



After covering France and Austria, Isabelle Didier presents a glimpse of the system in Latvia, here summarised by Daiga Saleniece from the State Agency “Insolvency Administration”.

Most important seems to be the fact that the fate of IPs depends on the Latvian ‘Insolvency Administration’ entirely, this being a formal and supreme regulatory body of insolvency proceedings in the state, from the training of the administrators to their remuneration...

As usual, if you want to express your point of view, Isabelle invites you to contact us at florica.sincu@free.fr

All you need to know about becoming an Insolvency Practitioner in Europe: Latvia

We have already looked at the legal status and remuneration of insolvency practitioners in France and Austria in the previous two issues. This issue we discuss what happens in Latvia

Access to the profession

- 1) **An admission exam or obligation to graduate a certain level of studies?**
There is one category of insolvency practitioner – administrator. To be an administrator you must have either:
 - A higher legal education or higher education in the field of economics, management or finance; or
 - no less than three year’s practical work experience in a company, supervisory institutions and executive authorities.

An administrator must also have successfully completed the requirements for obtaining certification in the administrator specialisation. The state agency, ‘Insolvency Administration’ issues a

certificate allowing you to be an administrator. After successfully passing the exam, a certificate is delivered to the future administrator giving him or her the power to manage insolvency proceedings.

- 2) **Requested experience**
If the candidate has higher legal education or higher education in the field of economics, management or finance, he or she does not need experience in the legal or finance field.
- 3) **Good name**
A good name is required.
- 4) **Liability insurance**
An administrator shall be fully liable for losses caused to the creditors through his or her fault, but an administrator shall not be liable for the activity of the debtor or of former administrators, and transactions which

were concluded prior to his or her taking office.

Appointment

- 1) **Is there an official list?**
Yes, there is a national list.
- 2) **Is there a specialisation of the IP?**
Legally the administrator does not have to be specialised.
- 3) **Who appoints the IP?**
An administrator shall be appointed by a court on the basis of a nomination by the Insolvency Administration immediately after the initiation of an insolvency matter. The Insolvency Administration chooses and recommends one administrator candidate by the principle of accident.

4) Conflict of interests

Latvia’s legislation does not have strict rules about the conflict of interests, except who the interested person is in relation to a debtor. The following shall be considered as an interested person in relation to a debtor:

- The holders of capital shares, members of the council, board of directors and equivalent administrative institutions, and members of the audit institutions of the debtor;
- Persons who have lawful employment relations with the debtor;
- Persons who are married to, or in kinship to the third degree or in affinity to the second degree with holders of capital shares or members of the council, the board of directors or equivalent administrative institutions, or members of the audit institutions of the debtor.

5) Independence

As in France, independence is a very delicate matter. Latvian administrators are independent, but he or she fulfils the decisions of the creditors at meetings and submits a report to the creditors’ meeting. The supervision of the activities of the administrator shall be performed by the Insolvency Administration.



Control body

1) Is there a control body?

The main insolvency regulator is the Insolvency Administration. There are other regulators – a court, Association of Latvian Certified Insolvency Administrators and creditors’ meeting.

2) Its powers

- The Insolvency Administration – a public institution bearing the interests of the state in the relation to the administrators;
- The court – at the start and end of an insolvency proceeding, solution of civil disputes, reviewing of appeal of the decisions issued by the Insolvency Administration;
- Association of Latvian Certified Insolvency Administrators – solution of ethical and professional problems with no legal consequences;
- Creditors’ meeting – instruction and daily supervision of the administrator.



Costs and remuneration

1) How are the IPs remunerated?

An administrator shall receive remuneration for the performance of their duties. The administrator’s remuneration depends of the value of the assets of the insolvent company and a percentage is defined in law.

2) What exactly is an IP required to do?

An administrator has many duties according to the Latvian Law. He or she shall:

- Ensure that the insolvency proceeding proceeds lawfully and effectively;
- Assume the property, documentation and seal of the debtor until termination of the insolvency proceedings or the entering into of a settlement;
- Administer the property of the debtor during the insolvency proceedings and ensure its maintenance until the termination of the insolvency proceedings and the payment of money intended to cover the costs of administration and debts, or the entering into of a settlement;
- Ascertain the causes of actual insolvency and provide his or her opinion regarding them to the creditors’ meeting and the court;
- File to the Insolvency Administration information and documents about insolvency proceedings in accordance with the Insolvency Administration’s requirements, etc.

3) Who decides upon the remuneration?

The creditors’ meeting decides. And the administrator should accept, in writing, the decision of the creditors’ meeting concerning his or her fee. An administrator shall note all expenses for the proceedings and the settlement of debts, but the decision to pay belongs to the creditors’ meeting.



Various forms of remuneration

What happens when the company has no assets?

In the case of insolvency of asset-less companies, an administrator receives the fee – €640 and the remuneration – €285 for each insolvency case.

The total administration fees including the remuneration of the administrator; remuneration for the exact and necessary expenses for the maintenance of the property of the debtor during the insolvency proceedings; payments for the placing of advertisements; organising auctions and other costs that are related to the implementation and carrying out of the insolvency proceedings as determined by the law is €925 for each case of insolvency of an asset-less company.

By appreciation of the successful operation (more value to the profession)?

In Latvia there are no success fees for administrators.

“As in France, independence is a very delicate matter. Latvian administrators are independent, but he or she fulfils the decisions of the creditors at meetings and submits a report to the creditors’ meeting.”



DAIGA SALENIECE
of the Insolvency Administration and Deputy Director of the Dept. of Strategic Planning & Elaboration of Normative Acts, Latvia