



In this section of *eurofenix* we bring you short updates from our members including insolvency measures in response to the COVID-19 crisis in their jurisdictions. To contribute to a future edition, please contact: paulnewson@insol-europe.org

Russia: Significant amendments to the Russian insolvency law



DMITRY KONSTANTINOV
Counsel, Head of Insolvency and Financial Restructuring, Ilyashev & Partners, Moscow

In March 2020 the Russian Ministry of Economic Development announced a bill which contains significant amendments to the Russian Insolvency Law of 2002. After one year of intense discussions around the new law, there is still no consensus.

Probably, the most significant changes will be seen in the system of insolvency procedures existing in Russia. Under the bill, the procedure of supervision – *наблюдение* – which is used now as the first insolvency procedure in the vast majority of cases (the court starting supervision if it finds possible grounds for restructuring or liquidation), shall be abandoned, being widely criticised for its uselessness. Instead, restructuring of debt or liquidation shall be applied. Those who criticise this novel idea, believe that a preliminary procedure is crucial for the effective insolvency. However, apparently, the majority of experts are highly skeptical about the supervision procedure which rarely ends in recovery of the debt, but always increases the length of the whole procedure.

The debtor in possession is to be introduced. In Russia, as well as in many other countries, shareholders very often keep

control over businesses after the formal insolvency; however, now it is obviously illegal. The new version of the Insolvency Law is expected to recognise the legal right of the shareholder to continue controlling the debtor company.

Prepacked insolvencies shall also be an option. At the moment we do not have such opportunity, but the new law allows creditors to make a restructuring plan before the formal insolvency procedure.

Auctions are expected to be quicker and less formalised – new rules for price formations are introduced, and the number of mandatory publications is reduced. On the other hand, there is no change in the form of publication made in the hardcopy version of the newspaper authorised by the government. Ironically, even the courts make publications in digital form primarily. Obligatory paper publications are not just old-fashioned, but also expensive and factually restrict the access of the public to information on insolvency.

But the fiercest battle is over another issue. Under the new bill, insolvency practitioners are to be elected for the procedures randomly; at the same time, a ranking of IPs is introduced. The last amendment appeared to be the most controversial – IPs criticise the new rules

severely, being threatened with the potential loss of the current business model. Other insolvency experts insist on the random choice of IPs as the key element of the fight against corruption in the field of insolvency.

Overall, the Russian insolvency law is expected to be changed dramatically. Along with the new system of insolvency procedures, restructuring should be used more frequently and IPs will have to be more independent and objective. Nevertheless, a part of the insolvency society (mainly, insolvency practitioners) criticise the new bill claiming that it harms the economic basis of their work. At the moment the bill is discussed, but has not been brought to the parliament; however, as the new law has been prepared by a governmental body and has been supported by the highest officials, we expect that the bill will become the law, possible with some alterations. ■



Under the new bill, insolvency practitioners are to be elected for the procedures randomly; at the same time, a ranking of IPs is introduced

