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Romania: Insolvencies in 2014

In June 2014, the Romanian Parliament adopted a new law regarding the preventive and insolvency proceedings, namely law 85/2014. This new regulation aims to enable a collective procedure through which the liabilities of a debtor may be covered, while, at the same time, offering the debtor a chance for restructuring its business.

The new insolvency law follows the best practice guidelines set at an international level by the UNCITRAL Legislative Guide on Insolvency Law, the Principles and Guidelines for Effective Insolvency and Creditor Rights System established by the World Bank and the “Report on the observance of standards and Codes” (“ROSC”).

Based on information provided by the Romanian National Trade Register Office and the Romanian Bulletin of Insolvencies, it is estimated that, by the end of 2014, a total number of 27,000–30,000 companies will have entered insolvency during this year alone.

It is expected that the new regulation will have a positive impact on the companies undergoing preventive or insolvency proceedings and on their creditors.

General overview

From the gathered data, it appears that, on a sectorial level, the industries most affected by insolvency in 2014 were the construction sector, textile manufacturing, mining, the metallurgical industry and hospitality and food serving industries. However, certain important players on the market coming from other industries are also in insolvency.

The immediate impression is that most of the companies undergoing insolvency proceedings intend to head towards court-supervised restructuring. It should be noted that the results of such

undertakings may vary greatly, depending on the industry and on the company’s real ability of recovery.

Also, taking into consideration the fact that the new legislation does not vary greatly from the old one with respect to the restructuring procedure, the overall confirmation rate of such a procedure is expected to be situated between 3-5% of all the registered cases, due, mainly, to the tardy filing for insolvency by debtors/creditors. In 2013, out of approx. 27,000 new insolvency cases, only 1,200 had a reorganisation plan confirmed by a syndic judge (information gathered from the publications in the Romanian Bulletin of Insolvencies).

It should be noted that all of the companies discussed below have expressed intention for restructuring their business within court-supervised reorganisation proceedings.

Distribution on a sectorial level

In the construction sector, out of a number of approximately 35,800 construction companies, more than 5,000 are currently undergoing insolvency proceedings, with some of them being registered as important players on the market (i.e. turnover of over €10M). The construction sector is situated at the top of the industries affected by the opening of new insolvency proceedings.

One of the most important companies, VEGA 93 Iasi, acting in the construction industry, which entered insolvency in November 2014, had registered, in 2013, a total turnover of over €58M.

Another interesting example is that of a pharmaceutical products distribution company, ADM Farm, which in 2013 had registered a total turnover of approx. RON 695M (€154.6M), and in December 2014 entered insolvency at its own request.

In the freight sector, CFR IRLU, one of the most important companies dealing with

locomotive maintenance and equipment repair has filed for insolvency in the third trimester of 2014.

In 2013, the company had registered a total turnover of approx. RON 86M (€19M), and was performing maintenance works, repair and modernisation of railway locomotives for railway operators present both on the Romanian market and abroad, whilst having units and capabilities for these services distributed on a territorial level in a significant number of stations and repair shops.

Another example of a large company entering insolvency in 2014 is that of the news and media agency, Mediafax Group SA, a top performing company in its activity area, which had registered in 2013 a total turnover of approx. RON 77M (€17.2M). The company’s major financial difficulties are due to fiscal issues.

Conclusion

While the changes in the insolvency regulations are welcome, it remains to be seen whether the overall impact will be a positive one and if, in fact, those companies that really have a chance to recover will indeed do so. ■



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