

Country Reports

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A short selection of updates from Belarus, Spain and Estonia



DARYA GAIDUCHYK
Associate, International Law Firm
COBALT, Belarus

Belarus: New draft laws on insolvency

The Government of the Republic of Belarus has submitted a new draft law on insolvency to the Parliament. The Resolution No.9 of the Ministry of Economy ‘On electronic bidding for the sale of property in economic insolvency (bankruptcy) proceedings’ will come into force on 13 November 2019.

The draft law is progressive, but its individual provisions require improvement. It is mostly focused on the protection of crisis managers’ interests while in fact it should balance the interests of all the parties of the insolvency proceedings.

Now the draft law is being prepared for the first reading.

New grounds for filing an insolvency petition to court

The draft law establishes new grounds for filing an insolvency or bankruptcy petition based on the principle of non-payment. An insolvency petition now may be filed if the debtor is unable to fulfil its monetary obligations with the funds available within nine months of the due date. The debtor is obliged to file a bankruptcy petition if the value of its assets as of the first day of the quarter is not sufficient to settle its liabilities in full, regardless of the term of their fulfillment.

The debtor may file a

counter-appeal to the creditor’s bankruptcy petition and prove that the value of its assets is sufficient to settle the liabilities to all creditors in full.

Cash deposit to pay the crisis manager

The person filing an insolvency (bankruptcy) petition (except for government bodies) is obliged to transfer funds to the crisis manager’s account within the time period prescribed by the court, in the amount of one average monthly salary of the debtor company’s employees for the month preceding filing a petition. As of March 2019, the amount is 1 056.90 BYN or €450.

Pre-trial rehabilitation

Pre-trial rehabilitation is now related only to measures taken under the court’s individual order. The court makes such an order if it finds out that the amount of debt recovered will not allow the debtor to conduct normal business activities. An individual order obliges the debtor to take measures on pre-trial rehabilitation within the time frame established by the court.

Crisis manager appointment

A crisis manager is to be appointed by the court on the basis of a random selection by the Chamber of Managers using an automated system. In contrast to the current practice, a manager will not be allowed to reject the appointment.

Self-governing body for crisis management and bankruptcy proceedings

An institution of self-regulation of crisis managers – the Belarusian Chamber of Crisis Managers – is planned to be set up, membership being obligatory. The main aim of the Chamber is to analyze the existing practice and facilitate the use of a uniform approach.

Insolvency of certain categories of entities

For some categories of debtors, for example forex companies, specific features of bankruptcy proceedings are established.

Electronic bidding in insolvency proceedings

On 1 April 2019, the Resolution on electronic bidding was adopted.

A new method of property sale with reduction is introduced. In the course of the electronic bidding the initial price of a lot is reduced every hour starting from the second hour, in equal shares to the minimum price of the lot, in the absence of rates for increasing the initial price. The price reduction is stopped by the first bid made by a participant of the electronic bidding.

For the first bidding the minimum price can be set by reducing the initial price to 40%, for secondary bidding to 80%. ■