

The new Insolvency Law – a premise for shorter and less intricate bankruptcy procedures.

The Romanian legal framework on the bankruptcy procedure has been consistently improved following the enactment of Insolvency Law no. 85, which entered into force on the 21st of July, 2006 (“New Law”).

This New Law, which replaced the former Bankruptcy Law no. 64/1995, sets up certain new mechanisms for shortening the judicial procedures, with a purpose to accelerate either the reorganization of those undergoing financial difficulties (the so called *Judicial reorganization procedure*), or to put and end to their existence and to save as much as possible creditors’ rights towards the bankrupt companies (through the *Bankruptcy procedure*).

As such, the New Law provides that the parties to an insolvency procedure (be it judicial reorganization or bankruptcy) are called before the court through publication of the summons in the *Insolvency Procedures Bulletin*.

This Bulletin is a procedural instrument brought up by the New Law and is desired to avoid the shortcomings of the common summoning procedure, provided under the Civil Procedure Code. Based on the principles of the New Law, once the summons is published in the Bulletin, the summoning procedure is considered duly accomplished and the judge may pursue with the case (under the Civil Procedure Code the parties are served with the process by transmittance of the summons to their domicile or headquarters).

The benefits of serving the case through this Bulletin are evidenced mainly when a large number of creditors are participating and the summoning procedure with respect to each of them is unlikely to be duly accomplished for all hearings, if performed under the common summoning procedure. As such, many undesired postponements may occur in the detriment of creditors’ interest in a fast settlement of the case.

Another innovation of the New Law is the *Simplified procedure*. The Simplified procedure is applied to certain categories of debtors (e.g. debtors that do not hold any assets, or if their administrator may not be found or in case such debtors declared the intention to enter directly into bankruptcy and be erased from the Companies’ Register).

Under the Simplified procedure the respective debtors are considered as bankrupt, without their undergoing the judicial reorganization procedure first (which is normally the first stage of an insolvency procedure).

The New Law significantly increases also the powers of creditors’ committee, while diminishing the attributions of the syndic judge.

As an example, it is to be noted that the judge itself may control participant's procedural deeds only from the legal point of view and not from the perspective of commercial opportunity of such activity (especially when it comes to controlling judicial administrator or judicial liquidator's activity).

In additional, the syndic judge cannot authenticate anymore the sale purchase contracts concerning land and buildings owned by the debtor, which are concluded by the judicial liquidator following the public auctions. Such contracts are subject to the authentication performed by the notary public.