

Romania amends insolvency law with start of state of alert

On 18 May 2020, the same date that Romania switched to a state of alert that will expire on 17 June 2020, Law no. 55/2020 entered into force, which contains amendments to legal provisions for regular insolvency during the state of alert.

The most important amendments include a deferral of the obligation to file for insolvency, an increase in the threshold for petitioning for insolvency, extension of the duration for the reorganisation plan and an extension of other procedural deadlines.

The following is a list of the major amendments contained in the law:

- **Directors are no longer obliged to file for their company's insolvency during the state of alert.** Prior to the COVID-19 pandemic, debtors had the obligation to file an insolvency petition within 30 days after becoming insolvent. As long as the state of alert continues, this is optional. As soon as the state of alert ends, directors will have 30 days to file for insolvency. Directors are liable for filing for insolvency if the company is insolvent. Given the lack of obligation to petition for insolvency during the state of alert, criminal liability for late submission of an insolvency petition will only be applicable when the state of alert ends and the 30-day deadline has been exceeded.
- **The threshold for petitioning for insolvency** (for both creditors and for debtors) was increased from RON 40,000 to RON 50,000 as long as the insolvency status was the result of temporary or permanent suspension of a debtor's activity due to the state of emergency and alert measures.
- **Creditors may file for insolvency** for their debtors during the state of alert only if they can document an attempt to conclude a payment agreement with the debtor, which failed.
- **Debtors can file for insolvency** during the state of alert even when more than 50% of the total debt represents taxes owed to the Romanian state;
- **Enforcement proceedings** against debtors under insolvency proceedings are no longer allowed, even in cases where an enforcement writ is available.
- Terms provided under insolvency regulations were also extended:
 - ◆ **Offers and negotiation periods for preventive concordat proceedings** (pre-insolvency consensual proceedings) are extended by an additional 60 days;
 - ◆ The period for payments under the preventive concordat is **extended by two months**;
 - ◆ **Observation periods** (between entering insolvency and reorganisation or bankruptcy) are extended by three months; and
 - ◆ Deadlines for submitting the **reorganisation plan are extended by three months**.
- **Reorganisation plans can be amended** when the proposed or approved plan has been affected by COVID-19 pandemic measures. An amended reorganisation plan may be submitted within three months in these cases.

□ **If the debtor is subject to a judicial reorganisation procedure**, the length of the reorganisation plan is extended (or may be suspended) by two months.

□ **Already pending reorganisation periods** may be extended provided the reorganisation period does not exceed five years.

For further information on how the above changes might affect your business, contact your regular CMS advisor or our CMS local experts, **Ana Radnev, Rodica Manea, Horia Draghici**.

For an overview of restructuring possibilities in Romania, refer to the [*CMS Expert Guide to Restructuring Possibilities in Central and Eastern Europe*](#) and [*CMS Expert Guide to Restructuring and Stabilisation Initiatives*](#).