rank are satisfied after the creditors' claims of the superior rank in the respective stage have been completely satisfied. If the assets are insufficient to fully satisfy the claims of one rank in one stage, the said claims are to be satisfied in proportion to the amount due to each creditor.

In natural person bankruptcies, creditors' claims are satisfied in two stages. At the first stage, creditors' claims are paid without the interest and default penalties; interest and penalties are paid at the second stage.

First-rank claims are employee claims arising out of the employment relationship; claims for damage compensation due to mutilation or other bodily injury, contraction of an occupational disease or death as a result of an accident at work (these claims may be covered from the Guarantee Fund); claims for money for child maintenance; and claims of agricultural businesses requesting payment for agricultural products sold (such claims may be paid from special funds allocated by the Lithuanian Ministry of Agriculture for that purpose).

In between the first and the second ranks fall creditors' claims arising out of self-employment and/or farming activities in the course of bankruptcy proceedings relating to a natural person and claims arising out of debt obligations in respect of self-employment or bankruptcy administration costs.

All other claims from creditors are second-rank claims.

At each stage, the creditor's claims of each lower rank are satisfied after the creditors' claims of the superior rank in the respective stage have been completely satisfied. If the assets are insufficient to fully satisfy the creditors' claims of one rank in one stage, the said claims are to be satisfied in proportion to the amount due to each creditor.

14 What are the conditions for, and the effects of closure of insolvency proceedings (in particular by composition)?

In the course of corporate bankruptcy proceedings, an arrangement with creditors may be reached. Upon signature of such an arrangement, bankruptcy procedures are terminated and the company continues its regular operations whilst implementing the arrangement.

In company bankruptcy, arrangements with creditors are possible at any stage of bankruptcy proceedings before entry into force of the court ruling liquidating the company due to bankruptcy. Such arrangements may be proposed by creditors, the administrator and the company's owners. The bankruptcy administrator must suggest an arrangement with creditors prior to commencement of recovery from the assets of the owner of an enterprise with unlimited liability (where such an enterprise does not have assets or its assets are insufficient to cover the legal and administrative costs and to meet the creditors' claims). The arrangement should list the concessions granted by the creditors to the company, their claims, the company's commitments, the methods and time limits for meeting the creditors' claims and liability for non-compliance with the settlement.

A arrangement with creditors is deemed concluded if it has been signed by the creditors whose outstanding claims account for at least two-thirds of the value of all the outstanding claims remaining before the date of the arrangement. The arrangement is approved by the court or, under the out-of-court bankruptcy procedure, by the notary.

In the case of company restructuring and bankruptcy of a natural person, arrangements with creditors are not possible, though the restructuring procedure may be terminated and bankruptcy proceedings relating to a natural person may be terminated when creditors abandon their claims or the debtor pays all the creditors' claims approved by the court and included in the restructuring plan or the solvency restoration plan for a natural person.

15 What are the creditors' rights after the closure of insolvency proceedings?

After the company's assets have been sold in the event of a company bankruptcy, the company is liquidated and removed from the Register of Legal Entities. Any remaining outstanding claims of creditors are not settled. If any assets of the company emerge following the liquidation, their value will be used to satisfy any remaining outstanding claims of creditors.

In the event of restructuring, the company continues its normal operations and creditors enjoy the same rights as with a normally functioning company.

After the completion of the bankruptcy procedure for a natural person, creditors are entitled to require that the natural person satisfy any remaining outstanding claims for damage compensation due to mutilation or other bodily injury, for child maintenance funds, for payment of fines to the State for any administrative violations or criminal acts by the natural person and compensation of damage caused by criminal acts, and satisfaction of any remaining outstanding claims secured by pledge or mortgage (if the property pledged was not designated for sale during the bankruptcy procedure). Any other creditors' claims set out in the solvency restoration plan that remain outstanding are written off and creditors lose their right to claim satisfaction thereof.

16 Who is to bear the costs and expenses incurred in the insolvency proceedings?

In corporate bankruptcy, administrative costs are covered from the company's funds, including any costs incurred in the course of the bankruptcy procedure. Where a company does not have any funds or sufficient funds to cover the bankruptcy administration costs, they may be paid by the person who filed the bankruptcy petition or a bankruptcy administrator may be appointed who agrees to assume the risk that the funds obtained in the course of the bankruptcy procedure may be insufficient to cover the legal and administrative costs and in that case the costs of bankruptcy administration will be paid from the administrator's resources.

Upon instituting bankruptcy proceedings against a company, the court sets an amount of money that the administrator can use to cover the administrative costs of the company going bankrupt until the meeting of creditors approves the administrative costs estimate. For subsequent periods, the estimate of bankruptcy administration costs is approved by the creditors' meeting of the company in bankruptcy. The bankruptcy administrator does not have the right to exceed the approved estimate of administrative costs, other than where, for unforeseen reasons, urgent measures are necessary to protect the interests of the company and its creditors.

In corporate restructuring, the administrative costs are covered from the company's funds, including any costs incurred in the course of the restructuring procedure.

When instituting restructuring proceedings, the court approves the administrative costs estimate for the period from the date of entry into force of the court ruling instituting the restructuring proceedings to the date of entry into force of the court ruling approving the restructuring plan. The amount of restructuring costs for the next period is specified in the approved restructuring plan.

The costs of natural person bankruptcy administration are covered from the natural person's funds of any type, including those received in the course of bankruptcy proceedings. The bankruptcy administration costs estimate is approved and amended by the creditors' meeting, while the amount of remuneration for the bankruptcy administrator is specified in the commissioning contract between the natural person and the bankruptcy administrator.

17 What are the rules relating to the voidness, voidability or unenforceability of legal acts detrimental to the general body of creditors?

Any transaction by the debtor that infringes upon creditors' rights may be challenged by the assigned insolvency administrator or an individual creditor, on the basis of *actio Pauliana* within a one-year period of limitation, which starts to run on the day when the transaction became known or should have become known. For a transaction to be successfully contested on the basis of *actio Pauliana*, existence of all of the following conditions is necessary:

1. The creditor must have an indubitable and valid right of claim, i.e. the debtor must have either failed to fulfil his/her obligation entirely or must have fulfilled in improperly;
2. the transaction at issue must infringe the creditor's rights. Creditors' rights are infringed where the transaction renders the debtor insolvent or where a solvent debtor prioritises another creditor, or the transaction, while not rendering the debtor insolvent, changes (reduces) the debtor's ability to discharge the obligation to the creditor, for instance, reduces the value of the debtor's assets (such a situation may occur, for instance, when the price received for property sold is significantly below the market price);
3. the debtor was not obliged to enter into the disputed transaction;
4. the debtor did not act in good faith, because he/she knew that the transaction would breach the rights of the creditors;
5. the third party that concluded the bilateral transaction with the debtor in exchange for a compensation did not act in good faith.

Additionally, at the time bankruptcy or restructuring, disposal of the debtor's property is restricted by law (see also the answer to question 10), and the debtor's transactions concluded in violation of those restrictions are invalid as of the moment they were concluded.

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