

Bankruptcy Measures

What to do and When

Israel – Portugal – France –
Bosnia and Herzegovina –
Italy – Cyprus – Argentina
– Netherlands – Colombia
– Spain

CRASH
ECONOMIC
BUDGET
CRISIS
BALANCED
RISK
MORTGAGE
GOVERNMENT
MONEY
INTEREST
TAXES
DEFINITION
COLLECTORS
AUTOMOBILE
MARKET
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6th of May of 2020

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Introduction

Pragma is an international network of law and consulting firms established in January 2001 with the objective of helping our clients in the process of internationalization through the highest quality, value and service from our pool of highly qualified professionals.

Pragma connects independent law, tax and consultancy firms with a high level of experience in their areas of expertise. This allows us to have a global vision of the business environment as well as a thorough knowledge of local issues.

This has allowed us to gather from our firms a summary of the main measures regarding Bankruptcy options.

When do I have to file bankruptcy?

Israel

After the Insolvency law was enacted, a person whose total debt over 50,152 NIS I, and is in position where he can't pay his debt may file for bankruptcy.

Portugal

Companies and other legal persons, have the duty to submit to bankruptcy within 30 days after the date on which they had, or should have had, knowledge of the bankruptcy situation.

France

In accordance with article L631-1 of the French Commercial Code you have to file bankruptcy when you are in a state of cessation of payments i.e. when you are unable to pay accrued liabilities with quick assets.

Bosnia and Herzegovina

The reason for opening bankruptcy proceedings is the insolvency of the bankruptcy debtor and the bankruptcy debtor is insolvent if:

- 1) does not continuously settle its overdue financial obligations for 60 days or
- 2) the bankruptcy debtor's account has been permanently blocked for 60 days.

Bankruptcy proceedings may also be opened due to the threatening insolvency that will occur in the next 12 months.

Cyprus

With regard to Bankruptcy, in Cyprus based on the Bankruptcy Law (chapter 5), only natural persons under a court decree declare bankruptcy, either at the request of the Debtor himself or by his Creditors.

A) Application from a Debtor

1. Debtor may not file for bankruptcy unless
 - a. The total amount of his debts exceeds the amount of fifteen thousand euros (€ 15,000), and

- b. These debts are not secured and refer to fixed amounts to be paid immediately or within a fixed time limit.
2. The debtor's application must be in the form specified in the Rules of Procedure issued by the Supreme Court and be accompanied by an affidavit in which a list of his creditors and guarantors must be attached with their addresses and the amount due to each, the date on which the debt was created, as well as a full description of his property.
3. The application must be served on all creditors referred to in the list attached to the affidavit.
4. At the hearing of the application, the court may, at its discretion, issue a bankruptcy decree against the debtor or reject the application.
5. A debtor's application, after its submission, shall not be withdrawn without the permission of the Court.
6. The debtor who submits an application must submit in his application his Property Statement according to the specified type.
7. The debtor is also required in his application to state his full name, ID number, profession and his address.
8. The bankrupt, in case of change of address, is obliged to inform immediately the Official Receiver or the Administrator.
9. The debtor shall pay to the Official Receiver a sum of five hundred euros (€ 500): It is understood that, in the event of withdrawing or rejecting the application by the Court, the said fee will not be refunded to the applicant.
10. The applicant must submit a copy of the application and the bankruptcy decree when issued, to the Official Receiver, the Director of the Department of Lands and Surveys, the Director of the Commercial Shipping Department, the Director General of the Cyprus Stock Exchange and the Director of the Road Transport Department.

B) Terms under which a creditor may file for bankruptcy

- a. the debt owed by the debtor to the creditor applicant, or, if two or more creditors jointly file the application, the total amount of debt due to the various applicant creditors amounts to fifteen thousand euros (€ 15,000), and,
- b. The debt is a cleared amount, payable either immediately or at a specified future time, and
- c. The bankruptcy act on which the bankruptcy is based occurred within six months before of the submission of the application, and
- d. the debtor resides in Cyprus or, within a period of one year before the date of submission of the application, had the usual residence, or had a place of residence or place of work in Cyprus or carried out work in Cyprus in person, or with a representative or director, or is or within the period mentioned was a member of a firm or partnership that carried out operations in Cyprus through a partner or partners or a representative or director, and

- e. the creditor or creditors who jointly submit the application shall state in the application the full name, the identification number, the profession and their address, as well as those of the debtor, and
- f. The creditor pays the Official Receiver a fee of five hundred euros (€ 500): It is understood that, in the event of withdrawing or rejecting the application by the Court, the said fee shall not be refunded to the applicant, and
- g. The applicant must provide a copy of the application and the bankruptcy decree when it is issued to the Official Receiver, the Director of the Department of Lands and Surveys, the Director of the Commercial Shipping Department, the Director General of the Cyprus Stock Exchange and the Director of the Road Transport Department.

If the applicant creditor is a secured creditor, in his application he must either declare that he intends to withdraw from his securing for the benefit of the creditors in the event that the debtor is declared bankrupt, or to give an estimation of his security. In the latter case, he may be admitted as an applicant creditor to the extent of the remaining debt due to him, resulting after the deduction of the estimated value, in the same manner as if he were an unsecured creditor.

Argentina

A person or a legal entity must file in bankruptcy when it 's declared in default. This issue takes place when a permanent and general deficiency during a specific period of time is manifested in its patrimony, showing the impossibilities it might have to fulfill its liabilities facing its creditors.

Netherlands

In the Netherlands you can file for your own bankruptcy and the bankruptcy of a third party. Filing for bankruptcy can - in short - if the legal person for whom bankruptcy is filed: (A) has 2 or more debts, 1 of which is due and (B) and if the legal person has stopped paying these debts.

Colombia

A company should think about filing for bankruptcy when it can no longer take on its debts or want to reorganize internal processes.

Italy - Palermo

When the company is insolvent or has eliminated equity.

Italy – Milano & Arzignano

Bankruptcy, in the Italian legal system, is a liquidation insolvency procedure, aimed at satisfying creditors by liquidating the entrepreneur's assets. It can be used in the presence of certain requirements.

In particular, only commercial entrepreneurs, or those who deal with the production of goods and services, intermediation in the exchange of goods, transport, banking or insurance activities and ancillary activities to these, may be subject to bankruptcy, with the exception of agricultural enterprises.

However, companies that have joint possession of all the following requirements cannot be subject to bankruptcy:

- having had a balance sheet asset of less than three hundred thousand euros in the three years prior to the filing date of the bankruptcy petition;
- having had gross annual revenues of no more than two hundred thousand euros in the same term;
- to have debts of not less than five hundred thousand euros.

The article 5 of the bankruptcy law instead set that the objective condition for bankruptcy is the state of insolvency, that is a situation of default or other external facts which demonstrate that the debtor is no longer able to regularly meet his obligations.

Spain

The debtor must file for bankruptcy within two months of the date he/she became or should have become aware of the insolvency situation of the company. An insolvency situation occurs when the company cannot regularly fulfil its enforceable obligations. In any case, we can presume that this is the situation when the following indicators arise:

- a) The debtor's general failure to meet debts as they fall due.
- b) The existence of attachments pending execution on the debtor's assets.
- c) Fraudulent concealment or hasty or ruinous realization of the debtor's assets.
- d) The debtor's general failure to meet obligations of any of the following types: tax obligations enforceable during the three months prior to the bankruptcy petition; Social Security contributions and obligations of joint collection during the exact same period; wages, compensations and any other

remunerations derived from labour relations corresponding to the last three months.

Are there alternative ways to bankruptcy to save the business?

Israel

Yes. A debtor can apply for creditors settlement under section 19A of the previous bankruptcy order.

Portugal

There are some measures that essentially aim at granting extraordinary support to workers and employers affected by the outbreak of the COVID-19 virus, with a view to maintaining jobs and mitigating business crisis situations.

Rents about to expire gain three months; unemployment benefits and social benefits are automatically renewed; and companies can postpone VAT and others taxes until the second semester.

The most relevant is the layoff where workers lose one third of their income and, of the remaining two thirds, 70% are assumed by the State through Social Security and 30% by employers (these 30% can also be supported by the State).

France

In France, there are two procedures for the prevention of difficulties faced by businesses:

- The appointment of a special commissioner (“mandataire ad hoc”) by the presiding judge of the court, at the request of a debtor, to assist / support the head of the business in the recovery of the company;
- The conciliation proceeding for businesses who are faced with actual or foreseeable difficulties and who have not been in a state of cessation of payments for more than forty-five days. The conciliator's duty is to promote the conclusion of an amicable agreement between the debtor and its main creditors and usual contracting partners.

With regard to the implementation of these procedures, the Mandataire ad'hoc can be appointed as soon as the company has difficulties, while the conciliation proceeding can be requested in case of legal, economic or financial difficulties proven or foreseeable. For this reason, the ad'hoc mandate can validly precede the conciliation procedure. The duration differs depending on the procedure envisaged. The conciliator's mission is brief: no more than four months, renewable one month. This procedure is suitable for companies that have already started their negotiations, for

example. It may end with the approval by the Commercial Court of a Memorandum of Understanding between managers and creditors and/or partners.

The mission of the ad'hoc agent, on the other hand, may take a longer duration. It is usually appointed for three months. The mission is renewable several times. It results in the signing of contractual agreements negotiated with creditors.

Moreover, in the case of difficulties that the business is unable to overcome and if it is not faced with a cessation of payments, a safeguarding procedure can be implemented. This procedure shall give rise to a plan to be confirmed by a court order at the end of an observation period.

Bosnia and Herzegovina

There are two other ways instead of bankruptcy to save the business:

- 1) restructuring process which is carried out in order to regulate the legal position of the debtor and his relation to the creditors, in order to continue performing his activity;
- 2) there is also a procedure for reorganizing a bankruptcy debtor under the provisions of the Bankruptcy Law in order to maintain its business activity and preserve jobs.

Cyprus

Provides the legal framework for the establishment of the procedures for the issuance of a Debt Exemption Decree and a Personal Repayment Plan. The Debt Exemption Decree provides for the exemption of debtors from their unsecured debts up to the amount of €25,000, provided that the debtor meets the eligibility criteria. Respectively, the guarantors of these debts are also released. The Personal Repayment Plan is a new mechanism that enables an insolvent debtor, provided that he meets the eligibility criteria, to restructure all his debts, either due to financial institutions or due to other creditors, by adopting a plan to repay its creditors and maintaining its main residence, where possible. Legislative provisions for the Personal Repayment Plan also include provision for coordinated repayment of the debtor's personal and business debts under certain conditions.

Argentina

There are alternative ways to bankruptcy to save business. In Argentina they are contemplated in the “Ley de Concursos y Quiebras” (law nº 24.522) that establishes the legal figure of the preventive contest of creditors. This is a legal institute created to avoid

the debtor be filed in bankruptcy by means of the reorganisation of its patrimony. This law foresees a formation of a mass of creditors (this are all the creditors with a previous cause or title to the formation of the contest) aiming that the debtor can renegotiate its debts through the realization of different proposals of payment for its creditors. In another words, the reorganization of the liabilities of the debtor is done allowing him the chance to negotiate his debts with the creditors. Likewise, the syndic can decide if he continues with the exploitation of the company. In this case, the aforementioned law anticipates the creation of cooperatives so that workers can maintain their job positions.

Netherlands

It is possible to apply for suspension of payment. However, in almost every case, these leads to a bankruptcy.

Colombia

In Colombia business debtors have two bankruptcy alternatives: liquidation or reorganization.

Italy - Palermo

It is possible to access procedures that allow agreements with creditors to be found and that can be carried out under the control of the Court.

Italy - Milano & Arzignano

In Italy there are alternative ways to bankruptcy to save the business, that are

- a) the certified recovery plan
- b) the composition with creditors and
- c) the debt restructuring agreement.

The requirements for a debtor to commence a financial reorganisation are different in relation to each of the proceedings mentioned above.

a) The certified recovery plan

The certified recovery plan is an out-of-court negotiation tool for regulating the business crisis that allows the entrepreneur in a state of crisis or insolvency to propose a project, addressed to creditors, that appears suitable to allow the recovery of the debt exposure of the company and to ensure the rebalancing of the financial situation.

The recovery plan is therefore an instrument through which the debtor proposes to achieve the following objectives, namely:

- the recovery of the company's debt exposure;
- the rebalancing of the company's financial situation.

In order to resort to the instrument of the certified recovery plan, however, the company must not be in a situation of irreversible difficulty.

Rather, it must be a mere transitory and temporary crisis, which can be resolved through an agreement with creditors.

The plan must always be suitable for repairing the debt exposure and rebalancing the company's financial situation.

The entrepreneur can therefore, in these cases, prepare a recovery plan to be proposed to one or more creditors.

It is therefore evident that the certified recovery plan is aimed at guaranteeing business continuity through the recovery of a normal situation from an economic and financial point of view, from which this instrument cannot be used for mere liquidation purposes.

The Italian law provides that an independent professional, appointed by the debtor, certifies the veracity of the company data and the feasibility of the plan

b) The Composition with creditors

A debtor in 'crisis' may file a petition for a composition with its creditors in front of the Court in charge. The same petition can be also filed by a number of creditors representing at least the 10% in value of the total debt.

In a nutshell, the petition shall contain a proposal for an agreement with creditors and shall be accompanied by:

- I. a restructuring plan;
- II. a report of an expert assessing the plan's feasibility;
- III. other documents illustrating the debtor's financial situation.

The debtor shouldn't be technically unable to regularly pay its debts at the time of filing the proposal, since it's sufficient that the he is in a state of 'crisis' (a situation of temporary illiquidity or financial difficulties). The debtor's proposal may provide for a wide range of arrangements in order to pay his debts and it can also includes the segmentation of creditors into separate classes, based on homogenous criteria,, each of which may be offered a different treatment.

Moreover, the debtor's proposal may also provide that the creditors are not fully repaid, even if each of them shall obtain at least the market value of the secured asset and does not receive a worse treatment than unsecured creditors. To that ones, the debtor's proposal shall ensure that at least 20% of the unsecured debt is repaid.

The debtor may also file a 'conditional' (or 'blank') petition for a composition with creditors, subsequently filing a final and complete proposal within a certain period.

The petition may also be filed by creditors, if the at least 25% of its unsecured creditors cannot be satisfied.

If the Court approves the petition, all the creditors existing before its approval cannot start or continue any enforcement or interim actions on the debtor's assets.

So, unlike the certified recovery plan, the arrangement with creditors is a judicial procedure, subject to control by the Court.

In addition, unlike the Bankruptcy, with the composition with creditors, the entrepreneur does not lose the management of his company.

c) Restructuring agreements

The debtor can reach an agreement with a number of creditors representing at least the 60% of the debtor's outstanding debts or 75% of the financial creditors representing at least the 50% of the debtor's outstanding debts and he can file this agreement in front of the competent Court.

The agreement is published in the Trade Register.

The advantage for the debtor is that for 60 days from the publication, creditors may not start or continue any enforcement or interim actions on the debtor's assets, nor may they acquire preferential rights thereupon, unless the other creditors agree.

Spain

Yes, there are. Such alternative ways may be divided into the following types:

- a) Self-financing: that is, financing obtained from the shareholders. This can take various forms: loan, profit participating loan (PPL) or capital increase.
- b) Third-party financing: that is, as its name suggest, financing obtained from third parties, which may be bank financing (provided by the Spanish Government as one of the emergency measures adopted to combat the COVID-19 pandemic), financing from third-party investors, which may take multiple legal forms from the most traditional financing ways (ordinary loan, profit participating loan and capital increase) to the most innovative alternatives (Crowdfunding, Crowdfunding, Crowdlending, Crowdfactoring)
- c) Arrangements with the creditors: This can be done directly by the debtor, which may be quite difficult or by using the following instruments offered by Law:
 - Out-of-court payment agreement: The procedure is initiated by submitting a request for the appointment of a mediator to the

Companies Registry and to the Official Chambers of Commerce. Once the mediator has been appointed all creditors are called to a meeting where they will be proposed an agreement that may contain debt reliefs – either cancellation of part of the debt or deferral of debt repayments for a period not exceeding ten years –and some other alternatives (conversion of debt into equity (debt-equity swaps); conversion of debt into profit participating loans (PPL) or transfer of assets or rights to creditors). If an agreement is reached (with 60% of the creditors' votes for, they all will be subject to deferrals not exceeding 5 years and claims reductions of 25% or debt conversion to profit participating loans and with 75% of the creditors' votes for, they will be subject to deferrals of 5 years or more and claim reductions over 25% and to the other measures in the meeting) the company will have overcome the insolvency situation without the need to file for bankruptcy.

- Pre-bankruptcy proceedings, which basically consist of a communication by the company to the Court informing of the insolvency situation. From this moment on, there are two legal alternatives:
 - ✓ Refinancing agreements provided for in Art. 71 bis of the Spanish Bankruptcy Act: These are bank refinancing agreements which do not need the unanimity of all the creditor banks, instead the approval of 75% is sufficient in order to bind the rest of the entities involved.
 - ✓ Refinancing agreements enforced by a court regulated under the Additional Provision 4 of the Spanish Bankruptcy Act: It concerns financial creditors, which is a broader concept than the bank creditors. Likewise, the agreement will be binding in proportion with the majorities reached.

What responsibilities do I have if I do not file the bankruptcy?

Israel

I am at risk of having legal proceedings by creditors and as a result of execution procedures take over properties i own.

Portugal

If the duty to file for bankruptcy is not fulfilled by the 30 days deadline, the Law establishes a presumption of serious guilt on managers or administrators in creating or worsening the company's bankruptcy situation. However, if managers or administrators are unable to rebut this presumption of serious guilt which falls on them, bankruptcy will be considered culpable bankruptcy.

The classification of bankruptcy as culpable bankruptcy can have very serious consequences for the managers or administrators of the company, such as:

- the conviction of the responsible parties to compensate the creditors of the company declared bankruptcy in the amount of the credits not satisfied, up to the strength of the respective assets.
- the inhibition to occupy any position of holder of a commercial or civil society, association or foundation of economic activity, public companies or cooperatives for a period between 2 to 10 years;
- the inhibition of those responsible for managing the assets of third parties, for a period between 2 to 10 years;
- the inhibition of these people for the exercise of the commerce, for a period between 2 to 10 years;

Failure to comply with the obligation to file for bankruptcy, may constitute a negligent bankruptcy crime, punishable by imprisonment of up to one year or fine up to 120 days.

France

The judicial restructuring shall give rise to a plan to be confirmed by a court ruling at the end of an observation period.

The plan provides for measures to save the business: dismissals, restructuring of the business, payment terms granted, replacement of one or several business managers...

If the plan is respected, the company will be saved. If the plan is not respected the plan may be terminated which causes creditors the right to recover all of their claims and security, net of the sums collected.

Bosnia and Herzegovina

If the bankruptcy debtor is a legal person, the legal representative is obliged to file a motion for opening bankruptcy proceedings without delay in the event of insolvency. A fine of 10,000 KM to 20,000 KM shall be imposed on the bankruptcy debtor or the person authorized to represent the bankruptcy debtor if he / she does not file a proposal for opening bankruptcy proceedings within 60 days from the date of insolvency.

Cyprus

Bankruptcy (if there is property) involves the administration of the property by the Official Receiver.

Argentina

In Argentina, the law does not contemplate any responsibility if a person or a legal entity does not file in bankruptcy. If the person or legal entity gets in default, it must consider that if it doesn't file in bankruptcy, any of its creditors could request it to the Judge.

However, the law sets criminal responsibilities to the person who requests its bankruptcy in a dishonest way. The way to do this is hiding the assets that are part of its patrimony aiming that this were not liquidated, and consequently, achieving that its creditors won't get paid.

Netherlands

If you as a legal person do not file your own bankruptcy, this can lead to the fact that if the legal person can no longer pay its debts, the debts will increase even more. Should one of the legal person's creditors still file for bankruptcy, there will be more creditors or higher debts in the bankrupt's estate. In addition, the administrator of a legal person may be held personally liable by the trustee.

Colombia

If a company does not declare bankruptcy, it must take responsibility for paying all its debts and taxes.

Italy - Palermo

Civil and criminal liability.

Italy - Milano & Arzignano

If an entrepreneur does not declare bankruptcy and, in so doing, continues to try to carry out his business activity, following the declaration of bankruptcy filed by the creditors or by the public prosecutor, he could be sentenced, jointly and severally with the persons who would have had to supervise the business (such as, for example, the statutory auditors, the auditing business or even the other members of the board of directors - if present - other than the entrepreneur) personally to recast all the damages suffered by the company and, consequently, by its creditors.

Furthermore, the late request for bankruptcy, by the entrepreneur whose company is in a state of pre-bankruptcy crisis, constitutes a criminal omission, but only if it's a choice characterized by gross negligence. The Italian law, in fact, punishes the conduct of the entrepreneur who "has aggravated his failure, refraining from requesting the declaration of his bankruptcy or with other serious fault". This means that he has the obligation to deliver the books to the Court as soon as he has become aware of the irreversibility of the crisis: irreversibility also taking into account the impossibility of overcoming the same with ordinary payment instruments

Spain

If we do not file for bankruptcy within 2 months from the date we become aware of the insolvency situation, the possible liabilities that the Company's Management Body may have incurred due to the delay in filing for bankruptcy will be determined during the Qualification Phase of the Bankruptcy proceedings. The Company's Management Body may be held liable for the whole debt incurred by the Company during said delay.

How do I get out of bankruptcy?

Israel

There are several situations getting out of the process.

1. Settle a compromise between the debtor and the creditors during the procedure.
2. The debtor repaid all his debts.
3. The debtor abused the procedure.

Portugal

The applicant for a declaration of bankruptcy may withdraw from the application until a sentence is public, so it is not necessary to wait for the final decision of declaring the bankruptcy to stop the applicant from being able to withdraw from the application.

France

The judicial restructuring shall give rise to a plan to be confirmed by a court ruling at the end of an observation period.

The plan provides for measures to save the business: dismissals, restructuring of the business, payment terms granted, replacement of one or several business managers... If the plan is respected, the company will be saved. If the plan is not respected the plan may be terminated which causes creditors the right to recover all of their claims and security, net of the sums collected.

Bosnia and Herzegovina

The possibility avoid bankruptcy or bankruptcy ending in favor of the debtor is only possible through an agreement with the creditors (restructuring plan) or through a business reorganization (reorganization plan) which leaves the bankruptcy debtor with all assets or part of the assets to continue the bankruptcy debtor's business. It may also transfer part or all of the assets of the bankruptcy debtor to one or more existing persons or persons to be established.

Cyprus

Either with a request at the Court or automatically after the lapse of 3 years.

Argentina

When either a physical or legal person is declared bankrupt by the judge, there are two ways of getting out of it. The first one consists of obtaining written compliance of all the creditors that had their credits previously verified during the failure process, this receives the name of "advent". On the other hand, you can get out of bankruptcy by paying all the debts by liquidating all assets. If the liquidation of these is sufficient to meet the payment of the verified creditors, those pending resolution, the expenses and cost of the process, bankruptcy concludes by "full payment".

Netherlands

A bankruptcy can end when there are no more debts, if there is a lack of benefits or if an agreement has been concluded with the creditors. For natural persons, the bankruptcy can also end if he / she is admitted to the legal debt restructuring.

Colombia

In Colombia there is a law called insolvency. It consists of negotiating the obligations through an agreement with the financial sector. This process can be used as a way to get out of bankruptcy.

Italy - Palermo

It is possible to propose a bankruptcy arrangement or at the end of the liquidation procedure.

Italy - Milano & Arzignano

Once the company, or the entrepreneur, is declared bankrupt, the management of the corporate assets passes to the competent Court. The manager of the procedure becomes the Bankruptcy Trustee assisted by the creditors committee usually composed of three members, chosen from among the creditors admitted to the passive state of the procedure, according on the type of credit claimed (unsecured, privileged, mortgage, etc ...).

The execution of bankruptcy operations is supervised by the Delegated Judge who plays a supervisory role over the procedure and he is the guarantor of the procedure.

Once the bankruptcy procedure has been declared, the bankrupt person remains in this situation until the closure of the insolvency procedure is ordered. The closure of the bankruptcy takes place by decree and is issued by the Court. This provision can be issued once all the sums deriving from the liquidation of the assets have been distributed and concluded any legal actions brought by the Curator towards third parties, partners or company bodies.

There is the possibility of closing the bankruptcy through an alternative procedure called the Bankruptcy Agreement. This procedure is usually proposed by a third party to acquire the company's assets.

The Bankruptcy Agreement provides for the full satisfaction of the costs of the procedure and credits in pre deduction. Privileged creditors can be satisfied not in full when obtainable from the realization of the company's assets is insufficient. This possibility requires the report by a statutory auditor certifying the convenience for creditors.

The composition proposal must indicate the unsatisfaction percentage of unsecured creditors, the timing of payment and the guarantees offered to the credit class.

Once the obligations deriving from the arrangement are fulfilled and the complete execution of the arrangement is ascertained, the Court declares its execution. Following this provision, the bankrupted person returns to a performing status, being able to operate freely again.

Spain

To be discharged from bankruptcy there are three possible ways:

- a) Liquidation of the company, which involves the cessation of its business activity and its closure.
- b) Arrangement with Creditors, which involves reaching an agreement with the creditors by proposing some debt reliefs – either cancellation of part of the debt or deferral of debt repayments for a period not exceeding ten years – and some other alternatives (conversion of debt into equity (debt-equity swaps); conversion of debt into profit participating loans (PPL) or transfer of assets or rights to creditors) together with a payment schedule and a feasibility plan. The creditors must adhere to the proposal, if they consider it appropriate, according to the following majorities: 50% of non-priority creditors (debt reliefs equal to or less than 50% of the amount claimed and/or deferral of debt repayments for a period not exceeding 5 years), 65% of non-priority creditors (debt reliefs of more than 50% of the amount claimed and/or deferral of debt repayments for more than 5 years but less than 10 years) the portion of non-

priority creditors that voted for the proposal is higher than the one that voted against it (full payment of non-priority debts in a term not exceeding three years or immediate payment of past due non-priority debts with a debt relief of less than 20%). Public creditors and mortgage loans are not subject to the Arrangement. Once the Arrangement is approved, the insolvency situation will have finished (bankruptcy discharge) as long as its terms and conditions are met. In the event that the debtor does not comply with the Arrangement, upon the complaint of one or more creditors, the company will go into liquidation.

- c) Sale of the Production Unit: This is the third way to get bankruptcy discharge and we explain it below, in the answer to the following question.

Can the productive unit be sold within the bankruptcy?

Israel

In general, the answer is positive. If the trustee concluded that this will pay off the creditors' debts is itself not mortgaged to the bank.

Portugal

With the declaration of bankruptcy, the person or company will lose the ownership of all its assets susceptible of garnishment. These assets will integrate the bankruptcy estate, with the bankruptcy administrator being in charge of proceeding with the respective seizure, liquidation (sale, preferably through electronic auction), and distribution of the corresponding product among creditors. This means that the person or company will lose, among other assets, the property of his family home, in which case he will be forced to leave the house as soon as the judicial sale of the property to third parties is communicated within the scope of the liquidation phase.

France

Yes the court may order the disposal of all or part of the business as a going concern if the debtor is unable to restructure the business on its own.

The assignment of the business is aimed at maintaining the activities capable of being operated autonomously, maintaining all or part of the related employment contracts and settling the liabilities.

Bosnia and Herzegovina

There is a possibility of selling the bankruptcy debtor's production unit but there is also a possibility of selling the debtor as a legal entity.

Cyprus

That has to be decided by the Property Administrator.

Argentina

The company can be sold within the process of bankruptcy. The already mentioned law foresees on article 205 the alienation process of the company or some of its productive units. Once bankruptcy is declared, administration and disposal of the assets that make up the company fall into the hands of the receiver, therefore, it is ultimately who will decide whether or not to sell the productive units during the bankruptcy process.

Netherlands

Yes, the trustee will consider which parts of the company he can still sell.

Colombia

Colombian companies can continue to operate while taking advantage of the insolvency law and refinancing their debts.

Italy - Palermo

The productive unit can be sold during the bankruptcy.

Italy - Milano & Arzignano

In the event of a bankruptcy declaration, the entrepreneur is divested of the management of his business/company. The management is carried out by the bankruptcy trustee under the control of the creditors' committee and the Delegated Judge.

The bankruptcy trustee can proceed to carry out the business on a temporary basis, in order to avoid the loss of value or rent it out. Company branches can also be rented. The company rental procedure provides for a tender between the parties interested in running the company. The choice of the tenant takes into account, in addition to the amount of the rent offered, the guarantees provided and the reliability of the business continuation plan, with particular regard to the conservation of employment levels

The bankruptcy legislation encourages the Curator to sell the company in its entirety. The legislation requires the transfer of the company is made through a competitive procedure.

Competitive selling usually involves:

- complete and total accessibility to all operators interested in participating in the tender;

- adequate advertising and absolute transparency through publications in local/national papers, specialized websites, etc.;
- the submission of anonymous offers;
- pre-established and non-discretionary selection rules for the tenderer.

Spain

Yes, the production unit can be sold within the bankruptcy proceedings, in fact when it comes to realizing the assets of the bankrupt company, their disposal as a whole is considered a priority option under Bankruptcy Law. The sale of the production unit makes it possible to keep those business units that are economically viable while getting bankruptcy debts discharged (with some exceptions). In this case, the necessary workforce will be transferred in order to guarantee the continuity of the unit.

The request to initiate the selling of the production unit is made by the Bankruptcy Trustee to the Court. Such request can be made during the “common phase”, that is, the first stage of bankruptcy proceedings, if we find out that there may be one or more third-parties interested in purchasing the production unit, or in case of a firm offer that can be attached to the request. Afterwards, a procedure that usually contains the following elements, among others, begins:

- A period is granted for bidders to carry out due diligence of the company and then make an offer based on it.
- Identifiable parameters are usually established to assess the company in operation as well as each of its assets or rights, which may be taken into account by the bidders when making their offers.
- Offers are usually submitted in a sealed envelope, and they usually include the scope of the offer, the total price offered, payment terms, number of workers assumed together with their job position and professional category, and the industrial and business plan of the bidders.
- A date is set for bid opening, with or without, depending on the cases, the possibility for bidders to improve their offers.
- Subsequently, the Bankruptcy Trustee will evaluate the offers submitted by taking into account some aspects -identifiable parameters- previously notified to all interested parties.
- Finally, the production unit will be sold to the highest bidder.

In this regard, please note that:

- ✓ Although it is true that in the sale of a business or a production unit the acquirer receives the assets free of charges, it must be noted that as far as mortgaged and leased assets are concerned, the consent of the entity that holds the privilege over said assets is required pursuant the latest reforms of Bankruptcy Act.

It must be also noted that all social security liabilities (contributions and others) are transferred to the new company as it is considered to be the successor of the bankrupt company, which is clearly a contingency to be considered when making the offer.

Do indebted individuals have a second chance?

Israel

Yes. Subject to the following conditions:

1. The second application will be filed after 5 years from ending the previous procedure.
2. The Debtor's conduct is normal.
3. The debt was created in good faith.

Portugal

In personal bankruptcy with exemption from the remaining liabilities, the debtor can obtain a forgiveness of debts that are not fully paid in the bankruptcy proceedings and in the 5 years following their closure. It is intended, therefore, to give the individual debtor a real second chance (fresh start) to restart his economic life.

After the bankruptcy declaration by the Court, an bankruptcy practitioner is appointed who will proceed to liquidate the debtor's entire assets (house, car, etc.) and distribute the corresponding net balance among the bankruptcy's creditors, according to their graduation and payment priority.

Then, if there is no cause for the preliminary rejection of the exoneration of the remaining liability, the Judge must issue the initial order (exoneration of the remaining liability), which determines:

- the closure of the insolvency proceedings, even if there are still assets to be settled; and,
- the beginning of a period of 5 years, known as the assignment period, during which the debtor is obliged to assign his disposable income to a trustee (judicial administrator) who will use it to pay the costs of the proceedings and to pay creditors.
- At the end of this period, if the debtor fulfills all of his duties, the Judge issues a final order for exoneration (forgiveness) of the credits that still exist. After the exoneration order or final order, the debtor is totally free from bankruptcy debts, including the debt related to housing loans.

Alternatively, in personal bankruptcy, the Law admits that the debtor can also apply for bankruptcy by submitting a payment plan to creditors. This is substantially a proposal to restructure the debtor's liabilities. Thus, it can, in particular, provide for an extension of

compliance terms, reduction of interest rates, forgiveness of part of the capital, constitution of guarantees, etc.

The payment plan will have to be negotiated with creditors in order to safeguard interests, since it is subject to approval and ratification by the Judge.

France

Under French Law, there is the so-called professional recovery procedure (“rétablissement professionnel”). It is intended for business people, who have no employees and whose assets are below a certain threshold.

It offers the debtor a chance to bounce back quickly by making him or her benefit from a debt write-off, without resorting to judicial liquidation.

Bosnia and Herzegovina

Independent entrepreneurs are not subject to the RS Bankruptcy Law and there is no “second chance” for recovery under the law.

Cyprus

Yes, with the restoration by the Court or the passage of 3 years, the Bankrupt can be active in business and commerce.

Argentina

When the bankruptcy of a physical person is declared, they are temporally unable to carry out business by themselves, or through someone else. They either can't be part of societies or be empowered with general powers of these. In case of bankruptcy of a legal person, the disqualification extends to the members of the board from the state of cessation of payments of the company. On the other hand, the disqualification of a legal person is permanent. Physical persons are understood to have a second chance, this not being the case of legal entities.

Netherlands

Yes they have. In principle, at the end of the legal debt restructuring, they are given a 'clean slate' and thus a second chance.

Colombia

People must refinance their debts and reach an agreement with the financial sector to have a second chance.

Italy - Palermo

Only if the bankruptcy procedure can pay all the debts or if it is possible to find a debt settlement agreement.

Italy - Milano & Arzignano

The Italian legislation provides for fallible subjects as solutions to get out of the state of crisis, and not run into the bankruptcy procedure, the following tools:

- 1) the certified recovery plan (art.67 Bankruptcy Law)
- 2) the composition with creditors plan (art.160 Bankruptcy Law)
- 3) the debt restructuring agreement (art.182-bis Bankruptcy Law).

For non-fallible subjects the Law no. 3, 27 January 2012, has introduced three possible procedures:

- i. the consumer plan;
- ii. the settlement agreement;
- iii. the liquidation of assets.

The tools identified above allow the debtor to reach an agreement with his creditors through the necessary intervention of a crisis settlement body (OCC) or a professional appointed by the judge with OCC functions and through a judicial process.

In order to access these institutions, the debtor must be in an over-indebted situation, i.e. there must be an ongoing imbalance between the obligations assumed and the assets that can be readily liquidated to meet them.

The debtor must respond to requirements of merit, i.e., he must not have resorted to such instruments in the five years preceding the application and must not have performed acts of fraud against creditors.

It should be noted that only the consumer can use all three of the aforementioned remedies, while for those whose debts are also attributable to a business activity only the instruments of the settlement agreement and liquidation of assets are available

Below is a brief summary of the three institutes:

- I. The consumer plan provides for the restructuring of the debts and their satisfaction on the basis of a plan that envisages deadlines and payment methods for creditors, even if divided into classes, and indicates any guarantees issued for the fulfilment of the debts and the liquidation methods of goods.
- II. The consumer (and non-consumer) debtor can propose an agreement to its creditors which envisages debt restructuring and credit satisfaction through any form, including the assignment of future credits. Once the proposal for an agreement has been filed, the Court will set a hearing to verify that the agreement between the debtor and the creditors has been reached. The agreement will be approved only if it has received the favourable vote of at least 60% of the creditors admitted to the vote. Pending approval and until the approval is final, no enforcement actions can be taken. From the moment of approval, the execution of the crisis settlement agreement opens.
- III. Liquidation of assets is a procedure that can be activated by the debtor filing the proposal with the competent Court. The debtor must attach the inventory of all his assets, as well as a detailed report of the crisis settlement which must contain:
 - a) an indication of the causes of the indebtedness and diligence employed by the debtor in voluntarily assuming the obligations;
 - b) an explanation of the reasons for the debtor's inability to fulfil the obligations assumed;
 - c) the report on the solvency of the natural person debtor in the last five years;
 - d) the indication of the possible existence of the debtor's acts challenged by creditors;
 - e) the judgment on the completeness and reliability of the documentation filed with the application.The liquidation procedure of the assets is entrusted to a liquidator who also manages the assets. It should also be noted that the liquidation activity will also include assets that occurred in the four years following the filing of the application (therefore the procedure cannot be closed before the four years).

Spain

Yes, they have it. The debtors who are natural persons can get debt forgiveness, with certain conditions, by complying with an out-of-court payment agreement procedure followed, where appropriate, by bankruptcy proceedings. The debtor must be a debtor in good faith, which means that (i) he/she cannot have a criminal record for economic crimes; (ii) he/she must have tried to reach an out-of-court payment agreement; (iii) all the debtor's assets must have been realized; (iv) he/she must pay all debts incurred after the bankruptcy proceedings have been initiated; (v) he/she cannot be held liable for wrongful trading. We will explain later what it means.

The out-of-court stage must be processed before a Notary Public, in the Companies Registry or in a Chamber of Commerce depending on the location of the debtor and either directly or by appointing a mediator. Creditors shall be called to a meeting and proposed an agreement. If the out-of-court stage is fruitless, bankruptcy proceedings will

be initiated: the debtor's accounts will be frozen and his/her assets will be orderly realized (with some exceptions). Afterwards, the Judge will be asked to release the debtor from his/her outstanding debts and to close the bankruptcy process (bankruptcy discharge). There are two ways to obtain debt forgiveness:

- ✓ The “fast way”, which allows the debtor to obtain forgiveness of all his/her debts at the moment the bankruptcy discharge order is entered, as long as he/she pays 50% of general priority claims according to Bankruptcy Law which are mainly tax claims and social security contributions, all claims against the bankruptcy estate — that is, all debts incurred after the bankruptcy petition has been approved—, and 25% of non-priority claims in case an out-of-court payment agreement had not been attempted.
- ✓ In the event that the debtor cannot pay the claims mentioned in the previous paragraph, then all those claims shall be subject to a payment plan which must be approved by the Judge. The debtor will obtain debt forgiveness if he/she complies with the payment plan or, in the event that he/she is unable to fully comply with it, when he/she has allocated at least half of the incomes received which are not considered as unseizable to try to comply with said plan.

With the collaboration of

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Graduated from the Law School of the Interdisciplinary Center in Herzliya, double-majoring in Law and Business Administration, with a specialty in Financing.

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Filipe Consciência has more than eight years of legal experience. Deals with contracts, consumer law and immigration.

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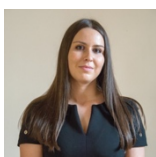
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Zeljko Vlacic is a Senior Associate employed by the in the Law Firm SAJIC since 2011. Zeljko graduated from the University of Banja Luka School of Law in 2011.

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In addition to intellectual property, Zeljko's area of expertise is also bankruptcy and liquidation, sports law, issues related to the associations of citizens, concessions especially in relation to mining, real estate, family law and inheritance, as well as issue of the metallurgy and metal and textile industry.

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Mr Theodoros Kringou is the Founder and Managing Director of Infocredit Group Ltd and ICG Middle East Commercial Services DMCC (Dubai, U.A.E.). In addition he is the Master Franchisee of Presse Café in Cyprus, Director of The CorPro Ltd and First Cyprus Credit Bureau Ltd (FCCB).

Mr Theodoros Kringou is a Member of the Board of Directors of the Nicosia Chamber of Commerce and Industry (NCCI) since September 2011 and also a member of the Board of the Cyprus Mediation Association. He is also involved in several Business Associations including the Cyprus-GCC Business Association and the Cyprus-Russian Business Association.

In November 2013, Mr Theodoros Kringou became a Certified Mediator.

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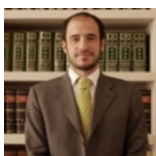
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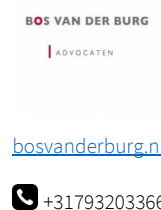
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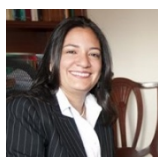
Cindy her advisory and litigation practice encompasses corporate law and insolvency law, as well as liability law and contract law with international aspects.

Cindy studied Dutch law, with a concentration in Company Law, at Leiden University, completing her course work in July 2017. Cindy has been a lawyer with BOS VAN DER BURG since 2018.

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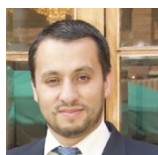


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"Empathize with the client's needs and offer professional solutions is a personal and professional challenge that has always motivated me and driven me to improve."

My professional career has developed in its practical integrity in business advice in its civil, commercial and bankruptcy, which involves the treatment of a wide variety of issues that interconnect several branches of law, allowing a broader and more dynamic vision of the right with a great connection and capacity to give integral solutions to the client.

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