

Legal Update INSOLVENCY

Resolution No. 419/2017 on approval of the methodological norms for the application of Law No. 151/2015 on insolvency procedures for natural persons („Resolution No. 419/2017”)

Official Gazette No. 436 dated June 13th, 2017

Enforcement Date: August 1st, 2017

Resolution No. 419/2017 lays down the methodological norms for the application of Law No. 151/2015 on insolvency procedures for natural persons, as subsequently amended (the “Methodological Norms”).

The Methodological Norms are aimed at laying down the provisions for the implementation of Law No. 151/2015, as regards the organization of mediation sessions, the communication modalities with the debtor and the creditors, the type and amount of the fees to be paid to the official receiver and liquidator.

For the purpose of fulfilling the duties of the Insolvency Panel, the President of the Central Insolvency Panel shall issue a decision and order the publication with the Official Gazette of Romania, Part I, and on the website of the National Authority for Consumer Protection, of the specific criteria for the establishment of the reasonable living standard within the framework of the insolvency proceedings based on debt repayment plan, and within the judicial insolvency proceedings by estate liquidation. Such criteria shall be established, inter alia, by taking into account the minimum monthly consumption basket, the minimum value of

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professional or school expenses, the constitution and structure of the debtor`s family, possible health issues or disabilities, other expenditure for the maintenance of the dwelling, costs for raising and education of children, other dependants of the debtor, etc., and shall be used for the accurate determination of the expenses for ensuring a fair standard of living for the insolvent debtor, also considering the general criteria as approved by the Central Insolvency Panel.

The Methodological Norms set out the provisions regulating the administrative proceeding on the basis of a debt repayment plan. Within a period of 30 days after the service of the notice to the creditors and until the issuance of the final decision approving or rejecting the application for opening insolvency proceedings, the creditors shall transmit to the debtor all relevant information, on the basis of which the debtor shall fill in the application for opening insolvency proceedings.

In order to open insolvency proceedings under debt repayment plan, the debtor shall submit a written, signed and dated original counterpart of the application for opening insolvency proceedings, together with appropriate justification documents, with details on the applicable matrimonial property regime.

The debtor`s hearing session will take place within five days upon receipt of the application. In order to issue the provisional receivable list, the official receiver shall verify the receivables, based on the details provided both by creditors and debtors, and prepare a debt repayment schedule/plan, based on the debtor`s rehabilitation options and available financial resources. Such debt repayment plan shall also state the housing policy to be applied to the debtor, such as the maintenance or the utilization of the debtor`s dwelling in order to cover the debtor`s liabilities, with the possibility for the debtor to use the same dwelling, on a rental basis. The debt repayment plan shall also establish the amount to be paid an each creditor on a monthly basis from the total value of the debt, under consideration of the total accumulated percentage of the debt, the installments and other debt recovery measures, as the case may be, and any other measures for

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the financial rehabilitation of the debtor and achievement of a consensual arrangement with its creditors.

The debt repayment plan shall be submitted to the Insolvency Panel. The Insolvency Panel assesses the feasibility of such plan and submits the assessment report to the official receiver.

The Methodological Norms set out the rules concerning the procedure and the mediation sessions between the parties, to be carried out at the headquarters of and presided by the official receiver. During such meetings/sessions, the parties present their point of view on the measures set out in the debt repayment plan and put forward alternative proposals to the achievement of a consensual arrangement. The official receiver presents its point of view on the proposals and positions of the parties and draws up the minutes of each mediation session, which must be signed both by the official receiver and the present parties.

The debt repayment plan can be either accepted or amended by the creditors and shall be submitted to the creditors' vote, according to the provisions of Law No. 151/2015 on insolvency proceedings.

A further object of the Methodological Norms is the regulation of the court insolvency proceedings for debtor asset liquidation, including the liquidator's activity, the debtor's rights and obligations during the court insolvency proceedings for debtor assets liquidation, and the post-insolvency/post-bankruptcy monitoring period.

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Any debtors natural persons shall publish their legal notices and announcements through the National Bankruptcy Register - Section "Debtors - natural persons with liabilities outside business operation", held and published in electronic format at national level by the National Trade Register Office, through its special department.



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