

INSOL Europe/LexisNexis coronavirus (COVID-19) tracker of insolvency reforms—Romania (update)

26/05/2020

Restructuring & Insolvency analysis: We look at the reforms to the insolvency law of Romania prompted by the coronavirus (COVID-19) pandemic. Written by Cristina Ienciu-Dragos, head of legal, CITR, Romania.

Romanian Context

2019 was the first year in Romania when insolvency cases dropped by 22%, and insolvency procedures opened in 2018 with a low rate of insolvency among big and medium companies. The insolvency cases in 2019 were at their lowest number in the past decade. At the same time, the number of companies that suspended their activity rose during 2019. 2020 was expected to follow the same trend, at least for new insolvency procedures.

But it appears that, during the coronavirus pandemic, lots of Romanian companies are severely affected and we now expect that the number of insolvency cases will rise again during this year and next year. Some companies have completely or partially suspended their activity, such as restaurants, hotels, theatres, those in commercial areas and are either considering the decisions of Romanian authorities or the restrictions regarding movements of Romanian people, which influence their customers' behaviour.

From 16 March 2020 until 14 May 2020, Romania was considered to be in a state of emergency state, that allowed the authorities to impose different restrictions for activities, movement of persons and goods etc. Most court proceedings in all matters were suspended. This in turn, affected insolvency procedures and no reorganisation plans were approved by judges, and more generally, no bankruptcy procedures were opened and neither were insolvency practitioners or debtors'/creditors' requests resolved. A general stay on the statute of limitations was in force during this period, supporting, actually, companies already in distress at the beginning of the pandemic.

During this time, only emergency cases were resolved by the courts. In insolvency matters, the courts considered:

- opening of the insolvency procedures upon debtor requests
- requests for temporary suspension of judicial administrator/liquidator measurements
- requests for temporary suspension of enforcement proceedings against debtors' assets

Although no legislative changes have been made to the Romanian Insolvency Law during the state of emergency, some measures meant to support companies during this period were adopted by the Romanian Government.

Regarding insolvency, at the beginning of March 2020, we noticed a rise of requests for opening the insolvency procedure—which almost doubled every day compared to the usual daily requests, after an emergency state was declared—this number has now declined. Now, with the relaxation of measures and the commencement of court activity, we expect a new wave of insolvencies.

Proposal regarding insolvency during State of Alert

On 15 May 2020, the Romanian President approved the State of Alert Act. This Act entered into force on 18 May 2020. During this period of alert we expect a relaxation of restrictions, but most of the limitations regarding free of movement will be maintained and there will be some measures that will encourage a step-by-step restart for most activities.

Considering the next period, CITR and other insolvency practitioners were involved in constructive discussions with Romanian authorities—tax authorities, judicial authorities. The government filed a proposal regarding, among others, measures for insolvent companies with Parliament. The Parliament approved these measures proposed.

We outline below the most important measures adopted regarding insolvency:

Measures regarding the procedure of concordat preventive

- the 60 days period for drafting and submitting a concordat proposal is extended by 60 days
- the 60 days period for negotiating the concordat proposal is extended by another 60 days
- the payment periods included in an approved concordat preventive are extended for a period of two months

Measures regarding the application for insolvency

Insolvency request filed by the debtor—the obligation of a debtor to declare its insolvency within 30 days of having met the insolvency requirements will be suspended during the state of alert and another 30 days from the date this state ends. This measure offers to the companies a period to analyse both of the financial state of the company, insolvency causes and a real possibility of recovery.

However, the debtor can file an insolvency request, by informing the tax authorities of their intentions.

Also, if the debtor's activity was suspended, completely or partially, during the state of emergency, the value of their debts must be RON50,000 (different from RON40,000 under the general law of insolvency).

The minimum claim must be RON50,000 if the debtor's activity was suspended, completely or partially, during the state of emergency.

Insolvency request filed by the creditors—if the debtor's activity was suspended, completely or partially, during the state of emergency, the creditor must, before filing an insolvency claim, try to amicably resolve their conflict generated by unpaid claims with the debtor. There must be written proof sent prior to the debtor either by email, post or fax, otherwise his insolvency request shall be rejected by the judge.

Also, the minimum claim must be RON50,000, if debtor's activity was suspended, completely or partially, during the state of emergency.

Measures regarding reorganisation

The observation period is extended by an additional three months—from 12–15 months—to give companies that intend to submit a reorganisation plan the time to analyse the impact of the pandemic on the business and on its chances of reorganisation.

The reorganisation plans submitted but not yet approved by the judge can be changed within a three month period if the perspectives change as a consequence of the coronavirus pandemic. Any intention to make changes must be announced by the judicial administrator to creditors within 15 days of the entering in force of the law.

If a reorganisation plan is ongoing, but the debtor's activity was suspended, totally or partially, during the state of emergency, the debtor can file a request for suspending the reorganisation period for two months. Such a request should be filed within 30 days from the entering into force of the law.

Also, the reorganisation plan period can be extended from four years to a maximum of five years.

Other measures

Any enforcement proceedings concerning the current debts (from the insolvency period) is suspended during the state of alert, even if the claim has been due for more than 60 days.

INSOL Europe/LexisNexis coronavirus tracker of insolvency reforms

A tracker of insolvency reforms globally produced by LexisNexis in partnership with INSOL Europe is now available: [Coronavirus \(COVID-19\) Tracker of insolvency reforms globally](#).

We look at various countries worldwide which are expediting reforms to their restructuring and insolvency laws, temporarily suspending onerous insolvency law provisions, increasing limits for statutory demands, suspending enforcement powers and introducing other measures to deal with the coronavirus crisis. As the situation is rapidly evolving with more countries adding new measures daily, you should contact local lawyers in the relevant jurisdiction to check the current measures in force.