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# Insolvency/bankruptcy

 Latvia

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European Judicial Network  
(in civil and commercial  
matters)

## 1 Who may insolvency proceedings be brought against?

The Insolvency Law laying down insolvency proceedings in Latvia is applicable to legal and natural persons which may be subject to insolvency proceedings set out in this Law.

The Insolvency Law lays down three types of insolvency proceedings: legal protection proceedings (reorganisation proceedings), insolvency proceedings of a legal person, and insolvency proceedings of a natural person.

Please note that the Insolvency Law does not apply to insolvency proceedings of credit institutions which are governed by the Law on credit institutions.

Legal protection proceedings (including out-of-court legal protection proceedings (pre-pack)) is a debt restructuring procedure that can only be applied to legal persons. It should be noted that the scope of legal protection proceedings does not include specific financial and capital market operators, such as insurance, insurance broker and investment broker companies, private pension funds, etc.

Insolvency proceedings of a legal person is a procedure for the liquidation of a debtor (a legal person) and is applicable to legal persons, partnerships and sole traders. Partnerships do not have the status of a legal person, but they can acquire rights and assume liabilities. A natural person with the status of a sole trader may enter into commercial transactions (using the name of the sole trader), and into other economic transactions as a natural person. Currently, a person with the status of a sole trader is first subject to insolvency proceedings of a legal person, following which the individual may file an application for insolvency proceedings of a natural person in respect of any remaining liabilities. The solution for sole traders is also applicable to farming and fishery establishments.

Insolvency proceedings of a natural person are applicable to natural persons, including economic operators and consumers, and are intended to help relieve debtors of their debt and restore solvency. Any natural person who has been a tax payer in Latvia for the past six months may be subject to insolvency proceedings of a natural person.

## 2 What are the conditions for opening insolvency proceedings?

### Legal protection proceedings

Pursuant to the Insolvency Law, an application for legal protection proceedings can only be filed by the debtor when financial difficulties have arisen or are expected to arise. The Insolvency Law does not define any specific indicators, the presence of which would entitle the debtor to apply for legal protection proceedings. When financial difficulties arise, the debtor must assess whether the degree of the financial difficulties permits reaching an out-of-court agreement with the creditors, or they need to apply for legal protection proceedings to restructure their liabilities under judicial protection.

Application for legal protection proceedings is subject to the payment of a State fee of EUR 145.

#### Insolvency proceedings of a legal person

In cases laid down in the Insolvency Law, both the debtor and the debtor's creditors (including the debtor's employees) may request the opening of insolvency proceedings of a legal person. Likewise, an application for insolvency proceedings of a legal person may be filed by the person referred to in Article 37(1)(a) of Regulation 2015/848 of the European Parliament and of the Council.

The Insolvency Law lays down cases where the debtor is under obligation to immediately file an application for insolvency proceedings of a legal person. Failure to file an application for insolvency proceedings incurs administrative liability for the debtor. The debtor is under obligation to file an application for insolvency proceedings of a legal person in the following cases:

- the debtor has failed to settle a debt the due date of which has expired more than two months ago, and has failed to reach a debt extension agreement with the creditors, or no legal protection proceedings have been initiated (it is important to stress that the initiation of legal protection proceedings is not a pre-condition for filing an application for insolvency proceedings of a legal person; the provision only relieves the debtor of administrative liability if they have attempted to resolve their financial difficulties when they occurred, but have become insolvent);
- according to the initial financial report under liquidation procedure, the debtor has insufficient assets to satisfy all justified claims of creditors, or this condition is discovered in the course of liquidation procedure;
- the debtor is no longer able to comply with the plan of measures of the legal protection proceedings.

A creditor is entitled to file an application for insolvency proceedings if:

- a court ruling for the recovery of debt from the debtor could not be executed by enforcement measures;
- the debtor (a limited liability company or a joint stock company) has not settled a principal debt amounting to EUR 4 268, and the creditor has notified them of their intention to file an application for insolvency proceedings of a legal person;
- the debtor (a legal person other than a limited liability company or a joint stock company) has not settled a principal debt amounting to EUR 2 134, and the creditor has notified them of their intention to file an application for insolvency proceedings of a legal person;
- the debtor has failed to pay an employee their full wages, compensation for damages in connection with an accident at work or an occupational disease, or has failed to make the mandatory social insurance contributions within two months of the set day of payment (unless the day of payment is laid down in the employment contract, the day of payment shall be deemed to be the first working day of the following month). In the event of this, the amount of the outstanding payment is not relevant.

The court declares the opening of insolvency proceedings of a legal person if on the day of examining the application it finds that the indicator referred to in the application exists.

It is important to note that, upon filing an application for insolvency proceedings, both the debtor and the creditor must pay a State fee, i.e. an operational fee for the examination of the application by a court. The fee amounts to EUR 70 for the debtor and EUR 355 for the creditor. Likewise, before filing an application for insolvency proceedings of a legal person, both the debtor and the creditor must pay a deposit amounting to two minimum monthly wages in Latvia.

#### Insolvency proceedings of a natural person

A debtor who is a natural person may be subject to insolvency proceedings of a natural person if any of the following indicators of a natural person's insolvency are present:

- 1) the person is unable to settle their debts that have fallen due, and the debt totals in excess of EUR 5 000;

2) due to demonstrable circumstances, the person will be unable to settle debts that fall due within a year, and the debts total in excess of EUR 10 000;

3) the person is unable to settle debts, at least one of which is based on unsettled ancillary liabilities or joint liabilities of the debtor and the debtor's spouse or relative, or relative by affinity up to the second degree, if the debt totals in excess of EUR 5 000.

An application for insolvency proceedings of a natural person can only be filed by the debtor; creditors are not entitled to submit it.

An application for insolvency proceedings of a natural person is also subject to the payment of a State fee of EUR 70 and a deposit of two minimum monthly wages.

### 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?

#### Legal protection proceedings

The insolvency estate under legal protection proceedings includes all debtor's assets, and the debtor retains all rights to dispose of it. Pursuant to the Insolvency Law, one of the methods under legal protection proceedings involves divestment of movable property or real estate or their encumbrance with rights in rem in order to receive an extension of the deadline for meeting the creditors' claims or settling the claims of creditors. The feasibility of and the procedure for implementing the relevant method must be set out in the plan of measures of the legal protection proceedings.

#### Insolvency proceedings of a legal person

Once the insolvency proceedings of a legal person have been announced, the debtor loses the right to dispose of their assets, as well as assets owned by third parties controlled or held by them, and these rights are transferred to the administrator.

Pursuant to the Insolvency Law, the insolvency estate is comprised of the following:

- 1) the debtor's real estate and movable assets, including money;
- 2) money obtained by disposing of the debtor's assets;
- 3) assets recovered during insolvency proceedings (e.g. funds recovered on the basis of claims against third parties, as well as funds received from members of the legal person's management bodies based on their liability for damages caused);
- 4) income from the debtor's assets received during the insolvency proceedings of a legal person;
- 5) other assets legally acquired during insolvency proceedings of a legal person.

During insolvency proceedings of a legal person, all assets of the debtor are sold and the proceeds are used to cover the expenses of the insolvency proceedings of a legal person and to settle creditors' claims. The administrator of the insolvency proceedings (the administrator) is responsible for selling the debtor's assets in accordance with the plan for the sale of assets. The administrator must ensure that the debtor's assets are sold at the highest possible price in order to satisfy the creditors' claims as far as possible.

#### Insolvency proceedings of a natural person

Once insolvency proceedings of a natural person have been announced, the debtor loses the right to dispose of their assets, as well as assets owned by third parties controlled or held by them (with the exception of assets which are exempt from enforcement), and these rights are transferred to the administrator. During insolvency proceedings of a natural person, all assets of the debtor are sold and the proceeds are used to cover the direct expenses of the insolvency proceedings of a natural person and to settle creditors' claims.

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

### Legal protection proceedings

*The debtor.* Following the announcement of the implementation of legal protection proceedings, the debtor retains control of their company and manages their own assets and assets controlled or held by them, in accordance with the plan of measures of the legal protection proceedings that has been agreed upon by the creditors and approved by the court. At the same time, a number of obligations and restrictions apply to the debtor in order to ensure the legality of the legal protection proceedings and the control over the implementation of the plan of measures by the supervisor of the legal protection proceedings (the supervisor) and the creditors.

The debtor's main obligation is to comply with the plan of measures of the legal protection proceedings. The debtor also has the following obligations:

- 1) to cover the expenses of the legal protection proceedings;
- 2) to provide written reports on the implementation of the plan of measures of the legal protection proceedings to the supervisor at least once a month;
- 3) at the request of the supervisor, to submit in writing and without delay all information on the implementation of the plan of measures of the legal protection proceedings and provide them with the possibility to review the debtor's economic activities and documents in person;
- 4) to notify the supervisor immediately of any circumstances that may prevent the debtor from implementing the plan of measures of the legal protection proceedings, etc.

With regard to restrictions, please note that during the legal protection proceedings the debtor is prohibited from the following:

- 1) to enter into any transactions or perform activities that may exacerbate their financial situation or damage the interests of the general body of creditors;
- 2) to issue loans (credits), except where issuing loans (credits) constitutes the principal activity of the debtor and this is reflected in the plan of measures of the legal protection proceedings;
- 3) to issue guarantees, make gifts or donations, give bonuses or other types of additional material remuneration to members of the debtor's board or council.

*The supervisor.* Once the debtor has prepared the plan of measures of the legal protection proceedings, the supervisor of the legal protection proceedings gives their opinion about the plan and an assessment of its compliance with the law. This must include an assessment as to whether the plan can achieve the goal of legal protection proceedings laid down in law. The opinion of the supervisor of the legal protection proceedings is submitted to the court along with the plan of measures of the legal protection proceedings. Once the implementation of the legal protection proceedings has been announced, the supervisor of the legal protection proceedings becomes responsible for supervising the implementation of the plan of measures of the legal protection proceedings, providing information to the creditors and monitoring the debtor's compliance with the restrictions laid down in the Insolvency Law.

During the legal protection proceedings, the supervisor must manage the paperwork related to the proceedings in the Electronic Insolvency Accounting System (the System).

### Insolvency proceedings of a legal person

*The debtor.* Once the insolvency proceedings have been announced, the debtor loses all rights of management bodies defined in regulations, the debtor's articles of association or agreements, and these rights are transferred to the administrator. The administrator appoints a representative of the debtor who must participate in the insolvency proceedings. As a rule, one (or several) members of the debtor's executive body are appointed as the

debtor's representative. Immediately after the day of the announcement of insolvency proceedings of a legal person, the debtor's representative must transfer to the administrator all the debtor's assets, documents related to the organisation, staff and accounting by a statement of transfer and acceptance. The debtor's representative must prepare a list of the debtor's assets and documents to be transferred, and, at the time of transfer, the documents must be organised in line with record keeping regulations. In the course of the insolvency proceedings, the debtor's representative must provide the administrator with the information they request and participate in the meetings of creditors.

*The administrator.* The administrator is vested with all rights, obligations and responsibilities of the management bodies laid down in regulations, the debtor's articles of association or agreements.

The administrator can, inter alia, take decision with regard to continuation of the debtor's business activities in part or in full, if such continuation is economically justified, is responsible for the payment of current taxes, and can liquidate subsidiaries of the debtor.

The administrator also performs activities related to the implementation of the insolvency proceedings: summarising, reviewing and taking decisions with regard to the creditors' claims; identifying the debtor's assets and taking steps with regard to the recovery of the debtor's assets (including lodging claims against members of the management bodies of a legal person and members (shareholders) of a capital company for the compensation of damages caused by them); selling the debtor's assets and settling the creditor's claims in accordance with the Insolvency Law; assessing transactions entered into prior to the insolvency proceedings; other activities required for the purposes of the proceedings, such as submitting the debtor's documents to the State archive.

During the insolvency proceedings of a legal person, the administrator is responsible for keeping records thereof in the System.

When the insolvency proceedings of a legal person have been completed, the administrator performs all statutory activities to remove the debtor from the public register where they were recorded, e.g. removal of a debtor (a commercial operator) from the commercial register.

Insolvency proceedings of a natural person

*The debtor.* Once insolvency proceedings of a natural person have been announced, the debtor loses the right to dispose of their assets, as well as assets owned by third parties controlled or held by them (with the exception of assets which are exempt from enforcement), and these rights are transferred to the administrator. Following the announcement of insolvency proceedings of a natural person, the debtor is prohibited from performing activities that may cause damages to the creditors. The debtor must provide the administrator with all information necessary for the insolvency proceedings.

All assets owned by the debtor are sold in the course of bankruptcy proceedings, and the proceeds from the sales are used to satisfy the creditors' claims in accordance with the Insolvency Law.

During the proceedings for the settlement of liabilities, the debtor must gain income to the extent of their abilities and transfer a part of their regular income to meet the creditors' claims in accordance with the plan for the settlement of liabilities.

*The administrator.*

If the debtor has money or assets that is expected to be sold during bankruptcy proceedings, the administrator opens an account in a credit institution in their name for the purposes of the insolvency proceedings in question. Similarly to the insolvency proceedings of a legal person, the administrator is responsible for taking the steps necessary for the purposes of the insolvency proceedings: summarising, reviewing and taking decisions with regard to the creditors' claims; identifying the debtor's assets and taking steps with regard to the recovery the debtor's assets (including lodging claims to declare transactions entered into by the debtor invalid where it is found that the debtor had acted in bad faith); selling the debtor's property and satisfying the creditor's claims in accordance with the Insolvency Law.

## 5 Under which conditions may set-offs be invoked?

### Legal protection proceedings

Set-off is permissible in legal protection proceedings if the debtor's claim against the creditor arose at least three months prior to the court's decision to initiate a legal protection proceedings case.

### Insolvency proceedings of a legal person

Set-off is permissible in insolvency proceedings of a legal person if mutual claims of the debtor and the creditor arose at least six months prior to the announcement of the insolvency proceedings of a legal person.

### Insolvency proceedings of a natural person

There are no specific rules on set-off in insolvency proceedings of a natural person, thus, in accordance with the Insolvency Law, provisions for insolvency proceedings of a legal person are applicable in this event, i.e. set-off is permissible if mutual claims of the debtor and the creditor arose at least six months prior to the announcement of the insolvency proceedings of a natural person.

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

### Legal protection proceedings

Given that the debtor retains control of their company, i.e. manages their own assets and assets that are held or controlled by them, after the legal protection proceedings have been initiated, they can continue contracts entered into before the legal protection proceedings were initiated. An opinion on the usefulness of continuing the contracts is given by the creditors when reviewing the plan of measures of the legal protection proceedings, by the supervisor of legal protection proceedings when preparing their report, and by the court when approving the plan of measures of the legal protection proceedings. Expenses under such contracts must be approved in the plan of measures of the legal protection proceedings.

### Insolvency proceedings of a legal person

If a contract entered into by the debtor has not been implemented or has been implemented partially as at the day of announcement of insolvency proceedings of a legal person, the administrator may request that the other contracting party implement the contract or unilaterally withdraw from the contract. The administrator may implement a contract if the debtor's assets are not reduced as a result.

If the administrator unilaterally withdraws from a contract, the other contracting party may lodge their claim as a creditor.

The continued implementation of contracts that have not been terminated in cases laid down in the law, and the implementation of contracts with third parties signed by the administrator on behalf of the debtor during insolvency proceedings of a legal person is financed from the debtor's funds.

If the debtor is an insurance company, the administrator, while taking into account the interests of policyholders, assesses the necessity of transfer, termination or continuation of the existing insurance contracts, and takes all necessary legal steps to transfer, terminate or continue the existing insurance contracts.

The debtor's assignment to an authorised agent (also a procurator and commercial agent) with regard to the debtor's assets which are subject to the creditors' claims becomes invalid as of the day of the announcement of insolvency proceedings of a legal person.

Following the announcement of the debtor's insolvency proceedings, the administrator may terminate the employment contract with an employee of the debtor.

### Insolvency proceedings of a natural person

The Insolvency Law does not lay down any specific provisions for reviewing or terminating contracts signed by the debtor, thus, pursuant to the Insolvency Law, provisions for insolvency proceedings of a legal person are applicable in this event, i.e. the administrator is entitled to review contracts signed by the debtor prior to the announcement of the insolvency proceedings of a natural person and withdraw from them. This practice is also enshrined in case-law. Following the announcement of insolvency proceedings, the administrator becomes responsible for dealing with the person's assets to resolve issues with regard to the performance of obligations and settling the creditors' claims. It also means that the insolvent debtor loses the right to act as a party at court in property-related claims, and this right is assumed by the administrator as a legal representative of the debtor.

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

Irrespective of the insolvency procedure, the Insolvency Law lays down the principle of prohibition of arbitrariness, i.e. individual activities of the creditor and the debtor must not damage interests of the general body of creditors.

### Legal protection proceedings

An authorised bailiff shall suspend judgment enforcement procedures if legal protection proceedings are initiated in respect of the debtor or a decision is made to initiate legal protection proceedings in the event of out-of court legal protection proceedings. If at the time of the initiation funds have already been recovered as a result enforcement activities, the authorised bailiff shall withhold enforcement expenses and meet the collector's claim. Judgment enforcement procedures are suspended for the entire duration of legal protection proceedings until their completion, except where pledged assets are not required for the implementation of the legal protection proceedings and are therefore not included in the plan of measures of the legal protection proceedings, or the court allows a secured creditor to sell the pledged assets.

### Insolvency proceedings of a legal person

If judgment enforcement procedures are initiated prior to the announcement of insolvency proceedings of a legal person, they must be closed in accordance with the procedure laid down in the Civil Procedure Law. Namely, the authorised bailiff completes the ongoing sale of assets if it has already been announced or if the assets have been transferred to a trading company for sale. The administrator may request that announced auctions be cancelled so that the assets can be sold as part of a collection of items. The authorised bailiff shall withhold judgment enforcement expenses from the received amount and transfer the remaining amount to the administrator to settle the creditors' claims in accordance with the procedure laid down in the Insolvency Law, taking into account the interests of the secured creditor. The authorised bailiff shall notify the holder of the assets of the obligation to transfer to the administrator the assets the sales of which have not started.

### Insolvency proceedings of a natural person

Once insolvency proceedings of a natural person have been announced, the creditor is prohibited from pursuing any individual activities that may cause damages to the other creditors. Property rights of the creditor or a third party arising as a result of such activities shall be deemed invalid.

The authorised bailiff shall suspend judgment enforcement procedures if insolvency proceedings of a natural person have been announced in respect of the debtor. The authorised bailiff can complete the ongoing sale of assets only if it has already been announced or the property has been transferred to a trading company for sale, except where the plan for the sale of property of a natural person stipulates postponing the sale of a dwelling pursuant to Article 148 of the Insolvency Law. The authorised bailiff shall withhold judgment enforcement expenses from the received amount and transfer the remaining amount to the administrator to settle the creditors' claims in accordance with the procedure laid down in the Insolvency Law, taking into account the interests of the secured creditor.

At the same time, enforcement procedures in respect of claims the settlement of which is not related to the collection of the debtor's assets or money are not suspended.

If insolvency proceedings of a natural person are closed without cancelling the liabilities, enforcement

procedures for the remaining amount are resumed.

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

### Legal protection proceedings

Pursuant to the Insolvency Law, the opening of legal protection proceedings does not affect legal proceedings where the debtor is one of the parties.

It should be noted that, in contrast to insolvency proceedings, legal protection proceedings do not involve procedures for the admission of claims. However, it is recognised in case-law that by unilaterally deciding on the eligibility of a claim the debtor could unjustifiably exclude the creditor from the list of persons whose approval is required for the plan of measures of the legal protection proceedings. At the same time, a claim for a debt recovery brought to court by the creditor does not give legal grounds for ignoring the creditor's interests in legal protection proceedings. Accordingly, case-law also recognises that if the debtor's liabilities are reflected in the debtor's accounts and the supervisor of legal protection proceedings has not found the claim to be ingenuine prima facie, the claim is to be included in the plan of measures of the legal protection proceedings as a creditors' claim, even if the debtor and the creditor are involved in legal proceedings.

It should also be noted that if the court finds that the plan of measures of the legal protection proceedings contains liabilities that are subject to a dispute regarding the rights, and the amount of the liabilities significantly affects the process of approval of the plan of measures, the court shall take no further action on the application for legal protection proceedings.

### Insolvency proceedings of a legal person

A court judgment announcing insolvency proceedings of a legal person serves as grounds for suspending property-related legal proceedings against the debtor. Following the announcement of insolvency proceedings of a legal person, the creditors can submit their claims to the administrator in accordance with the procedure laid down in the Insolvency Law.

Likewise, the court's judgement announcing insolvency proceedings of a legal person serves as grounds for revoking security for claims in accordance with the procedure established by the Insolvency Law.

### Insolvency proceedings of a natural person

A court decision announcing insolvency proceedings of a natural person serves as grounds for suspending legal proceedings against the debtor and revoking security for claims in accordance with the procedure laid down in the Civil Procedure Law. Following the announcement of insolvency proceedings of a natural person, creditors can submit their claims to the administrator in accordance with the procedure laid down in the Insolvency Law.

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

For the purposes of achieving the goal of insolvency proceedings, it is important that the creditors are actively involved in the proceedings. The Insolvency Law enshrines the principle of equality of the creditors: the creditors shall have equal opportunities to participate in the proceedings and have their claims satisfied in line with the liabilities established between them and the debtor prior to the opening of the proceedings.

### Legal protection proceedings

The debtor shall send the plan of measures of the legal protection proceedings to all creditors, inviting them to give their consent to the plan and setting a deadline for the approval. The creditor is entitled to submit to the debtor written objections to the plan of measures of the legal protection proceedings within five days of receipt of the plan. If the debtor deems the objections justified, they amend the plan of measures of the legal protection

proceedings accordingly. The deadline for the implementation of the legal protection proceedings can be extended, subject to consent by the majority of the creditors. The creditors are entitled to request and receive from the supervisor information on the progress of the legal protection proceedings and implementation of the plan, and to submit complaints. Likewise, the creditor may request the court to close legal protection proceedings if the debtor does not comply with the plan approved by the court.

#### Insolvency proceedings of a legal person

A creditor also can initiate insolvency proceedings of a legal person by submitting an application to the court. Likewise, creditors are entitled to submit creditor claims in accordance with the procedure laid down the Insolvency Law. The administrator shall verify whether the creditor claims are justified and meet the legislative requirements, and take decision to admit, reject or partially admit the claim. The creditor may lodge an appeal with a court against the administrator's decision within a month of the receipt of the decision, or submit an application with a court for the dispute regarding the rights to be examined, within a month of the receipt of the administrator's decision. The creditor is entitled to view the register of the creditors' claims. As of the eighth day following the expiry of the deadline for submitting creditor claims, each creditor is entitled to view the claims submitted by all creditors and their supporting evidence. The administrator shall provide information to the creditors in accordance with the procedure laid down by the Insolvency Law. If the creditors have objections with regard to the information in question, they must them known to the administrator. If the objections are not taken into account, the administrator must provides a motivated response to the creditor. If the creditors disagree with the announced decision of the administrator, they are entitled to challenge the administrator's actions, apply to court with a claim for damages caused by the administrator, or propose to summon a creditors' meeting. The creditors' meeting shall take decisions on the administrator's remuneration, propose that the administrator be dismissed, approve expenses under insolvency proceedings as justified, the method for the sales of the debtor's property or extension of the sales deadline, and further actions with the property excluded from the property sales plan. Likewise, creditors representing at least 25 per cent of the admitted amount of the principal claims in the group of secured or unsecured creditors may request an audit of the work of the administrator under the respective insolvency proceedings to be carried out by an external certified auditor or a firm of certified auditors.

#### Insolvency proceedings of a natural person

The creditors are entitled to submit claims in accordance with the procedure laid down in the Insolvency Law. Any creditor may summon a creditors' meeting. Within two months of the date when the announcement of insolvency proceedings with regard to the debtor was recorded in the insolvency register, the creditors may submit to the administrator a motion for terminating the insolvency proceedings of a natural person if the creditors have access to information referred to in the Insolvency Law, information concerning restrictions on the application of insolvency proceedings or proceedings for the settlement of liabilities. The creditors are also entitled to submit their objections and proposals with regard to the plan for the settlement of liabilities prepared by the debtor.

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

#### Legal protection proceedings

The debtor remains in control of their company and disposes of their property themselves.

#### Insolvency proceedings of a legal person

Once insolvency proceedings of a legal person have been opened, the board loses its powers, and the debtor's assets and funds in its bank accounts are managed and disposed of by the appointed administrator. The administrator acquires the rights both to divide the debtor's assets and to reclaim assets placed under management, including it in the plan for the sales of the assets as appropriate. Likewise, following the announcement of insolvency proceedings of a legal person, the administrator takes a decision with regard to the termination or continuation of the debtor's business activities in part or in full.

Within two months of the announcement of insolvency proceedings of a legal person, the administrator must draw up a plan for the sales of the debtor's assets or a report attesting to the absence of assets. The assets can

be sold both at an auction and at a free price decided upon by the creditors at the administrator's proposal. The debtor's assets are sold at the highest possible price in order to meet the creditors' claims. The proceeds from the sales of assets are used to settle the creditors' claims.

If the debtor's assets cannot be sold or the costs of their sales exceed the expected proceeds, the administrator excludes them from the plan for the sales of assets and immediately notifies all creditors, inviting them to keep the assets at the initial price.

When drawing up the plan for the sales of assets, the administrator shall consider the possibility of selling the debtor's company or its independent part. The creditors' gain from the sales of the company or its independent part must be greater than if the debtor's assets were sold separately.

#### Insolvency proceedings of a natural person

The administrator of insolvency proceedings is responsible for selling the debtor's assets in accordance with the plan for the sales of assets. The administrator shall start the sales of assets no sooner than two months after the insolvency proceedings of a natural person have been announced.

The debtor is entitled to keep the income that is necessary to cover indirect costs of insolvency proceedings of a natural person and assets that are absolutely necessary to earn income. The Civil Procedure Law also provides for assets, the recovery of which may not be enforced.

Pursuant to the Insolvency Law, the debtor may keep the dwelling mortgaged to a secured creditor based on an agreement with the secured creditor in question.

## 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?

#### Legal protection proceedings

Following the announcement of legal protection proceedings, the secured creditors may not exercise their rights for mortgaged property of the debtor included in the plan of measures of the legal protection proceedings until the proceedings have been completed.

The secured creditor may request that the mortgaged property of the debtor be sold if the restriction preventing the secured creditor from selling the mortgaged property of the debtor significantly damages the interests of the creditor in question (including cases where there is a risk of the mortgaged property being destroyed or it has significantly decreased in value). The decision to permit the sale of mortgaged property is made by the court where the respective legal protection proceedings were instigated.

#### Insolvency proceedings of a legal person

The secured creditor may request that the debtor's property used as security (mortgaged property) be sold two months after the date of the announcement of the insolvency proceedings of a legal person.

Assets owned by third parties that are controlled or held by the debtor are not included in the debtor's assets that may be subject to the creditors' claims. The administrator stores assets owned by third parties until it is handed over to them. The third parties must cover expenses for the storage of their assets if they do not take over their assets following the administrator's invitation. If assets owned by third parties have been disposed of during insolvency proceedings, the value of these assets must be compensated to the third parties by the party who caused the sale of the assets. If proceeds from the sale of the mortgaged property of the debtor do not cover the claims of the secured creditors, the creditors in question gain unsecured creditors' rights for the remaining part of the claim by a decision by the administrator.

The debtor's liabilities that fall due after the date of announcing insolvency proceedings of a legal person are deemed to have fallen due on the date when insolvency proceedings of a legal person were announced. Claims that generally arise after insolvency proceedings of a legal person are announced are deemed to be costs of the

insolvency proceedings.

Insolvency proceedings of a natural person

The debtor's liabilities that fall due after the date of announcing insolvency proceedings of a natural person are deemed to have fallen due on the date when the insolvency proceedings were announced. Claims that arise after insolvency proceedings of a natural person are opened are deemed to be costs of the insolvency proceedings.

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

Legal protection proceedings

The debtor is responsible for stating all claims in the plan of measures of the protection proceedings, subject to the creditors' approval. The plan of measures of the protection proceedings must include all creditors. The debtor may not choose to include specific creditors in the plan, while omitting others.

Insolvency proceedings of a legal person

The creditors' claims against the debtor must be submitted to the administrator within a month of the date when insolvency proceedings with regard to the debtor were recorded in the insolvency register. If the creditor has missed the deadline for filing claims specified in Paragraph one of this Article, the creditor may submit their claim against the debtor within six months of the date when the announcement of insolvency proceedings with regard to the debtor was recorded in the insolvency register, but not later than by the date when the plan for settling the claims of creditors was drawn up in accordance with the procedures laid down in this Law. After this deadline, the limitation period expires and the creditor loses the status of a creditor along with the right to lodge claims against the debtor.

The administrator shall verify whether the creditors' claims are justified and meet the legislative requirements. If the creditor's claim does not meet the legislative requirements, the administrator shall immediately request that the creditor remedy the irregularities identified within 10 days of sending the administrator's request. If the creditor remedies the irregularities within the deadline, the creditor's claim is deemed to have been submitted within the set deadline. If the creditor fails to remedy the irregularities within the deadline, the administrator shall adopt a decision declining the creditor's claim or admitting it in part within 10 days of the deadline set for addressing the irregularities.

Following a verification of the creditors' claims, the administrator shall take a motivated decision to admit, decline or partially admit the creditor's claim. A claim that is subject to dispute between the debtor and the creditor shall be declined by the administrator in part or in full. The administrator can decline or admit in part a creditor's claim established by a court decision only if there is proof that the debtor has settled their liabilities in part or in full after the court decision came into force.

Insolvency proceedings of a natural person

Creditors' claims against the debtor shall be submitted, verified and admitted in accordance with the procedure under insolvency proceedings of a legal person. If the creditor has missed the deadline for filing claims, the creditor may submit their claim against the debtor within six months of the date when the announcement of insolvency proceedings with regard to the debtor was recorded in the insolvency register, but not later than by the date when the final list of expenses under bankruptcy proceedings is drawn up in accordance with the procedures laid down in this Law.

If the creditor fails to submit their claim by the deadline specified above, the limitation period expires and the creditor loses the status of a creditor along with the right to lodge claims against the debtor both in the insolvency proceedings of a natural person and later when the debtor is released from their liabilities. The limitation period does not apply to maintenance payments, claims arising from prohibited activities and claims arising from penalties imposed under administrative infringement proceedings and penalties laid down in the Criminal Law, and compensation for the damage caused.

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

### Legal protection proceedings

The plan of measures of the legal protection proceedings may include advantages for persons who allocate funds for the implementation of the plan, in proportion to the amount of funds allocated.

The plan of measures of the legal protection proceedings may provide only for proportionate settlement or reduction of the principal debt, penalty or interest within a group of creditors and for each type of creditor claim (the principal debt, penalty or interest). The plan of measures of the legal protection proceedings may stipulate significantly more unfavourable conditions for a creditor compared with other creditors only with consent of the creditor concerned.

Legal protection proceedings do not apply to employees, unless they have given their express consent.

### Insolvency proceedings of a legal person

Proceeds of insolvency proceedings of a legal person are distributed primarily on the basis of the type of claim (e.g. secured or unsecured claim). In specific cases the status of the creditor can be taken into account (e.g. tax authority).

Proceeds from the sale of the debtor's assets used as security are used to satisfy the claim of the secured creditor. Auction costs, including the costs of valuation of the pledged assets and the administrator's fee, are withheld from the proceeds of the sale of the pledged assets as a matter of priority, with the remaining amount being used to settle the claim of the secured creditor. If there are any funds left after the above costs have been covered and the claim has been satisfied, they are included in the debtor's assets and used to satisfy claims of other creditors.

The remaining funds of the debtor are primarily used to fully cover the costs of the insolvency proceedings of a legal person.

Once the costs have been covered, the claim of the Insolvency Control Service is settled if the employee claim guarantee fund was used to satisfy the claims of the debtor's employees. Then the claims of employees and the tax authority are settled.

Once claims of the above creditors have been settled in full, the debtor's remaining funds are divided to settle the principal amount of claims (excluding interest) of the other unsecured creditors. The unsecured part of secured creditors' claims and unsettled part of the secured creditors' claims are also settled in this round.

If the debtor's funds are insufficient to cover the full amount of creditors' claims referred to in Paragraph 5 of this Article, the claims in question must be met in proportion to the amount owed to each creditor.

The debtor's funds remaining after settling the principal amount of the unsecured creditors' claims shall be used to settle adjacent claims of the unsecured creditors (in proportion to the amount owed to each creditor).

The debtor's funds left after the settlement of all of the above claims are distributed among participants (shareholders) or members of the debtor in proportion to the amount of their individual investment, the debtor (natural person), their heir (by way of inheritance) or persons who have a claim to the assets of an association or a foundation in accordance with legislation or the articles of association of the association or foundation concerned.

### Insolvency proceedings of a natural person

During bankruptcy proceedings the debtor is entitled to keep the income that is necessary to cover indirect costs of insolvency proceedings of a natural person and assets that are absolutely necessary to earn income.

Maintenance payments, including contributions to the Maintenance Guarantee Fund, and costs of insolvency proceedings of a natural person are covered from the debtor's funds as a matter of priority.

Proceeds from the sale of the debtor's assets used as security are used to meet the claim of the secured creditor.

Claims of the unsecured creditors are joined in a single group without ranking. The remaining funds are used to settle the claims of the unsecured creditors in proportion to the principal amount owed to each creditor. The debtor's funds left after settling the principal amount of the unsecured creditors' claims are used to settle adjacent claims of the unsecured creditors (in proportion to the amount owed to each creditor).

During the proceedings for the settlement of liabilities, the debtor may keep up to two thirds of their income to cover their sustenance costs and to keep assets that are crucial for earning their income.

Hence, taking account of provisions of the plan for the settlement of liabilities, the debtor shall transfer one third of their income (but at least one third of the gross minimum monthly wage in Latvia) to settle the claims of creditors. When preparing a plan for the settlement of liabilities, the debtor shall include the principal amounts of all creditors' claims and provide for their settlement in proportion to the claim of each creditor.

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

### Legal protection proceedings

Legal protection proceedings are closed by the court if:

- 1) the majority of creditors defined in the Insolvency Law have not supported the plan of measures of the legal protection proceedings in accordance with the procedure and time frame laid down in the Insolvency Law;
- 2) the plan of measures of the legal protection proceedings does not comply with provisions of the Insolvency Law.

The court closes legal protection proceedings and opens insolvency proceedings of a legal person if:

- 1) legal protection proceedings in respect of the debtor have been opened for the second time in a year, but the implementation of the legal protection proceedings has not been announced;
- 2) following the receipt of a creditor's application, if the debtor does not implement the plan of measures of the legal protection proceedings for more than 30 days and has not submitted to the court any amendments to the plan;
- 3) following the receipt of an application submitted by a representative of the majority of creditors defined in the Insolvency Law, if the debtor has not carried out the actions laid down in the Insolvency Law or has provided false information, if the debtor does not implement the plan of measures of the legal protection proceedings for more than 30 days and has not submitted to the court any amendments to the plan, or the debtor does not comply with activity restrictions laid down in the Insolvency Law.

If the plan of measures of the legal protection proceedings has been implemented, the debtor shall submit to the court an application for the closure of legal protection proceedings. In contrast, if the debtor is unable to settle liabilities defined in the plan of measures of the legal protection proceedings, the debtor shall submit to the court an application for insolvency proceedings along with a request that legal protection proceedings be closed.

Closure of legal protection proceedings following the implementation of the plan of measures of the legal protection proceedings serves as grounds for lifting the activity restrictions imposed on the debtor under legal protection proceedings and ending the application of the method used for the proceedings.

If the plan of measures of the legal protection proceedings has not been approved by the majority of creditors in accordance with the procedure and time frame laid down in the Insolvency Law and legal protection proceedings are closed, the restrictions linked to the announcement of the legal protection proceedings are lifted and the amount of penalty, interest and late payment charges for unsettled liabilities are calculated in full.

### Insolvency proceedings of a legal person

Insolvency proceedings shall be closed by a court decision, once the administrator has implemented the plan for the sale of the debtor's assets and the plan for the settlement of creditors' claims. Likewise, the court shall close insolvency proceedings if the administrator, in their report on the absence of assets has proposed that insolvency proceedings be closed, and the creditors have approved the proposal. In such a case, the debtor (a legal person) is removed from the relevant public register.

The insolvency proceedings are closed by a court decision if the plan of measures of the legal protection has been approved and the court has decided to change insolvency proceedings of a legal person to legal protection proceedings. In the event of this, the debtor continues their operations in their previous status.

Insolvency proceedings of a natural person

Insolvency proceedings of a natural person can be closed without opening proceedings for the settlement of obligations. The court shall close bankruptcy proceedings along with insolvency proceedings of a natural person if restrictions have been identified with regard to the application of insolvency proceedings of a natural person with regard to the debtor. In this case, an application for the closure of bankruptcy proceedings shall be submitted by the administrator within three months of the announcement of insolvency proceedings of a natural person. Likewise, the court can close bankruptcy proceedings along with insolvency proceedings of a natural person if no claims have been submitted by the creditors. In this case, an application for the closure of bankruptcy proceedings shall be submitted by the debtor within a month of expiry of the deadline for the submission of creditors' claims.

If insolvency proceedings of a natural person are closed along with the completion or closure of bankruptcy proceedings, the administrator's powers and restrictions preventing the debtor from disposing of their property shall also end, the creditors' shall regain their rights to demand the settlement of the debtor's liabilities to the extent they have not been discharged under insolvency proceedings of a natural person, and proceedings with regard to the enforcement of the debt that has been awarded but not yet collected and proceedings for the discharge of debtor's liabilities in court are resumed.

If the debtor has successfully completed the steps laid down in the plan for the settlement of a natural person's liabilities, the debtor's liabilities defined in the plan that remain following the implementation of the plan are cancelled and enforcement proceedings for the recovery of the cancelled liabilities are closed.

Proceedings for the settlement of liabilities shall not be applied or shall be closed in the following cases:

- the debtor, in the course of the three years prior to the announcement of insolvency proceedings of a natural person or during the insolvency proceedings, entered into transactions that resulted in the debtor's insolvency or damages to creditors, where he/she was aware or should have been aware that such transactions may result in insolvency or damages to the creditors;
- the debtor has knowingly provided false information about their financial situation and not disclosed their true income;
- the debtor does not discharge their obligations under bankruptcy proceedings or proceedings for the settlement of liabilities, significantly hindering the progress of insolvency proceedings.

If proceedings for the settlement of liabilities are closed without discharging the debtor from their liabilities, creditors' claims are resumed and calculated in full, and previously suspended legal proceedings and the enforcement of judgments are also resumed.

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

Legal protection proceedings

Normal provisions with regard to the debtor's operations and the creditor's rights apply following the closure of the legal protection proceedings.

Insolvency proceedings of a legal person

The administrator submits to the Register of Enterprises an application for the removal of the debtor from the relevant register within five days of the receipt of the court decision to close the proceedings. After removal from the register, the debtor is wound up, and the creditors lose their right to lodge claims against the debtor, because the debtor ceases to exist.

It should be added that a creditor may lodge a claim against the debtor's board members to the extent of the unsettled amount of claim within a year of the closure of insolvency proceedings, if the administrator of the insolvency proceedings did not receive the debtor's accounting documents or they were in a condition that did not allow to gain a clear idea about the debtor's transactions and financial situation in the three years prior to the announcement of the insolvency proceedings. Prior to the closure of the insolvency proceedings, such a claim can be lodged by the administrator of the insolvency proceedings on behalf of the debtor, whereas the creditor is entitled to join the proceedings as a third party.

#### Insolvency proceedings of a natural person

If insolvency proceedings are closed before the procedure for the settlement of liabilities is completed, the administrator's rights and restrictions preventing the debtor to dispose of their property as laid down in the Insolvency Law also end, the creditors regain their rights to demand settlement of the debtor's liabilities to the extent that they have not been discharged under insolvency proceedings of a natural person, and proceedings with regard to the enforcement of debt that has been awarded but not yet collected and proceedings for the discharge of the debtor's liabilities in court are resumed.

If the debtor has successfully completed the steps laid down in the plan for the settlement of a natural person's liabilities, the debtor's liabilities defined in the plan that remain following the implementation of the plan are cancelled and enforcement proceedings for the recovery of the cancelled liabilities are closed.

The debtor is not discharged from the remaining liabilities set out in the plan for the settlement of a natural person's liabilities if the debtor has not taken the actions defined in the plan.

The following claims are not extinguished under proceedings for the settlement of liabilities, even if a plan for the settlement of liabilities has been implemented successfully:

- claims for maintenance payments;
- claims arising from prohibited activities;
- a secured claim, if the debtor has kept the dwelling used as security under the claim in question, unless an agreement between the debtor and the secured creditor provides otherwise. Enforcement proceedings for the settlement of the above liabilities are resumed to the extent of the unsettled amount of debt;
- claims arising from penalties imposed under administrative infringement proceedings and penalties laid down in the Criminal Law, as well as compensation for damages.

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

#### Legal protection proceedings

The costs of legal protection proceedings include the remuneration of the supervisor of the legal protection proceedings and expenses incurred in conducting legal protection proceedings legally and efficiently. The costs of the legal protection proceedings are covered from the debtor's funds.

#### Insolvency proceedings of a legal person

The costs of insolvency proceedings of a legal person (both the administrator's remuneration and expenses of the insolvency proceedings) are covered from the debtor's funds.

If the costs incurred in the course of insolvency proceedings of a legal person cannot be covered from the debtor's funds, funds of the creditors or another natural or legal person can be used to cover the costs if such an

agreement has been reached in accordance with the law.

In cases where the costs of insolvency proceedings of a legal person cannot be covered by the sources above and the administrator draws up a report attesting to the absence of debtor's assets, when planning the closure of insolvency proceedings of a legal person, the costs of the proceedings are covered from the deposit of the insolvency proceedings of a legal person, which is transferred to the administrator to cover the costs of the insolvency proceedings of a legal person and remuneration.

If an application for insolvency proceedings of a legal person was submitted by an employee of the debtor who is exempt from the requirement to pay a deposit in part or in full, the costs of the insolvency proceedings of a legal person are covered from the employee claim guarantee fund.

Insolvency proceedings of a natural person

Direct and indirect costs are distinguished in insolvency proceedings of a natural person.

The direct costs of insolvency proceedings of a natural person include the costs related to ensuring the proceedings:

- the costs of advertisements, auctions, opening, operating and closing a payment account;
- the costs of mail correspondence services;
- the costs related to the valuation of a natural person's assets;
- the costs of notary services;
- the costs related to storing the assets of a natural person if they were transferred to the administrator, verification of transactions, and insurance of the assets and transactions.

These expenses are covered from the proceeds of the sales of the natural person's assets, but, in the absence of assets or them being insufficient to cover the direct costs, the administrator may request that the debtor cover the costs. However, it should be pointed out that the debtor may keep two thirds of their income, and may be required to transfer no more than a third to cover the direct costs.

The indirect costs of the insolvency proceedings of a natural person, such as current tax or duty payments, current maintenance payments, rent and utility payments, are covered from the income of the natural person (two thirds of the income that the debtor is allowed to keep).

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

Legal protection proceedings

The supervisor is not entitled to dispute transactions made prior to the opening of the legal protection proceedings. Following the opening of legal protection proceedings, the debtor's actions are restricted: they are not allowed to enter into any transactions or pursue activities that may exacerbate their financial situation or damage the interests of the general body of creditors.

Insolvency proceedings of a legal person

The administrator must evaluate the debtor's transactions and lodge a claim in court requesting that the relevant transaction be declared invalid regardless of its type, if the transaction was made:

- 1) after the date of announcing insolvency proceedings of a legal person or four months prior to the date of announcing insolvency proceedings of a legal person, and resulted in damages to the debtor, irrespective of whether the person with whom or in whose favour the transaction was made was aware of the damages to the creditors;
- 2) three years prior to the date of announcing the insolvency proceedings of a legal person, and resulted in

damages to the debtor, and the person with whom or in whose favour the transaction was made was aware or should have been aware of the damages to the creditors.

If a transaction that caused damages to the debtor was made with or in favour of parties with an interest in the debtor, they shall be deemed to have been aware of the damages caused unless they prove otherwise.

A secured creditor may request that a transaction made by the administrator be declared invalid if the transaction in question concerns assets pledged as security under the claim and the secured creditor's interests are undermined.

The administrator must evaluate and lodge a claim in court requesting the return of assets or their part gifted by the debtor if the transaction was made in the three years prior to the date of the announcement of the insolvency proceedings or after that date where inequality of the parties' liabilities indicates that a gift was actually made. A donation can be appealed against and requested back only if it was illegal or was not used in accordance with the intended purpose.

Sums of money paid by the debtor to cover debts in the six months prior to the announcement of the insolvency proceedings of a legal person and after the date of the announcement (except the amounts paid by the administrator in the course of insolvency proceedings of a legal person) shall be repaid if one of the following factors has been identified:

- 1) the payment was made before the liabilities became due, if other liabilities where the payments had become due were not honoured and the parties' rights and obligations referred to in Paragraph 3 of this Article can be renewed;
- 2) the debt was paid to persons with an interest in the debtor, while other liabilities, which were due prior to the due date of the liabilities with regard to the interested persons, were not honoured. This provision also applies to debts collected by officers of court, withholding the enforcement costs.

A creditor shall repay the amount paid by the debtor in the three months prior to the date of the announcement of the insolvency proceedings of a legal person in order to avoid announcing proceedings for the debtor's insolvency based on an application submitted by the creditor receiving the amount.

If the amounts paid to cover debt are repaid in cases laid down in Paragraphs 1 and 2 of this Article, the parties' liabilities (including the reinforcement of liabilities) and the respective rights that were in force prior to the settlement of debt shall be renewed.

Furthermore, the administrator is under obligation to lodge a claim in court requesting that a pledge agreement be declared invalid where the right of pledge was established after the record of the announcement of insolvency proceedings in respect of the debtor was made in the insolvency register.

Insolvency proceedings of a natural person

Transactions entered into by the debtor can be contested in accordance with the procedure under insolvency proceedings of a legal person if the following is found in the course of the insolvency proceedings:

- the debtor, in the course of the three years prior to the announcement of insolvency proceedings of a natural person or during the insolvency proceedings, entered into transactions that resulted in the debtor's insolvency or damages to creditors, where he/she was aware or should have been aware that such transactions may result in insolvency or damages to the creditors;
- the debtor has knowingly provided false information about their financial situation and not disclosed their true income;
- the debtor is not discharging their obligations under bankruptcy proceedings or proceedings for the settlement of liabilities, significantly hindering the progress of insolvency proceedings.

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