

Country Reports

Spring 2013

Lithuania, Czech Republic, Belarus, Spain, France



Lithuania: The bankruptcy of natural persons

In March 2013 the Law on Bankruptcy of Natural Persons (“the Law”) will come into force in Lithuania.

Under the new Law, only natural persons can apply for their own bankruptcy and only if unable to pay debts as they fall due, whose amounts exceed 25 minimum monthly salaries as approved by the Lithuanian Government (currently in total LTL 25,000 (ca. €7,240)). The period when the debts appeared is irrelevant, i.e. a person’s insolvency will be determined by the value of all debts – even those undertaken before the Law comes into effect.

Procedure

The bankruptcy procedure will be carried out by the court. Before filing for bankruptcy, the applicant must notify all creditors one month in advance. Once the court bankruptcy order comes into effect, a bankruptcy administrator will be appointed to dispose of the bankrupt individual’s property and all receivables. In order to restore the solvency of a bankrupt individual and to satisfy creditors’ claims, a plan must be prepared and approved by the court, after coordination with the bankruptcy administrator and the creditors’ meeting. The court may approve the bankruptcy plan even if

creditors do not accept it. The creditors may appeal the judgment.

The plan, which must be filed within four months (in special circumstances, five months) after the court bankruptcy order, must cover a period no longer than five years. The court may extend the duration of the plan in exceptional cases, in particular in order to wait for the outcome of criminal investigations against the debtor with regard to certain crimes such as credit fraud or fraudulent bankruptcy.

The Law also sets out the rights of creditors whose claims are approved by the court. These mostly involve the right to attend and protect their interests at creditors’ meetings and to be kept informed about the course of the bankruptcy procedure.

Expected administration costs

Administration costs include costs of bankruptcy proceedings (e.g. costs of sale of assets, storage, transportation or communication) and salary for the bankruptcy administrator. The creditors’ meeting approves the estimated administration costs., which will have to be paid at least every third month. At present some bankruptcy administrators are announcing their rates. This enables us to forecast that the approximate minimum costs could be around LTL 5,000 (ca. €1,500). The more assets and

creditors an insolvent person has, the bigger the costs incurred, though.

Ranking of claims

The Law foresees that first rank (priority) claims (to be satisfied first) are those of the employees, related to employment relations, claims to cover compensation for death or health hazards, and funds for child support. The second rank includes all remaining claims that must be satisfied. Deviations from this order are allowed if the debtor is not capable of paying the costs of the insolvency proceedings or their living expenses. Furthermore, just as in insolvency proceedings with regard to legal persons, priority is given to creditors whose claims are secured by a mortgage or a pledge.

End of bankruptcy proceedings, discharge of residual debt

As a rule, proceedings end when the plan is fulfilled and the debtor, the administrator and the chairman of the creditors’ meeting officially confirm it. In this case, the proceedings will end by court decision which entails discharge of the debtor’s residual debt. Certain creditors’ claims remain unaffected by discharge, e.g. claims resulting from certain wrongful acts committed by the debtor. The proceedings can be cancelled by court decision if the plan is not fulfilled.