

Romania: Insolvency proceedings during the COVID-19 pandemic



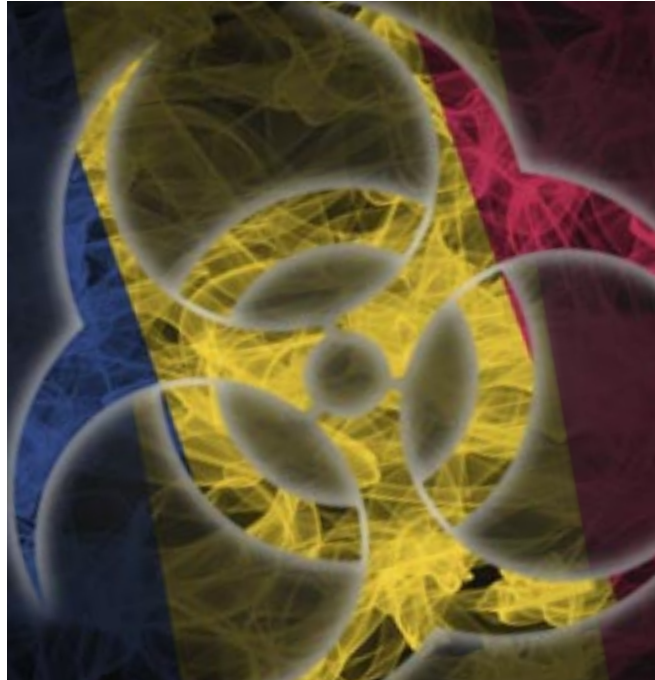
The Romanian legislator has decided to implement certain new measures regarding companies in insolvency and the effect the COVID-19 pandemic has had on such companies. Below you will find some of the most relevant measures introduced by Law 55/2020.

As such, for the duration of the national alert (which ended on 15 May 2020), the insolvent debtors have been eligible, but not obliged, to file an insolvency request to the relevant court, the 30 days within which the debtor was required to submit the insolvency request being suspended for the entire duration of the national alert, plus another 30 days afterwards.

Accordingly, a creditor's insolvency request may not be approved if he cannot prove that reasonable attempts were made to reach a payment agreement, by any means of communication. Proof of these negotiations (i.e. printouts of the emails) shall be submitted together with the insolvency request.

During the state of national alert, subsequent to it, and implemented since 15 May, for debtors who have either fully or partially ceased their activity as a result of the decisions issued by the Authorities (according to Presidential Decree no.195/2020 and extended by Presidential Decree no.240/2020), the insolvency threshold for opening the proceedings has been raised from RON 40,000 to RON 50,000. This provision applies regardless of the filing of the insolvency request.

A moratorium has also been implemented, that is, the enforcement of current debts older than 60 days and having been due during the ongoing insolvency proceedings is suspended, while for ongoing creditor arrangements (*“preventive concordat*



procedures”) the drafting period, or the negotiation period, is extended by a maximum of 60 days, depending on the current situation.

Another change brought by Law 55/2020 is that the observation period of the ongoing insolvency proceedings is extended by three months as of 15 March 2020. Similarly, the term for submission of reorganisation plans is extended by three months. For reorganisation plans which were already submitted, if the effects of the COVID-19 pandemic have changed the recovery prospects in relation to the possibilities and specifics of the debtor's activity, an amended reorganisation plan may be submitted within three months, starting with the entry into force of Law no. 55/2020.

For debtors currently in judicial reorganisation, the plan shall be extended by two months. If their activity has fully ceased as a result of the decisions issued by the Authorities during the state of national emergency, they can file a

request for a suspension of the reorganisation plan for up to two months. At the same time, the court may grant an extension of the reorganisation period, without exceeding a total duration for the plan of five years. This provision applies to both ongoing reorganisations and new reorganisation plans.

Although these measures aim to help companies in distress, they are perceived as merely sufficient, taking into consideration that during the state of emergency the debtors' financial situation may have severely been deteriorated.

Therefore, the business community looks forward to seeing how Directive EU 1023/2019 would be implemented in the local legislation. ■



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