

Legal News

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I. Law on Bankruptcy

On 27.10.2016, the Albanian parliament approved the law no. 110/2016, “On bankruptcy”. The law published with Official Gazette no. 226, dated 22 November 2016 will enter into force six month after publication date.



The law aiming at discharging the debtor from its obligations through the bankruptcy procedure defines the latter as natural or legal person against whom is filed, or has filed, a request for commencement of bankruptcy procedure.

According to the provisions of law, bankruptcy procedures cannot be initiated against public entities, being governed by the administrative law. On the other hand, state owned companies and public companies do follow under the provisions of the law.

The law provides for important novelties and new entry agencies such as the National Bankruptcy Agency defined as the competent state authority entrusted with the supervision, training and licensing of the administrators.

Another important novelty is the provision of article 144 of the law stipulating the creditors' priority rank.

As per the said article, the ranking of creditors is the following:

- Secured creditors up to the value of the collateral;
- Preferred creditors (i.e. employees claims for dismissal, work and health matters, alimony, tax obligations, etc.) up to a certain amount and subject to certain conditions;
- Unsecured creditors' claims;
- Final creditors (i.e. penalties as per Civil Code, Criminal Code, penalties for late payments computed on the creditors' claims before initiation of the bankruptcy procedure, claims that both creditor and debtor agree to classify as final ones, etc.);
- Shareholders' claims.

The aforementioned article 144 makes obsolete the provisions of article 605 of the Civil Code 'Priority Ranking', which served as the benchmark list of creditors up to the coming into existence of this law.

Another novelty that will raise discussions is the provision under article 73 of the law providing for the invalidity of any contract clause stipulating that the contract will immediately terminated should the bankruptcy procedures of any of the parties thereto, commence.

As for the procedure, key roles, apart the debtor and creditors, important roles are vested in the administrator (bankruptcy, supervisory and temporary), creditors' committee, etc.

The bankruptcy procedure is administered by the bankruptcy court (sole judge of the commercial section near each district court) and its decisions can be appealed within 15 days at the Appeal Court.

The bankruptcy procedure can end up with the reorganization of the debtor or liquidations of the insolvency estate. With regard, the re-organization the latter can be an ordinary re-organization or fast-forward one.

Both the options will conclude with the liquidation of the assets resulting from the re-organization process.

The Council of Ministers has the duty to approve the secondary legislation within 6 months from the entry into force of the law. As such, taking into account the 6 months interval from the publishing date with the Official Gazette for the entry into force, it is expected that the law will be operative in the beginning of the next year.

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