

LAW ON BANKRUPTCY PROCEEDINGS

DRAFT JUNE 23, 2003

BANKRUPTCY LAW / INSOLVENCY LAW

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I GENERAL PROVISIONS

Scope of the Law

Article 1.

This law governs the manner and conditions of initiating and governing the bankruptcy proceedings.

Bankruptcy proceedings, according to this law, include liquidation and reorganization.

Liquidation comprehends creditors' satisfaction through the sale of debtor's whole assets.

Reorganization comprehends creditors satisfaction accomplished in the manner and under the conditions contained in the plan of reorganization.

Insolvency

Article 2.

Bankruptcy proceedings or reorganization are conducted against a bankruptcy debtor that is not able to pay his debts.

The bankruptcy debtor is considered to be unable to pay his debts when:

- 1) it cannot respond to its obligations within 45 days from the time when they became due;
- 2) if it has stopped all payments during a continuous 30 day period, or
- 3) if the debtor shows that it is probable that it will not be able to pay existing obligations when they become due.

Presumption of Insolvency

Article 3.

Where court or tax execution proceedings have been attempted by the petitioning creditor without success, the preliminary bankruptcy proceedings shall not be conducted, insolvency shall be presumed to have been conclusively proven and the bankruptcy proceedings shall be opened immediately.

Special proceedings

Article 4.

Bankruptcy proceedings shall be started but shall not be conducted if the debtor has only one creditor.

Bankruptcy proceedings shall be started but shall not be conducted if the value of the debtor's property is lower than the expenses of the bankruptcy proceedings, in which case the proceeding shall be immediately suspended.

Exceptionally, the court shall conduct the bankruptcy proceedings from paragraph 2 of this Article on the creditor's requests, if the creditor is willing to deposit funds with competent body to cover the expenses of the bankruptcy proceeding.

Conflict of Law and Applicability of Provisions of the Law on Civil Proceedings

Article 5.

The provisions of the Law regulating civil proceedings shall be accordingly applied in the bankruptcy proceedings unless differently stipulated by this Law.

Cases to which this Law shall not apply

Article 6.

This law shall not be applied to conduct bankruptcy of: The Union of Serbia and Montenegro, Republic of Serbia, units of territorial autonomy and local self government, the funds or insurance funds for pensioners, disabled persons, social security or health services that are exclusively or mostly financed from the federal budget or the budget of the republics, units of territorial autonomy or local self-government and National Bank of Serbia.

This law shall not apply on bankruptcy proceedings for banks and insurance companies except the provisions regulating areas that have not been regulated by a special law.

If the law stipulates exemption of a certain legal entity from the provisions on bankruptcy, the founders or members of this legal entity have solidarity liability for its obligations.

II JURISDICTION AND BODIES OF THE BANKRUPTCY PROCEEDINGS

Jurisdiction

In Rem Jurisdiction

Article 7.

Bankruptcy proceedings shall be conducted by the court determined by the law governing court jurisdiction.

Territorial Jurisdiction

Article 8.

Bankruptcy proceedings are conducted by the court with jurisdiction over the area where the debtor has its registered seat.

Bodies of Procedure

Types of Bodies

Article 9.

The bodies of the bankruptcy proceedings are the bankruptcy panel, bankruptcy judge, bankruptcy administrator, the creditors' assembly and the creditors committee.

The bankruptcy panel and bankruptcy judge from paragraph 1 of this Article are the bodies of bankruptcy proceedings of the court in charge.

Bodies of Bankruptcy Proceedings of the Court in Charge

Composition of the Bankruptcy Panel

Article 10.

The bankruptcy panel consists of three judges out of which one is the president of the panel.

A bankruptcy judge may not be a member of the bankruptcy panel.

Scope of Work of the Bankruptcy Panel

Article 11.

The bankruptcy panel:

- 1) issues the decision on the initiation of preliminary proceedings;
- 2) determines whether sufficient reason exist to open the bankruptcy case;
- 3) issues the decision to open the bankruptcy case
- 4) appoints and removes bankruptcy judge;
- 5) appoints and removes bankruptcy administrator;
- 6) rules on the complaints against decisions and conclusions of a bankruptcy judge;
- 7) decides on the complaints against the actions of a bankruptcy administrator;
- 8) issues authorization to the bankruptcy debtor-entrepreneur on singular management in accordance with conditions prescribed by law;
- 9) performs other activities stipulated by this law.

Bankruptcy Judge

Article 12.

The bankruptcy judge:

- (1) approves bankruptcy proceedings expenses before they are paid;
- (2) introduces the bankruptcy administrator to his duties;
- (3) determines the preliminary salary and compensation of the bankruptcy administrator;
- (4) approves the draft reorganization plan of the bankruptcy debtor;
- (5) approves the draft decision on the final distribution of the bankruptcy estate;
- (6) issues decisions and conducts other activities in matters that are not in the competence of the bankruptcy panel;
- (7) supervises the work of the bankruptcy administrator;
- (8) performs other activities stipulated by this law.

The bankruptcy administrator, the creditors committee and creditors may file a complaint to the bankruptcy panel against decisions and conclusions of the bankruptcy judge.

Bankruptcy Administrator

Appointment

Article 13.

The bankruptcy administrator is appointed by a decision to open the bankruptcy case.

The bankruptcy administrator may be appointed by a decision initiating the preliminary bankruptcy proceedings, if the bankruptcy panel has issued security measures against the bankruptcy debtor.

Conditions for Appointment

Article 14.

A person can be appointed to the position of a bankruptcy administrator if he/she possesses a license to practice as a bankruptcy administrator (in the further text: the license) and has a status of entrepreneur and three years of working experience, unless otherwise prescribed by this law.

A license may be issued to the person who holds a university degree and has passed the Bankruptcy Administrator Examination.

The license is issued and renewed by the Bankruptcy Supervisory Agency which organizes and conducts the examination from paragraph 2 of this Article. The Bankruptcy Supervisory Agency supervises the work of bankruptcy administrators and performs other activities in accordance with the law regulating the status, rights, obligations and other issues relevant to the business activity of the Bankruptcy Supervisory Agency.

The bankruptcy administrator may apply for a renewal of his/her license upon the elapse of period of three years from the date it has been issued if the bankruptcy administrator has diligently performed his duties in accordance with this law, as well as in accordance with national standards for administering the bankruptcy estate and the code of ethics.

The Bankruptcy Supervisory Agency could suspend the license before the period from the paragraph 4. of this Article elapses if the bankruptcy administrator has not performed his duties in compliance with this law, national standards for administering the bankruptcy estate and the code of ethics.

If the license is not renewed or if it is has been suspended, the Bankruptcy Supervisory Agency is obliged to delete the name of the bankruptcy administrator from the Register of Bankruptcy Administrators as soon as the decision becomes effective.

A new license may not be issued to a bankruptcy administrator, whose license has been suspended for reasons specified in paragraph 5 of this Article in the next 5 years, starting on the day the decision on license removal became effective.

The Minister in charge of matters of economy passes the national standards for administering the bankruptcy estate and the code of ethics, upon the proposal by the Bankruptcy Supervisory Agency.

The bankruptcy panel shall appoint a specialized institution founded in accordance with a special regulation to the position of bankruptcy administrator for bankruptcy proceedings that are conducted against a majority socially-owned or majority state-owned legal entity. Persons employed by the special institution must hold the license from paragraph 1 of this Article.

The Minister in charge of matters of economy shall prescribe detailed conditions, program and the manner of taking the Bankruptcy Administrators Examination from paragraph 2 of this Article.

Limitations in Appointment

Article 15.

A person cannot be appointed to the position of a bankruptcy administrator if he/she:

- (1) has been convicted of a crime that makes him/her unsuitable for the position of a bankruptcy administrator;
- (2) is a lineal blood relative regardless of the degree of consanguinity, or collateral relative within the fourth degree, in-law within the second degree of affinity, or a spouse of any of the members of the bankruptcy panel, bankruptcy judge or the director of the bankruptcy debtor;
- (3) is jointly liable with the debtor for its obligations;
- (4) has been a member of the Managing Board or the Supervisory Board of the bankruptcy debtor within the past two years prior to initiation of the bankruptcy proceedings;
- (5) has been employed with the bankruptcy debtor within the past two years prior to initiation of the bankruptcy proceedings;

(6) is a creditor of the bankruptcy debtor or is employed by a creditor of the bankruptcy debtor;

(7) is a debtor of the bankruptcy debtor;

(8) is in competition with the bankruptcy debtor or employed by a competitor or has any other conflict of interests with the bankruptcy debtor;

(9) worked as an advisor of the bankruptcy debtor on issues related to the property of the bankruptcy debtor within the past two years prior to initiation of bankruptcy proceedings.

Legal Status

Article 16.

The bankruptcy administrator has rights and obligations of the management body or the owner of the bankruptcy debtor, unless differently stipulated by this law.

Scope of Work

Article 17.

The bankruptcy administrator's responsibilities especially include the following:

- 1) take all necessary steps to protect the property of the bankruptcy debtor, including placing distraint on transfer, sealing or seizing property where necessary;
- 2) with the consent of the bankruptcy judge, create a plan of the bankruptcy proceedings including the estimated expenses and a timetable, within 30 days of the date of his/her appointment;

- 3) commence the performance of a physical inventory of the property of the bankruptcy debtor within 10 days from the date he/she was appointed, and to complete the inventory within 30 days from the date of his/her appointment;
- 4) prepare an initial balance sheet of bankruptcy proceedings and the tax balance sheet, and to reconcile the opening and closing balance, in accordance with tax regulations, as well as to provide the tax authorities with the above balances accompanied with the tax report in due time;
- 5) without delay give notice of the bankruptcy proceeding to all the banks through which the bankruptcy debtor operates, in order to prevent the transfer of means and other transactions by the bankruptcy debtor without the prescribed approval;
- 6) to insure the property of the bankruptcy debtor in whole or partially, upon the agreement with the bankruptcy judge, if such measure is needed for protection of the debtor's property;
- 7) submits monthly reports on the development of the bankruptcy proceedings and the state of the bankruptcy estate;
- 8) operate the debtor's business with the care of good businessman, including the completion of unfinished projects or business in order to protect the creditors, or for the protection from damage of the property of the bankruptcy debtor;
- 9) with the consent of the bankruptcy judge, to employ the staff and supervise their work;
- 10) with the consent of the bankruptcy judge, ascertain the validity, extent and priority of claims presented by creditors, including any security interest;
- 11) sell the assets of the bankruptcy debtor in accordance with the procedures stipulated in this law;
- 12) prepare a draft main distribution of the bankruptcy estate and the draft of the final bankruptcy balance, with the consent of the bankruptcy judge;
- 13) distribute payments to creditors, on the basis of the decision on main distribution;

- 14) deliver final statement;
- 15) call creditor meetings, as appropriate;
- 16) represent the bankruptcy debtor in the course of initiating and handling administrative and other actions;
- 17) file a petition to appropriate bodies of executive and judicial branch of power of foreign countries as the officially authorized representative of the bankruptcy debtor's estate, requesting the distraint, seizure protection or return of the bankruptcy debtor's property located abroad;
- 18) issue notification regarding the bankruptcy proceedings to the appropriate bodies that maintain the registration of movable or immovable property, where obliged by this or other applicable law.
- 19) performs other duties in compliance with law.

The bankruptcy administrator may obtain unsecured credit or incur secured debt on otherwise unencumbered assets or rights only after notifying the bankruptcy judge and after obtaining the approval **consent** of the creditors committee.

The credit or debt from paragraph 2 of this Article is considered to be an expense of the bankruptcy proceeding.

Relations with Other Bodies of the Bankruptcy Proceedings

Article 18.

The bankruptcy administrator performs his/her general duties independently and in a diligent manner in accordance with this law.

The bankruptcy administrator may hire as experts the domestic or foreign natural or legal persons, to perform the business activity from his competence.

The actions undertaken by the bankruptcy administrator that have an impact on the bankruptcy estate, such as obtaining the credit or selling of the major part of the property (hereinafter: actions of crucial importance), could be done with notice to the bankruptcy judge and upon the consent of the creditors committee, or the consent of particular creditors affected by these actions, in compliance with this law.

If this law does not prescribe the specific procedure for obtaining the consent for actions of crucial importance, the bankruptcy administrator is required to make a written notice on the intended action to the bankruptcy judge, the creditor's committee and any directly affected creditors at least 10 days prior to taking the proposed action.

The creditor's committee, or any creditor affected by the actions from paragraph 3 of this article, may bring an objection to the bankruptcy judge who shall issue a ruling on the matter.

The bankruptcy administrator may at any time consult with the creditors committee or the court on the actions of crucial importance and other matters related to the bankruptcy proceedings.

In the case of disagreement between the bankruptcy administrator and the bankruptcy judge on some actions and issues, the bankruptcy administrator and the bankruptcy judge must immediately inform the bankruptcy panel thereof and the bankruptcy panel shall decide it.

The bankruptcy administrator must submit monthly written reports about the course of the bankruptcy proceedings and about the state of the bankruptcy estate to the creditors committee, creditors' assembly, bankruptcy panel, bankruptcy judge and the Agency from Article 14, paragraph 3 of this law. The bankruptcy administrator submits other reports upon the request of relevant bodies, and in the case of reorganization he/she shall, in addition to the monthly report, submit the financial reports, including balance sheet, profit and loss statement and cash flow balance.

The monthly report from paragraph 8 of this Article shall contain:

- 1) the list of sold, transferred, or otherwise given away property;
- 2) the list of cash expenses in the past month;
- 3) the saldo of the bank account with starting and final balance;
- 4) the list of appointed experts and their paid fees.

The bankruptcy administrator shall, after completing his/her work, submit the final balance to the bankruptcy judge and the creditor's committee.

The bankruptcy judge shall review the final balance of the bankruptcy administrator and indicate with his/her signature that it has been reviewed.

The bankruptcy administrator shall deliver the examined final balance from paragraph 10 of this Article to the creditors committee. The creditors committee may submit a complaint against the final balance to the bankruptcy panel.

Liability for Damages

Article 19

The individual acting as bankruptcy administrator has the status of an entrepreneur and is directly liable with his/her personal property for all damages caused to any of the participants in the bankruptcy proceeding, if the damages arose due to the malice or gross negligence.

If the damage was caused by the bankruptcy administrator's action performed according to instructions of the bankruptcy panel or bankruptcy judge, the bankruptcy administrator is not liable for the damage, unless such instructions were given on the basis of his/her unconscionable actions or suggestions.

The bankruptcy administrator is liable for damages caused by persons that he/she hired if the damages occurred due to his/her failure to supervise their work.

The request for indemnification is subject to limitation after a period of three years from the moment the damaged party found out about the damage, or three years after the decision ending the bankruptcy proceedings becomes final.

Removal

Article 20

The bankruptcy panel shall remove the bankruptcy administrator, if it determines that:

- 1) the bankruptcy administrator does not perform his duties,
- 2) he / she does not respect deadlines prescribed by this law,
- 3) he / she is biased,
- 4) after one year of the claims investigation hearing, he/she has not made satisfactory progress in selling the bankruptcy estate, unless the selling of the

bankruptcy estate was prevented by force majeure or other unpredictable circumstances;

- 5) he/she did not insure the bankruptcy estate (debtor's property) against possible damages even after two warnings of the bankruptcy judge or the creditors committee;
- 6) he did not ask for the consent or act in accordance with the consent given to him in all the cases where such consent is required by this law.

Before deciding on the removal, the bankruptcy panel shall give the bankruptcy administrator a chance to make a statement on reasons for his/her removal.

The suggestion for removal of the bankruptcy administrator could be made by bankruptcy panel and the creditor's committee.

The bankruptcy administrator may also be removed at his own request, if the circumstances from paragraph 1 of this Article did not occur.

Compensation and Reimbursement

Article 21

The bankruptcy administrator has a right to be compensated for his work and to be reimbursed for real expenses (hereinafter: compensation and reimbursement).

The final amount of the compensation and reimbursement shall be determined by the bankruptcy panel at the time of the closing of the bankruptcy proceedings, in accordance with the basis and criteria set by the Minister in charge of economy, taking into consideration the scope of work performed, value of the bankruptcy estate and the results achieved by the bankruptcy administrator.

Decision by which the bankruptcy judge determines the amount of the preliminary compensation and reimbursement to the bankruptcy administrator shall be delivered to the bankruptcy administrator and the creditor's committee. The creditor's committee and individual creditors can file an objection against the decision on the preliminary compensation and reimbursement to the bankruptcy administrator to the bankruptcy panel within eight days from the date of receipt of the decision.

During the bankruptcy proceedings prior to the final compensation and reimbursement, the bankruptcy administrator may request interim compensation and reimbursement in the form of an advance. The bankruptcy judge can allow that the payments to the bankruptcy administrator be made in advance, on a monthly basis, in proportion to the administrator's work and the results of his/ her work.

The amount of compensation and reimbursement shall be determined by decision of the bankruptcy judge.

The compensation from paragraph 4 of this Article may be determined in advance based upon a percentage of the overall value of the bankruptcy estate. If later during the proceeding it is shown that the advance is disproportionately high or low, on the proposal of the bankruptcy administrator or creditor's committee, the bankruptcy judge may decrease or increase defined percentage.

The reimbursement advance from paragraph 4 of this Article shall be based on the real amount of expenses that were incurred during the work of administrator.

Creditors' Assembly
Establishment and Work of Creditors' Assembly
Article 22

The creditors' assembly shall, at the latest, be formed at the initial creditors' hearing.

The creditors' assembly consists of all bankruptcy creditors.

Secured creditors may participate at the assembly only to the extent to which their unsecured claims allow them to act as bankruptcy creditors. The bankruptcy judge may estimate legal grounding and the amount of the unsecured claim for purposes of voting at the initial creditors' hearing.

The first creditors' assembly meeting shall be called upon the request of:

- 1) the bankruptcy administrator,
- 2) Bankruptcy creditors whose whole claims are higher than 20% of the amount of claims of all bankruptcy creditors.

The election of the president of the Assembly and the members of the creditors' committee shall be conducted at the first creditors' assembly meeting.

The president of Assembly shall schedule and give notice of assembly meetings and define the agendas upon the proposal by the bankruptcy creditors.

Bankruptcy creditors shall be given notice of the Assembly meetings and agendas by public announcement on the court's notice board or in the "Official Gazette of Republic of Serbia", unless otherwise agreed.

Voting at the creditor's assembly shall be in proportion with the amount of the claim.

Decisions at the Assembly shall be adopted with a majority vote of creditors present and voting except in the case specified in Article 23a, paragraph 5.

If there are no more than five creditors, the creditor's assembly shall have the position of the creditors committee.

Initial Creditors' Hearing

Article 23

If the first creditors' assembly meeting is held at the initial creditor's meeting called, it shall be scheduled by the bankruptcy judge within 3 days from the receipt of the preliminary balance and no later than 40 days from the case opening.

If the bankruptcy judge refuses to schedule the creditors' assembly within the time period specified in the paragraph 1 of this Article, he / she issues a decision thereon. The person who has submitted the request has a right to object to the bankruptcy panel against the bankruptcy judge's decision to refuse to call the creditor's hearing. If there are several requestors, each of them has a right to object.

The report on economic and financial status of the bankruptcy debtor shall be discussed at the meeting referred to in paragraph 1 of this Article as well as the administrator's estimation on the possibilities for reorganization.

Based on the report received, bankruptcy creditors shall discuss whether the bankruptcy proceedings should result in liquidation of the debtor or whether measures should be taken to submit the reorganization plan.

If, at this hearing, **bankruptcy** creditors who obviously hold 70% or more of the value of all claims vote for liquidation of the bankruptcy debtor, the bankruptcy panel shall issue a decision to commence the procedure of sale of the assets of the bankruptcy debtor.

Scope of work of the Assembly

Article 24

The creditors' assembly:

- 1) decides whether the bankruptcy case should be solved by continuing debtor's business activities and reorganization or by terminating business and commencing the liquidation of debtor consistent with the procedure in Article 23(5) of this law;
- 2) Elects and replaces the creditors committee;
- 3) Reviews the reports of the bankruptcy administrator about the course of the bankruptcy proceeding and the status of the bankruptcy estate;
- 4) Reviews the reports of the creditors committee;
- 5) Performs other actions stipulated by this law.

Creditors' Committee

Election of the Creditors Committee

Article 25

The creditors' assembly elects the creditors committee at the initial creditors' hearing.

The number of committees members shall be determined by the Assembly, but it can not exceed 9 members and shall always be an odd number.

Bankruptcy creditors may be members of creditors' committee, regardless of the amount of their claims. Persons employed by the bankruptcy debtor may not be elected as members of the creditors' committee.

Members of the creditors' committee shall elect the president of the committee.

The creditor's assembly or the bankruptcy panel may dismiss a creditors' committee member if he/she does not fulfill obligations stipulated in this law.

Where a member of the creditors committee resigns or is dismissed, the committee can name a new member for the period until the next Assembly meeting where a new member shall be elected.

Manner of Creditors Committee's decision-making

Article 26

The president of the committee manages the creditors committee and schedules its meetings.

The president of the committee must schedule a meeting of the committee if more than half of the committee members request this.

The creditors committee decides by the simple majority of votes of the present members. If there is a split vote, the vote of the committee president is decisive.

The bankruptcy administrator attends the meetings of the creditors committee, upon invitation by creditors committee. The administrator does not have the right to vote.

The bankruptcy judge may not attend these meetings.

A representative with a special authorization can attend the meetings and vote instead of the member of the creditors committee.

Scope of Work and Rights of the Creditors Committee

Article 27

The creditors committee:

- 1) gives its opinion to the bankruptcy administrator on the manner of selling the property, if the property will not be sold through the public

auction, and gives its consent on all important issues related to the status of property, like obtaining a credit, leading a litigation of higher value, giving a loan etc. in accordance with the procedure set forth in this law;

- 2) gives its opinion on continuation of the bankruptcy debtor's business operations;
- 3) reviews the reports of the bankruptcy administrator about the course of the bankruptcy proceedings and the status of the bankruptcy estate;
- 4) reviews and requires, at own cost, the delivery of copies of complete documentation;
- 5) informs the Assembly on its work, if requested;
- 6) Performs other activities stipulated in this law.

Creditors` Committee has the right to:

- 1) submit a complaint to the work of the bankruptcy administrator to the bankruptcy judge and to the bankruptcy panel; has the right to submit a complaint against the conclusions of the bankruptcy judge;
- 2) appeal against the decision of the bankruptcy judge and the bankruptcy panel, if the possibility to appeal is allowed;
- 3) review the court records, expert findings and all other documentation of the bankruptcy proceedings;
- 4) provide its opinion on approving justifiable losses that were encountered during the process of making the inventory;
- 5) propose the replacement of the bankruptcy administrator and appointment of a new one;
- 6) give an opinion about the amount of the compensation and expense reimbursement to the bankruptcy administrator;

Any complaints by the committee to the conclusions and actions of bankruptcy judge and bankruptcy administrator shall be submitted within

five days from discovery of the action or from the day that the president of the creditors committee was informed about the conclusion of the bankruptcy judge. The bankruptcy panel shall issue its ruling on the complaint within five days of the receipt of the complaint.

The creditors committee must, at the request of the creditors' assembly, submit a written report to the assembly about the course of the bankruptcy proceedings and the state of the bankruptcy estate.

The members of the creditors committee are liable for the damage they cause to other creditors on purpose or due to a gross negligence.

Compensation of Necessary Expenses

Article 28

The president and members of the creditors committee have a right to reimbursement of necessary expenses actually incurred, which are determined by the bankruptcy judge.

The compensation from paragraph (1) of this Article shall be considered as a part of the expenses of the bankruptcy proceedings.

Every creditor shall pay for its own expenses occurred in the bankruptcy proceeding, if not stipulated otherwise by this law.

III BASIC PROVISIONS ABOUT THE PROCEEDINGS, PARTIES AND PARTICIPANTS IN THE PROCEEDINGS

Basic Procedural Provisions

Procedural Rules

Article 29

The bankruptcy proceedings are initiated by a petition of the authorized person.

The bankruptcy proceedings are urgent.

The petitions, statements and complaints cannot be submitted after the passing of a prescribed deadline or if the party is not present at the court hearing at which these actions have to be taken, unless differently stipulated by this law.

The bankruptcy proceedings do not allow a possibility to request the restoration to the previous state or the possibility to request a retrial.

The important facts for conducting the bankruptcy proceedings are determined by the court *ex officio*.

Decisions can be passed without an oral argument.

Rulings in bankruptcy proceedings

Article 30

The rulings issued in the course of bankruptcy proceedings are decisions and conclusions.

The decision on the bankruptcy proceeding is made in the form of decision.

A conclusion serves as an order to the officials or bodies within the bankruptcy proceedings to perform certain activities.

Complaints

Article 31

A conclusion can be contested by a complaint, in accordance with this law.

The deadline for the complaint is five days from the day of issuing the conclusion and if the conclusion was not issued, five days from the delivery of written notice, unless differently stipulated by this law.

Decision on the complaint must be issued in five days from the day of receipt of the complaint.

The complaint shall not suspend the execution of the conclusion.

Appeal

Article 32

An appeal to a decision can be submitted to the bankruptcy panel, if it is stipulated by this law that the bankruptcy panel is an appellate body, or to court of second instance, unless differently stipulated by this law.

The deadline for appeal is eight days, unless differently stipulated by this law.

The time for appeal is calculated from the moment of posting the decision on the court's bulletin board or from the moment of publishing the decision in the "Official Gazette of Republic of Serbia", unless differently stipulated by this law.

The time for appeal starts from the day when the decision has been delivered if the law stipulates that the decision must be delivered to certain persons.

Decision on appeal has to be made within the term of 30 days from the day of the receipt of an appeal.

An appeal against a decision does not suspend its execution, unless differently stipulated by this law.

Parties and other Participants in the proceedings

Bankruptcy Debtor and application of the law

Article 33

According to this law, the debtor can be a legal entity and an entrepreneur.

Bankruptcy proceeding shall apply to public companies as well, unless differently stipulated by law.

Bankruptcy Creditor

Article 34

The bankruptcy creditor is a person that has an unsecured legal claim against the bankruptcy debtor at the moment of starting the bankruptcy.

The Rank of Bankruptcy Claim Satisfaction

Article 35

Bankruptcy creditors, depending on their claims, are classified into ranks. The creditors of lower rank can only be satisfied after the creditors of higher rank. The creditors of the same rank are satisfied in proportion to the amount of their claim.

The rank of bankruptcy claims is as follows:

- 1) The first rank of claims comprises claims based on expenses of the bankruptcy proceedings that include all claims considered to be expenses of the bankruptcy proceedings according to this law;
- 2) the second rank of claims comprises unpaid net salaries of employees of the bankruptcy debtor in the amount of the yearly minimum wage for the year before starting the bankruptcy proceedings, as well as unpaid contributions for pension and disability insurance for two years before starting the bankruptcy proceedings;
- 3) the third rank of claims comprises all public income claims which became due in the last three months before starting the bankruptcy proceedings, except contributions for pension and disability insurance of employees;
- 4) The fourth rank of claims comprises the claims of other bankruptcy creditors.

Being a Party

Article 36

The bankruptcy creditor officially becomes a party in the bankruptcy proceedings from the date when the bankruptcy court accepts his petition of claim.

The bankruptcy creditors are on the basis of their unpaid claims entitled to participate in the bankruptcy proceedings even before the claim submission, in accordance with provisions of this law.

Excluding Creditor

Article 19.

An excluding creditor is a person who, on the basis of his/her property right or personal right, has the right to request a certain asset to be excluded from the bankruptcy estate.

The excluding creditor is not a bankruptcy creditor.

The asset from the paragraph (1) of this Article is not a part of the bankruptcy estate.

If the debtor sold the asset from paragraph (1) without authorization, the excluding creditor has the same right as the bankruptcy creditor to ask for a proportional satisfaction of his claim that is equal to the market value of the asset.

Secured Creditor

Article 38

Creditors with security rights or rights to satisfy their claims from a specified assets or rights that are registered in registries or other public books are secured creditors.

Secured creditors shall be accorded their full rights to satisfaction from the asset or proceeds of the sale of the asset except that the realization of these rights can be temporarily postponed in accordance with provisions of the Articles 47 and 73 of this law.

Creditors with the right of retention of assets who have physical possession of the asset do not have to surrender the asset to the bankruptcy debtor until their secured claim is satisfied.

The creditors in paragraph (1) and (2) of this article are not bankruptcy creditors, but if the value of their claim is larger than the amount obtained by selling the asset or a right, they shall satisfy the remaining part of their claim as bankruptcy creditors.

Secured claims acquired through enforcement proceedings or creating a charge within 60 days before the day of starting bankruptcy proceedings for the purpose of enforcement or security shall cease to be valid.

The secured creditors have a right to proportional satisfaction from the bankruptcy estate as bankruptcy creditors if they decline their secured claims by a written statement to the bankruptcy judge and the bankruptcy administrator or if they cannot, through no fault of their own, satisfy their secured claim.

Third Parties

Article 39

Persons who are solidarity debtors, warrantors and similar, can participate in bankruptcy proceedings in the manner stipulated by this law.

The persons from paragraph (1) of this Article may as bankruptcy creditors request the return of the amount that they paid for the debtor, before or after starting the bankruptcy proceedings, if they have a claim for reimbursement against the debtor.

The persons from paragraph (1) of this Article can request that the amount they shall pay to the debtor is separated from the bankruptcy estate, in proportion to the amount they would be entitled to as bankruptcy creditors.

IV INITIATING THE BANKRUPTCY PROCEEDINGS AND PRELIMINARY PROCEEDINGS

The Petition for Initiating Bankruptcy Proceedings

Authorized Petitioners and their petitions

Article 40

The bankruptcy proceedings are initiated by the petition of the creditor or the bankruptcy debtor.

The creditor may initiate a bankruptcy proceeding if he can prove that the existence of his claim is probable and that the bankruptcy debtor's insolvency is likely to exist.

If a creditor initiates the bankruptcy proceeding, he/she shall submit documents that support the existence and the amount of his/her claim.

If a bankruptcy debtor initiates the bankruptcy proceeding, he/she shall submit the list of assets regardless of their location, the list of creditors including the amount and the legal basis of their claims and the names and addresses of the members of the company liable with their own property for the debtor's obligations.

The Public Attorney's office in charge has a right to submit a petition to initiate bankruptcy proceedings in the name of legal entities it represents according to law, and which are creditors.

The public prosecutor in charge may initiate bankruptcy proceedings if he can prove it is reasonably probable that the bankruptcy debtor is insolvent and there is probable cause that the insolvency is linked to committing a crime that has to be prosecuted *ex officio*.

Tax Administration may initiate the bankruptcy proceedings in accordance with the law.

The Form and Content of the Petition

Article 41

The petition is submitted to the court in charge in written form.

The petition includes:

- 1) Name of the court to which the petition is submitted;
- 2) Company name or name and address of the petitioner, or name and address of the person authorized to receive the papers and to represent the petitioner;
- 3) Company name or name of the bankruptcy debtor and the information about its contact address;
- 4) facts and accompanying documentation proving type, grounds, existence and amount of outstanding claim, if the petitioner is a creditor;
- 5) The list of documents attached to the petition.

Proceedings Based on Inaccurate and Incomplete Petitions

Article 42

If the petition does not include all elements stipulated by the law, the bankruptcy judge shall give a notice to the petitioner and instruct him/her to correct it and remove the deficiencies in the period of no more than eight days, within which period of time the petitioner is required to correct his petition and to remove the deficiencies.

If the petitioner does not act in accordance with the court order from paragraph (1) of this Article, the bankruptcy judge will reject his petition by its ruling in the form of decision.

In the case from paragraph (2) of this Article, the petitioner will bear the expenses of the proceedings.

Withdrawing the Petition

Article 43

The petition can be withdrawn until the notice on starting the bankruptcy proceedings is posted on the court's bulletin board, or until issuing of a decision to reject or to refuse the decision.

If the petitioner withdraws the petition, the bankruptcy panel shall suspend the proceedings and the petitioner will bear the expenses of the procedure.

Advance Payment for Expenses

Article 44

The petitioner must make an advance payment of court costs limited to the cost of publishing of notices and the interim (this word is not in the Serbian version) administrator's fees in an amount determined by the bankruptcy panel, within a time period of 10 days from the receipt of the court order.

If the petitioner within the stipulated time period does not make the advance payment from the paragraph (1) of this Article, the court will reject the petition.

If the Court determines that the petition is without proper grounds, and that conditions for initiating bankruptcy proceedings do not exist, all expenses that

already occurred shall be covered from the amount paid in advance according to paragraph (1) of this Article.

If the incurred expenses are higher than the amount of the advanced payment of costs from paragraph (1) of this Article, the petitioner whose petition was rejected shall be obliged to reimburse the difference in these two amounts within eight days from receiving the court order to pay. If the petitioner fails to pay additional costs within given deadline, the bankruptcy judge will decide to halt the proceedings and the petitioner shall be obliged to cover the costs of the procedure.

If the bankruptcy proceedings are started, the expenses of the procedure shall also include expenses of the preliminary bankruptcy proceedings.

Starting the preliminary Proceedings

Decision on Starting the Preliminary Proceedings

Article 45

The bankruptcy panel issues a decision on starting the procedure and appoints the bankruptcy judge within three days from the day of receipt of the petition. The preliminary proceedings are initiated for the purpose of determining the existence of grounds for opening the bankruptcy proceedings.

The decision to start the bankruptcy proceedings is not appealable.

The bankruptcy panel must issue a decision to open the bankruptcy proceedings without the preliminary proceedings if:

- 1) the bankruptcy debtor submits the petition for initiating the bankruptcy proceedings, accompanied with all required documents, or;
- 2) the bankruptcy creditor submits the petition for initiating the bankruptcy proceedings, and the bankruptcy debtor admits to the existence of reasons for bankruptcy, or;
- 3) There is a presumption of insolvency defined in Article 3. of this law.

The Obligation of the Bankruptcy Debtor to Submit the Necessary Data

Article 46

The authorized persons of the bankruptcy debtor, as well as the persons who perform the financial duties for the bankruptcy debtor, must submit all necessary data or information to the bodies of the bankruptcy proceedings, at their request and without delay.

The obligation stipulated in Paragraph (1) of this Article shall apply to the members of the Managing Board and the Supervisory Boards even after they lose their status by starting of the Bankruptcy Proceedings.

The bankruptcy judge can issue a non-appeal able decision instructing the debtor and the persons from paragraph (1) of this Article to, within a designated time period, submit a written report on the economic and financial status of the bankruptcy debtor.

The persons from paragraph (1) of this Article are liable for damages caused to the creditors by holding back the data or information or by holding back or incorrectly writing the report about the economic and financial status of the bankruptcy debtor.

Persons in paragraph (1) of this Article have criminal responsibility for giving out incorrect or incomplete data or information and for incorrectly presenting the data in the report on the financial and economic status of the bankruptcy debtor, as for committing perjury in front of a court.

Security Measures

Article 47

By the decision on starting preliminary bankruptcy proceedings, the bankruptcy panel will instate security measures until the start of the bankruptcy proceedings to prevent the changes in the status of bankruptcy debtor's property and/or destruction of business documentation, if there is a danger that the debtor will transfer its property or destroy business documentation.

The bankruptcy panel can impose one or several measures from paragraph (1) of this Article, such as:

- 1) appoint the interim bankruptcy administrator that will take over all or part of the authorities of the bankruptcy debtor;

- 2) ban all payments from the debtor's account without a prior consent of the bankruptcy judge;
- 3) ban transactions with the debtor's property or decide that the debtor can make such transactions only with a prior consent of the bankruptcy judge or the bankruptcy administrator;
- 4) ban or temporarily postpone the execution on the debtor's property including the seizure of secured property (moratorium);

If the decision banning the transactions from paragraph (2), item 3 of this Article is breached, the provisions of this law pertaining to breaching the ban of transactions after opening the bankruptcy proceedings shall be applied.

Suspension and modification of the Protection Measures

Article 48

Where security measures referred to in Article 47, paragraph 2 of this law are imposed or in case of prohibition on execution and enforcement of Article 73 of this law, the bankruptcy administrator or debtor shall adequately protect the secured property so as to maintain its condition and value unchanged.

Upon written request by a secured creditor, bankruptcy panel may suspend or condition the operation of the moratorium if:

- 1) the bankruptcy debtor or bankruptcy administrator has not adequately protected the secured property such that its physical safety is at risk;
- 2) the value is declining and there is no ability to otherwise provide adequate protection or substitute protection;
- 3) The value of the subject property is lower than the overall amount of the secured claims, if the subject property is not of a crucial importance for reorganization.

The bankruptcy panel must issue a ruling on the request from paragraph (2) of this Article within 20 days from the date of its submission. If the bankruptcy panel does not issue a ruling within the prescribed deadline, it is considered that the moratorium is temporarily suspended with regard to the requesting creditor

to the extent necessary to allow the creditor to exercise its rights in the secured property in compliance to the law.

The bankruptcy panel may, upon the proposal by a secured creditor, order the following measures, as substitute adequate protection:

- 1) Compensation by means of regular cash payments to the secured creditor equal to the decline in property value or compensation for actual or anticipated losses;
- 2) Exchange or allow the designation of additional secured property sufficient to compensate for the decline in property value or compensation for losses;
- 3) Delivery of proceeds generated from sale, use, alienation of the collateral to the secured creditor, to the extent of the secured claim;
- 4) Repair, maintenance, insurance coverage or special protection measures to protect the property;
- 5) Other protective or compensatory measures as the bankruptcy panel may order to protect the secured creditor's property value.

Publicity of Security Measures

Article 49

The decision instating a security measure from article 47, paragraph (2) of this law is publicized by being placed on the court's bulletin board and is delivered to the court or other body that maintains a register of legal entities or entrepreneurs, which must, without delay, register the instated measures.

If the decision from paragraph (1) of this Article instates the measure of banning the cash payments from accounts, the decision instating that measures is delivered to the financial institution or bank that makes payments for the bankruptcy debtor and to the court that conducts the execution procedure.

Provision of Public Utility Services

Article 50

Legal persons providing public utility services, including but not limited to electricity, natural gas, water, telephone, communication, and the like to the debtor may not cease providing these services based upon unpaid pre-petition debts.

The bankruptcy debtor or bankruptcy administrator must make payment on current utility services going forward from the petition date onward.

Upon the written request of the legal person from paragraph (1) of this Article, the bankruptcy judge may require the debtor to set aside a portion of the debtor's funds with the court to provide for payment of services provided after the bankruptcy petition was submitted. The size of the amount transferred to this account may not exceed one month's payment for utility services provided to the debtor by the corresponding company based upon the calendar month preceding the petition submission date.

Bankruptcy Administrator in the Preliminary proceedings

Article 51

The bankruptcy administrator appointed in the preliminary proceedings must fulfill the conditions necessary to be appointed to the position of a bankruptcy administrator.

If a security measure banning the transactions with the debtor's property was instated, the authority to make these transactions is transferred to the bankruptcy administrator who has a duty to preserve and maintain the property and continue to conduct the debtor's business, unless the bankruptcy panel orders an abeyance on operating the business.

Statement on Assumption of the Debt

Article 52

If the court decides to hold a hearing for statements about the petition prior to issuing the decision on initiating the preliminary proceedings, a statement on the assumption of the debt can be made at this hearing. The bankruptcy panel shall evaluate and verify the statement and ask for an adequate guarantee. It can postpone the hearing for this reason.

If it is proven that the statement on the assumption of the debt was made without sufficient funds or if a requested guarantee is not given within a designated period of time, the person that made the statement shall be liable for the caused damages and expenses of the procedure.

If the bankruptcy panel approves the assumption of the debt, the person the making the statement and his warrantors are jointly liable with the debtor for the debtor's obligations that exist at the moment of making the statement on the assumption of the debt.

The decision approving the assumption of the debt can be appealed by the petitioner and by the bankruptcy debtor.

When the decision approving assumption of the debt becomes final, the bankruptcy panel will issue a decision dismissing the bankruptcy proceedings.

If the court decides not to hold a special hearing for statements about the petition, the court shall decide on the statement on the assumption of the debt at the hearing on opening the bankruptcy proceeding before determining whether the conditions for opening exist, in accordance with Article 54 of this law.

Duration of the Preliminary Proceedings

Article 53

Preliminary proceedings cannot last longer than 30 days from the day when the court has received the petition on opening the bankruptcy proceedings from the authorized petitioner.

Bankruptcy administrator appointed for the preliminary bankruptcy proceedings shall submit the report on his work with analysis of economic and financial state of the bankruptcy debtor and working results achieved in the preliminary proceedings.

V OPENING THE BANKRUPTCY CASE

Preliminary Hearing

Hearing on Opening the Bankruptcy Case

Article 54

Where the court has commenced preliminary proceedings, the bankruptcy panel shall schedule a hearing for discussion whether the grounds for opening a bankruptcy exist to take place within 30 days of the receipt of the petition.

For instances where no preliminary proceedings have been commenced, the bankruptcy panel shall schedule a hearing for discussion whether the grounds for opening a bankruptcy exist to take place within 10 days of the receipt of the petition.

The petitioner, bankruptcy debtor and bankruptcy administrator if one was appointed in the preliminary proceedings shall be invited to this hearing.

The statement on assuming the debt can be examined at this hearing if the court did not decide on it in the preliminary proceedings.

Deciding to Open the Bankruptcy Case

Article 55

The bankruptcy panel decides on opening or rejecting the bankruptcy case proceedings at the hearing on opening the bankruptcy case or, no later than two days from the end of this hearing.

The bankruptcy panel makes a ruling from paragraph (1) of this Article in the form of a decision.

The decision rejecting the petition shall also determine who will bear the expenses of the preliminary procedure.

Decision on Opening the Bankruptcy Case

Content of the Decision

Article 56

The decision on opening the bankruptcy case shall contain the following:

- 1) name and official address of the court which has issued the decision on opening bankruptcy case;

- 2) company name and the registered seat of the bankruptcy debtor;
- 3) reason for bankruptcy;
- 4) decision on the appointment of a bankruptcy administrator, his/her name, surname, and address;
- 5) name, surname, and head office of the bankruptcy judge;
- 6) deadline for the submission of claims;
- 7) invitation to creditors to submit their secured claims;
- 8) Invitation to debtors of the bankruptcy debtor to fulfill their obligations toward the bankruptcy estate.

The deadline from paragraph (1) (6) of this Article cannot exceed 60 days from the day of publishing the announcement on opening the bankruptcy case.

The decision on opening of the bankruptcy case shall specify that notice of the opening of the bankruptcy case be entered in all applicable registries.

Delivery of the Decision and Publishing the Notice

Article 57

The decision on the opening of the bankruptcy case shall be delivered to the debtor, the authorized petitioner, the creditors known to the court, the financial institution or bank at which the debtor keeps his account, as well as to all applicable registries and other persons, if the court estimates that there is a need for such a service of the decision.

The announcement shall be published on the notice board of the court, in the "Official Gazette of the Republic of Serbia."

The announcement on the opening of the bankruptcy case shall contain the following:

- 1) name of the court that has passed the decision on opening the bankruptcy case;
- 2) excerpt from the decision on opening the bankruptcy cases;
- 3) company name and registered seat of the bankruptcy debtor;

- 4) reason for bankruptcy;
- 5) name and head office of the bankruptcy judge;
- 6) name and address of the bankruptcy administrator;
- 7) invitation to the creditors to submit their claims and the deadline for submission;
- 8) invitation to the debtors of the bankruptcy debtor to settle their claims;
- 9) date, time and place of the hearing intended for investigating the claims (investigating hearing) and review of financial reports;
- 10) date, time and place of the creditors` hearing;
- 11) Date of posting the notice on the bulletin board of the court.

Hearings after Opening the Bankruptcy Case

Scheduling the Investigating and Creditors` Hearings

Article 58

The decision on opening the bankruptcy case issued by the bankruptcy panel shall schedule a hearing for investigating the claims (hereinafter: investigating hearing) and the creditors` hearing.

The investigating hearing shall be held within the time period of 45 to 60 days from the final day of the term for submission of claims.

The creditors` hearing shall be held in accordance with Article 23 of this law.

Legal Effectiveness of Opening the Bankruptcy Case

Basic Rule

Article 59

The legal consequences of opening the bankruptcy proceedings shall take effect as of the day when the notice on opening the bankruptcy proceedings has been put up on the court`s bulletin board, if not stipulated otherwise by this law.

Consequences of the Opening of the Bankruptcy Case Pertaining to the Debtor

Transfer of Rights and Liabilities onto the Bankruptcy Administrator

Article 60

As of the day of the opening of the bankruptcy case the rights of the director or other business management authority, representative, or attorney, as well as the management body and supervisory bodies of the debtor shall cease and these rights shall be transferred onto the bankruptcy administrator.

If after the day of opening the bankruptcy cases, the debtor concludes a transaction conveying the assets or rights included in the bankruptcy estate, such transaction shall have no legal effect, unless it is entered into the public registry in which case the third part has a right to require a counteract from the bankruptcy estate as the bankruptcy creditor.

Opening bankruptcy proceedings shall terminate the powers of attorney issued by the debtor relating to the assets that are included in the bankruptcy estate.

Distribution of the Assets of a Legal Community

Article 61

The legal community, as comprehended by this law, is co-ownership, partnership, and the like, of the bankruptcy debtor with a third party.

If the bankruptcy debtor is in a legal community with a third party, the dissolution of the community shall be carried out by applying the rules of non-adversarial and execution proceedings, accordingly. The third party shall be entitled to separate settlement of its claim on account of the liabilities incurred in the legal community.

If the dissolution of the community under paragraph (1) of this Article has been prohibited for a definite or an indefinite period of time, the prohibition shall become legally ineffective as of the date of opening the bankruptcy proceedings.

Inheritance

Article 62

If the debtor has obtained an inheritance after opening bankruptcy case, the bankruptcy administrator is authorized to make the official statement accepting or rejecting the inheritance.

Labor Contracts

Article 63

The opening of the bankruptcy case is the cause for canceling the labor contracts between the debtor and its employees.

The bankruptcy administrator shall decide on canceling labor contracts from paragraph (1) of this Article and he/she shall inform the competent employment authority where the debtor's head office is situated of the termination of the labor contract.

The bankruptcy administrator may employ other employees, apart from keeping certain number of employees at work, in order to complete business that has been initiated, or when it is necessary to conducting bankruptcy proceedings. The bankruptcy administrator may act as described with the consent of the bankruptcy judge.

The earnings and other emoluments of persons from paragraph (3) of this Article are determined by the bankruptcy administrator upon the approval **consent** of the bankruptcy judge, and shall be settled from the bankruptcy estate, as the cost of the bankruptcy proceedings.

Company Name of the Bankruptcy e Debtor

Article 64

The designation "in bankruptcy" shall be added to the name (company name) of the bankruptcy debtor, at the moment of signing, indicating the new account through which the business of the debtor shall operate.

Accounts of the Bankruptcy Debtor

Article 65

Accounts of the debtor shall be closed and the rights of the persons who were authorized to dispose of the resources on the accounts of the bankruptcy debtor shall cease on the date of opening bankruptcy proceedings.

The financial institution or the bank effecting payment operations for the bankruptcy debtor shall open a new account at the request of the bankruptcy administrator, through which the debtor's business shall run.

The financial resources on the accounts of the bankruptcy debtor that have been closed shall be transferred onto a new account.

Consequences of Opening of the Bankruptcy Case Pertaining to the Claims

Claims of the Creditors

Article 66

Bankruptcy creditors may satisfy their claims against the debtor only through bankruptcy proceedings.

With opening of the bankruptcy proceedings, secured creditors may satisfy their claims only through bankruptcy proceedings.

Excluding creditors may satisfy their claims through any court proceedings.

Claims Becoming Due

Article 67

Creditors' claims in relation to the debtor that have not become due shall become due on the date of opening the bankruptcy case.

Conversion of Claims

Article 68

Non-monetary claims of the bankruptcy debtor that have not become due shall be considered as due and shall be included in the bankruptcy estate in monetary value.

Monetary and non-monetary claims against the bankruptcy debtor, whose subject are recurrent allocations, shall be transformed into one-off claims on the date of starting the bankruptcy proceedings.

Claims in foreign currency shall be included in the bankruptcy estate in that currency, but they shall be calculated in the diner counter value at the middle diner exchange rate determined by the National Bank of Serbia on the date of starting the bankruptcy proceedings.

Interest Computation, Cure of Default and Penalties

Article 69

The interest that has been accumulating on unsecured claims pursuant to the underlying contract upon which the claim is based shall cease to accumulate on the date of filing a petition initiating bankruptcy proceedings.

Accumulating of interest on secured claims shall be calculated based on the underlying contract and shall accumulate only up to the value of the collateral.

Regardless the prohibition to accumulate interest on unsecured claims after the submission of the petition initiating bankruptcy proceedings, the bankruptcy judge can approve calculation and payment of interests even after submission of a petition, if after the settlement of all other claims there are enough assets to do so.

The interest from paragraph (3) of this Article shall be calculated through legally prescribed interest rates.

Any provisions in the underlying contract or other agreement that invokes penalties, increased interest rates, or other financially punitive measure based solely upon the debtor's default, insolvency, or the commencement or opening of

bankruptcy proceedings are voidable for purposes of computation of the claim in bankruptcy.

The bankruptcy debtor or the bankruptcy administrator is entitled to restore contract or other agreement terms to their original pre-default or pre-bankruptcy state for purposes of performing the contract in a reorganization plan.

Statute of Limitations

Article 70

The statute of limitations shall be halted by filing claims against the debtor.

The statute of limitations applicable to the claims of the debtor against his debtors shall be suspended on the date of starting bankruptcy proceedings and it shall not run for a year counting from the date when bankruptcy proceedings started.

Conditional Claims

Article 71

The creditor whose claim is under a suspensive condition shall be provided with adequate funds from the bankruptcy estate.

If the suspensive condition does not arise until the decision on the main distribution of the bankruptcy estate has become final, the claims relating to the suspensive condition shall cease to exist, and the funds shall be distributed to the other creditors, in proportion to the value of their claims.

The claims under a resolutive condition shall be taken into account in distributing the bankruptcy estate if the creditor provides security guaranteeing that he will return what he has received from the bankruptcy estate as soon as the resolutive condition takes effect. If the resolutive condition does not emerge until the decision on the division of the bankruptcy estate becomes final, it shall be deemed that that condition has been cancelled.

Procedural Consequences of the Opening of the Bankruptcy Case

Taking Over Litigation

Article 72

Litigation over the assets included in the bankruptcy estate that existed on the day of opening bankruptcy proceedings shall be taken over by the bankruptcy administrator for and on behalf of the debtor.

Prohibition of Enforcement and Execution

Article 73

From the day of opening the bankruptcy case no execution proceeding or any other measure of enforcement may be applied against the debtor or the property of the bankruptcy estate for the purpose of settling the claims.

The acts under paragraph (1) of this Article that are in the process of execution shall stop.

Registration of the right to a separate settlement of the claims in public books and registries may be allowed and carried out also after the date of opening bankruptcy proceedings if the requirements for registration were met before opening bankruptcy proceedings.

The prohibition in paragraph (1) of this Article may be suspended or modified only under the circumstances and the procedures set forth in Article 48 of this law.

Consequences of the Opening of the Bankruptcy Case in Relation to the Legal Transactions

The Right of Making a Choice in the Case of Bilaterally Binding Contracts

Article 74

If the debtor and his counterpart did not fulfill a mutually binding contract in its entirety, the bankruptcy administrator may execute the contract instead of the debtor, and demand the other party to fulfill its obligations.

If the bankruptcy administrator chooses to cancel the contract the counterpart may satisfy his claims as a bankruptcy creditor.

If the counterpart demands from the bankruptcy administrator a decision on whether he intends to fulfill the contract the bankruptcy administrator must respond with his decision within eight days of receipt of the demand.

If the bankruptcy administrator confirms the enforcement of the contract but fails to fulfill his obligations in the course of bankruptcy proceedings, claims that arise from the failure to perform such contract shall have the priority of the first rank of payment, as the costs of the bankruptcy proceedings.

Financial Leases

Article 75

For financial leases where the lessee is subject of bankruptcy proceedings, the lessor is entitled to separate satisfaction, and has a priority right to the leased asset under this law.

However, the exercise of this right referred to in paragraph 1 of this Article is subject to the moratorium of Article 73 of this law.

The lessor of a financing lease may request the suspension or modification of the moratorium pursuant to article 48(3) of this law and/or adequate protection measures under article 48(4).

In the case of a liquidation under the bankruptcy law, the debtor/administrator is required to forfeit the leased asset to the lessor within 30 days from a written request to do so made after the decision to liquidate has been issued, unless the lessor agrees otherwise.

Upon failure to forfeit the leased asset pursuant to the time period specified in this article, the lessor may exercise its rights to possession and execution under the lease agreement and applicable non-bankruptcy law.

In the case of reorganization, the debtor/administrator is required to state his/its intention to continue the use of the leased asset within 8 days of a written request to do so.

Upon failure to make such timely notification or post-petition lease payments as required under the paragraph (6) of this Article, the lessor may exercise its rights to possession and execution under the lease agreement and applicable law.

Ordinary leases that are not financial leases, are treated as bilateral binding contracts under Article 74 of this law. For financial leases where the lessor is the subject of bankruptcy proceedings under this law, the provisions of Article 74 dealing with bilateral binding contracts shall apply.

Fixed Transactions

Article 76

If, under a fixed contract, the moment of fulfilling an obligation emerged after opening bankruptcy proceedings, the bankruptcy debtor's counterpart may not demand execution of the contract, but it may demand compensation on account of the default, as a bankruptcy creditor.

The compensation for the default consists of the difference between the stipulated and the market price valid for fixed contracts in the place of execution on the day of opening bankruptcy proceedings.

Application of the Rules to Other Transactions With a Stipulated Deadline

Article 77

The provision of Articles 74 - 76 of this Law shall be applied if the subject of the contract is services such as: delivery of securities, delivery of precious metals, monetary obligations in foreign currency and the like, and the stipulated time or the deadline for the execution of the contract have expired after bankruptcy proceedings have been started.

Orders and Offers

Article 78

An order issued by the debtor shall become ineffective on the date of opening of the bankruptcy cases, if not decided otherwise by the bankruptcy administrator.

Offers made to the debtor or offers made by the debtor shall cease to be valid on the day of opening of the bankruptcy case, if they have not been received by that day, unless the bankruptcy administrator decides otherwise.

Rental

Article 79

The rental of real estate shall not cease upon opening bankruptcy proceedings.

The bankruptcy debtor's counterpart may exercise the rights acquired before opening bankruptcy proceedings against the debtor only as a bankruptcy creditor.

The bankruptcy administrator may cancel the rental of real estate irrespective of the term of the rental stipulated by the law or the contract, with a 30 days cancellation notice. The amount of the claim for damages due to this cancellation shall be limited to a maximum amount of six month's lease payments.

However, the bankruptcy debtor's counterpart may not cancel the rental after the petition for opening bankruptcy proceedings has been filed, due to a delay in paying the rent or because of an aggravation of the debtor's financial situation.

Continued use by the bankruptcy debtor requires payment of current rent going forward. Such rent going forward is an administrative expense.

If bankruptcy proceedings have been initiated before the bankruptcy debtor has entered the real estate as a lessee, the bankruptcy administrator and the debtor's counterpart may desist from the rental contract.

Goods in Transit

Article 20.

The bankruptcy debtor's counterpart-seller, or his commission agent, to whom the price has not been paid in full, may request that the goods that have been forwarded to the bankruptcy debtor from another place, on the date of opening the bankruptcy case, without reaching the point of destination by that date, i.e. without the bankruptcy debtor taking them over, be returned to him, (the right to demand return).

If the bankruptcy debtor has taken over the goods that have arrived at the point of destination before opening the bankruptcy proceedings, only for the purpose of preserving them, the seller shall not be entitled to demand return, but may realize his rights as an excluding creditor according to the general rules.

VI BANKRUPTCY ESTATE

The Scope and Content of the Bankruptcy Estate

The Concept of the Bankruptcy Estate

Article 81

The bankruptcy estate comprises all assets of the bankruptcy debtor at home and abroad at the moment of opening bankruptcy case, as well as the assets acquired by the bankruptcy debtor during the bankruptcy proceedings.

Excluding Rights, Compensation for Excluding Rights

Article 82

If the excluding right is registered in a land registry or another public book or registry, the debtor shall be obligated to prove that the object, which is subject to such a right, is a part of the bankruptcy estate.

If an object which is subject to the excluding right has been illegally conveyed by the bankruptcy debtor prior to opening the bankruptcy case, the excluding creditor may request that the right to recover the illegal conveyance be transferred to him, if the recovery has not yet been completed. Otherwise, the excluding creditor may request compensation for damages as a bankruptcy creditor.

Costs of Bankruptcy Proceedings

Article 83

The costs of bankruptcy proceedings shall include: judicial costs, lease costs after the bankruptcy case is opened, compensation and expense reimbursement to the bankruptcy administrator, the interim bankruptcy administrator as well as other expenses specified by the law to be settled as costs of bankruptcy proceedings.

Administering the Assets and Rights

Taking Over the Bankruptcy estate

Article 84

After the opening of the bankruptcy case, the bankruptcy administrator shall take possession over all the assets included in the bankruptcy estate and administer them.

If the handover of the assets that are a part of the bankruptcy debtor's property has been refused, the bankruptcy administrator shall request from the bankruptcy court to conduct the compulsory execution based on the final decision on opening bankruptcy proceedings. Along with an order for handing over the objects, the bankruptcy court may order coercion measures against the debtor or third-party in possession of the objects to enable the enforcement.

If the assets of the debtor include cash, securities or valuables, the bankruptcy administrator shall decide on the manner of their preserving or investing with the consent of creditors' committee.

Inventory and Sealing

Article 85

The bankruptcy administrator shall prepare an inventory of the objects included in the bankruptcy estate, specifying their estimated value. If necessary, the bankruptcy administrator shall entrust the inventorying or valuation of the objects to an expert, with consent of the bankruptcy judge.

After taking over the bankruptcy estate, before or after making the inventory of the objects, depending on the circumstances, the bankruptcy administrator may request that the authorized officer of the bankruptcy court seal the premises in which the debtor's assets are situated.

The bankruptcy debtor shall inform the bankruptcy judge and the creditors committee about the sealing or the removal of the seal.

List of Creditors

Article 86

The bankruptcy administrator shall be obliged to make a list of all the bankruptcy debtor's creditors he is aware of from the books and business records of the debtor, other data, and the submitted claims.

A separate record shall be kept of secured and excluding creditors and employees of the debtor and their unpaid salaries.

A record of the following shall be included in the list, for each creditor:

- 1) company name or name and head office or residence with the contact address;
- 2) amount of the claim, specifying the amount of the principal debt and the accumulated interest;
- 3) legal basis for the claim;
- 4) specification of the assets subject to secured or excluding claim.

List of the Debtor's Debtors

Article 87

A bankruptcy administrator shall be obliged to make a list of the debtor's debtors, including the data stipulated in Article 86, paragraph 3, of this law.

Preliminary Review of the Assets and Liabilities of the Debtor and the Report on its Economic Status

Article 88

A bankruptcy administrator shall be obliged to make a preliminary balance within 30 days from the day of taking over the bankruptcy estate, in which he shall list and compare the debtor's assets and liabilities.

At the request of the administrator, the bankruptcy judge may permit an extension of the deadline stated in paragraph (1) of this Article, but not longer than an additional 10 days.

Bankruptcy administrator has a duty to submit the preliminary balance with the report on economic and financial status of the bankruptcy debtor and an estimation on the possibilities for reorganization to the court and the creditors committee, latest by the fifth day before the first creditor's hearing.

Business Records and Tax Liabilities

Article 89

After the opening of the bankruptcy case, the bankruptcy administrator or a person appointed by him shall keep the bankruptcy debtor's business records.

The time of opening of the bankruptcy case shall be considered as the beginning of a new business year.

The bankruptcy panel may appoint an auditor to evaluate the final balance or the preliminary balance.

VII VERIFICATION OF CLAIMS

Claims Submission

Article 90

Creditors shall submit their claims in writing to the bankruptcy court. The claim must particularly specify the following:

- (1) company name or name and head office or residence of the creditor with a contact address;
- (2) legal basis for the claim;
- (3) amount of the claim, specifying in particular the amount of the principal claim including the accumulated interest;
- (4) the collateral, if the claim is secured and the amount of the secured creditors' claim if his/her claim is not fully secured by the value of the collateral;
- (5) specific request of the creditor, in accordance with article 186 of the Law regulating civil proceedings.

Creditors with claims in foreign currency shall submit them in that currency.

If claims that are the subject of an ongoing litigation are concerned, the application for the claim shall include the name of the court where the litigation is being heard as well as the designation of the case file.

Solidary debtors and guarantors of the debtor may request, as bankruptcy creditors, that they be refunded the amount they have paid in favor of the debtor

after the date of opening bankruptcy proceedings, if they have the right of contribution to the debtor.

Excluding claims

Article 91

Excluding creditor shall submit the request for taking back his asset that is not included in the bankruptcy estate.

Bankruptcy administrator must inform the excluding creditor whether he will honor or refuse the request within the time period of 20 days from its receipt, and must specify the deadline within which the request shall be honored.

The deadline from paragraph (2) of this Article should not exceed 10 days from the notification of the intent to honor the request unless otherwise excused by the bankruptcy judge.

If the bankruptcy administrator refuses to exclude the assets from the bankruptcy estate, the creditor has a right to file the complaint to the bankruptcy panel within 5 days from the day when he was informed on administrator's refusal.

If the bankruptcy panel confirms the bankruptcy administrator's refusal the creditor can enforce his rights in other court proceedings.

The Procedure of Verifying the Claims and the List of Claims

Article 92

After the expiration of the deadline for the submission of claims, the court shall gather together all received claims and submit them simultaneously to the bankruptcy administrator.

Bankruptcy administrator determines the validity, the scope and the rank of payment of each claim and drafts the list of all verified and contested claims within the time period of 40 days from the day of receipt of the last claim from the court.

Bankruptcy administrator has a duty to publish the list of claims on the court billboard, or if the list is too long, to publish an announcement on the court

billboard informing on where the list can be found within the time period of five days from the expiration of the term set in paragraph (2) of this Article.

Bankruptcy administrator has a duty to secure personal delivery of this information to the creditors whose claims are contested. By the request of a creditor with a contested claim, the bankruptcy administrator has to review again the contested claim and any additional evidence provided together with the creditor who requested it, before making the final decision on verifying or contesting the claim.

If the bankruptcy administrator changes his decision after the repeated reviewing of the claim he has to correct the list from the paragraph (2) of this Article.

Hearing for the Purpose of Investigating Claims

Article 93

The final list of all submitted claims shall be made at the investigating hearing.

The bankruptcy administrator shall be invited to attend the investigating hearing. The bankruptcy debtor and creditors, as well as the persons who have performed jobs with the debtor and who can provide information about the existence and the amounts of the claims and auditors that reviewed the bankruptcy debtor's business operations may also be invited to attend the hearing.

The investigating hearing shall take place even if it is not attended by all creditors who have submitted their claims.

The creditors may contest the submitted claims of other creditors. If the creditors did not contest other claims by the prescribed deadline, they cannot contest them further during the proceedings.

Verified Claims

Article 94

A claim shall be considered verified if it is not contested within the 40-day period following the receipt of the last claim by the bankruptcy administrator or any of the bankruptcy creditors.

The bankruptcy judge shall accept the final table of claims, based on the list drafted by the bankruptcy administrator as amended at the hearing. The final table shall include information about each submitted claim regarding who has contested the claim and in what amount the claim was verified or contested.

Based on the table of claims, bankruptcy judge shall issue a conclusion on the claims list and a conclusion on the contested claims.

The conclusion on the list of claims shall be delivered to the bankruptcy administrator and each bankruptcy creditor, and it shall be also put on the bulletin board of the court.

The bankruptcy administrator or any bankruptcy creditor may file an objection regarding the decision from paragraph (4) of this Article. Bankruptcy creditor may file an objection on the bankruptcy judge's decision only with respect to his/her claim.

The objection from paragraph (5) of this Article is submitted to the bankruptcy panel

A final decision verifying the claim and its rank shall affect the bankruptcy debtor and all bankruptcy creditors.

The conclusion on the contested claim shall be delivered to the bankruptcy administrator and each bankruptcy creditor whose claim has been contested and who is directed to initiate a lawsuit and it shall be also put on the bulletin board of the court..

A bankruptcy creditor with a final court decision in his/her favor from a lawsuit to which he/she was directed, is entitled to request the appropriate corrections to be made in the table of claims.

Late Submissions

Article 95

The investigating hearing shall also investigate the claims submitted after the expiry of the deadline for claim submission, if they reach the court and the bankruptcy administrator before the investigating hearing or if they are submitted directly at the hearing.

If the bankruptcy administrator or any of the creditors makes an objection requesting that the claim which was submitted late is not investigated during the investigating hearing, or if the claim is submitted after the investigating hearing, the bankruptcy panel shall schedule an additional investigating hearing at the cost of the creditor that submitted his/her claim late.

Additional investigating hearings may not contest the claims established at an earlier investigating hearing.

The provisions of Articles 90 to 93 of this law shall be applied accordingly in the procedure of investigating the claims that were submitted late.

Contested Claims

Article 96

Creditor whose claim was contested shall be referred to initiate a lawsuit for verification of his/her claim. The lawsuit may be filed within eight days from the day of the receipt of the conclusion from Article 94 of this law.

A creditor who contests a claim by another creditor which has been previously acknowledged by the bankruptcy administrator, by another creditor is referred to initiate legal proceedings in accordance with paragraph 1 of this Article. The contested claim shall be considered effective if the contesting creditor fails to initiate legal proceedings within deadline prescribed by law.

The creditor who has started a litigation or another kind of legal proceedings in terms of paragraph (1) of this Article, shall be obliged to inform thereof the bankruptcy panel.

If the creditor from paragraph (1) fails to do so, he shall be liable for the costs and the damage caused by the default.

Instead of initiating the proceedings from paragraph (1) of this Article, the creditor can, within eight days from the receipt of the conclusion from Article 94 of this law, file the proposal to the bankruptcy judge to act as an arbiter in deciding on the contested claim, or to form the arbitration panel, depending on the amount of the claim.

The proposal from paragraph (5) of this Article contains the statement by the creditor that he wants the bankruptcy judge as an arbiter or an arbitration panel to decide on his claim. It also contains the facts that are basis for his request and evidence related to his/her claim.

If the bankruptcy administrator or bankruptcy debtor agrees with the request of the creditor, the bankruptcy judge shall decide as an individual or in an arbitration panel consisting of three arbitration judges with the bankruptcy judge presiding, depending on the amount of the claim. The members of the arbitration panel are chosen by the parties in the following manner: One by the creditor, one by the bankruptcy debtor, and the remaining member being the bankruptcy judge who presides over the panel.

Arbitration proceedings shall be conducted in accordance with the provisions of the Law regulating the civil proceedings.

An unsatisfied party has the right to appeal against the decision of the bankruptcy judge acting as an arbitration judge or the arbitration panel to the court of the second instance, within eight days from the date delivery of decision.

If the decision of the arbitrator or the arbitration panel is overturned on appeal, the case shall be returned to the arbitration judge or the arbitration panel.

Proceedings Regarding Contested Claims

Article 97

If a litigation regarding a claim is ongoing on at the moment of opening of the bankruptcy case, the bankruptcy administrator shall take over the litigation in the state it is in at the moment of opening the bankruptcy proceedings.

If the litigation from paragraph (1) of this Article has not been conducted before the bankruptcy court, the court shall halt the proceeding and upon filing of a petition for continuation of proceeding, it shall proclaim that it is not competent, and the case shall be reassigned to the bankruptcy court. No appeals shall be allowed against the decision on reassigning the case.

A legally effective decision on a contested claim is binding for the bankruptcy debtor and all the creditors of the bankruptcy debtor.

VIII CONTESTING DEBTOR'S LEGAL ACTIONS

General conditions

Article 98

Legal transactions and other actions entered into or taken before opening the bankruptcy proceedings that are interfering with equal settlement of bankruptcy creditors, or damaging the creditors, as well as transactions and actions putting some creditors in a more favorable position over the others (hereinafter: favoring creditors) may be contested by the bankruptcy administrator, on behalf of the debtors, and the creditors, according to the provisions of this Law.

In the context of contesting, the failure to enter into a legal transaction, or failure to take an action shall be contested in the same manner as the act of entering into a legal transaction or taking an action.

Legal transactions and legal actions for which there is an executive title or that were taken during the enforcement procedure may also be contested. If the contestation is adopted, the executive title shall cease to have effect on the creditors of the bankruptcy debtor.

Contesting can be performed from the day of opening bankruptcy proceedings until the day when the hearing on the main distribution of the bankruptcy estate is held.

Regular Settlement

Article 99

Legal transaction or another action taken within three months before filing the petition initiating bankruptcy proceedings, providing security or settlement to a creditor in the manner and at the time in accordance with the substance of his right (hereinafter: regular settlement), may be contested if the bankruptcy debtor was insolvent at the time of taking this action, and the creditor knew or had to know of its insolvency.

A legal transaction or another action leading to regular settlement may be contested even when taken after submitting the petition to initiate bankruptcy proceedings, if the creditor knew or had to know that the debtor was insolvent or if he/she knew that the petition to initiate bankruptcy proceedings was submitted.

It shall be deemed that the creditor knew or had to know of debtor's insolvency or of the petition for initiating bankruptcy proceedings, if he was aware of the circumstances undoubtedly leading to the conclusion that insolvency occurred, namely that the petition was submitted to initiate bankruptcy proceedings.

Irregular settlement

Article 100

Legal transaction or action providing security or settlement for one creditor which he was not entitled to request, or was entitled to request but not in the manner and at the time when it was provided may be contested if it was provided within 6 month before submitting the petition or initiating the bankruptcy proceeding.

Direct Damage to Bankruptcy Creditors

Article 101

A legal transaction of the bankruptcy debtor directly damaging the creditors may be contested if:

- 1) it was entered into within three months before opening the bankruptcy proceedings, if the bankruptcy debtor was insolvent at the time and the counterpart knew of its insolvency ;
- 2) if the transaction was concluded after submitting the petition for initiating bankruptcy proceeding, if the bankruptcy debtor's counterpart knew or had to know that the bankruptcy debtor was insolvent or that the petition for starting the bankruptcy proceedings was submitted.
- 3) if the debtor's action shall cause it to lose some of its rights or if failing to act by the debtor will result in the inability to realize that right.

Intentionally Damaging Creditors

Article 102

Legal transaction or action, entered into or taken with the intent to damage one or more creditors within five years before submitting the petition for initiating bankruptcy proceedings or after that, may be contested if the bankruptcy debtor's counterpart knew of the bankruptcy debtor's intent. Knowing about intent is presumed if bankruptcy debtor's counterpart knew there was a threat of insolvency against the bankruptcy debtor and that the action would damage the bankruptcy creditors.

Transactions and Actions Without or at a Negligible Compensation

Article 103

Legal transaction and action of the bankruptcy debtor without compensation or at a negligible compensation may be contested if it was concluded or taken within two years before submitting the petition for initiating bankruptcy proceedings.

Impossibility to Contest

Article 104

No legal transactions entered into or actions taken may be contested if this was done to:

- 1) execute an approved plan of bankruptcy debtor's reorganization that was started after starting the bankruptcy proceedings;
- 2) continue business operations, after starting the bankruptcy proceedings;
- 3) make payments from bills of exchange or checks if the other party has to receive the payment to prevent losing the right to contribution against other persons with obligations from bills of exchange or checks.

Deadlines

Article 105

Reach-back deadlines which refer to such legal actions by the bankruptcy administrator that may be contested with a claim shall be calculated from the beginning of the day in the month which corresponds in number to the date of submitting the petition to initiate bankruptcy proceedings. If such a date does not exist, the deadline shall be calculated from the last date of that month.

It shall be deemed that a legal transaction was entered into when conditions were met for its validity, and if the validity requires an entry into the land registry or registry of sailing vessels, aircraft or patents, or another public book or registry, when a certified statement of will for entry was given and when the filing for registration was submitted to the authorized body.

Contestation

Article 106

Legal transaction or action of the bankruptcy debtor is contested by filing a claim initiating litigation.

Legal transaction or action of the bankruptcy debtor may be contested by a counterclaim or objection in the litigation, in which case the deadline stipulated in Article 98, paragraph (4) of this law shall not be applied.

Parties in the Contestation Proceedings

Article 107

The plaintiff may be the creditor and the bankruptcy administrator, on behalf and for the account of bankruptcy debtor.

The claim is instituted against the individuals with whom a legal transaction was entered into or against whom the action was taken (hereinafter: contestation opponent) and against the bankruptcy debtor, except if the bankruptcy administrator did not file a claim on his behalf.

The claim contesting a legal transaction or a legal action may be instituted against the inheritor or other legal successor of the contestation opponent.

The claim may also be filed against other legal successors of the contestation opponent if:

- 1) the legal successor was aware of the facts that constitute the basis for contesting legal transactions or actions of his predecessor and

- 2) If the legal successor got the contested acquisition without compensation or at a negligible compensation.

Effects of Contestation

Article 108

If the claim contesting a legal transaction or other legal action is duly honored, the contested legal transaction or action shall have no effect on the bankruptcy estate and the contestation opponent shall be obliged to return all assets acquired from the contested transaction or other action to the bankruptcy estate.

Having returned the assets referred to in paragraph (1) of this Article, the contestation opponent shall realize his counterclaim as a bankruptcy creditor.

IX CONVERSION INTO CASH AND DISTRIBUTION OF THE BANKRUPTCY ESTATE, SETTLEMENT AND CONCLUSION OF BANKRUPTCY PROCEEDINGS

Converting the Bankruptcy Estate into Cash *Decision on Liquidation and Conversion into Cash*

Article 109

A conclusion on converting the bankruptcy estate into cash shall be issued by the bankruptcy judge where:

- 1) The bankruptcy debtor expresses no intention to reorganize or self-liquidate;
- 2) At the initial creditors hearing the appropriate percentage of creditors voted in favor of liquidating the debtor in accordance with article 23(5) of this law;
- 3) The bankruptcy debtor fails to cooperate with the administrator, or the creditors committee in responding to requests for data and information in accordance with this law
- 4) The debtor fails to follow the orders of the bankruptcy judge or bankruptcy panel;

- 5) No reorganization plan is submitted within the prescribed time limit;
- 6) No reorganization plan is confirmed at the time of hearing.

The bankruptcy administrator and the creditors committee may file a complaint against this conclusion within the term from Article 31 of this law.

If a conclusion was issued to convert the bankruptcy estate into cash, the bankruptcy administrator should suspend the bankruptcy debtor's operations and the bankruptcy administrator must start conversion into cash without delay.

The Manner of Conversion into Cash

Article 110

After the bankruptcy judge has issued a conclusion on the sale of all or part of the property, sale shall be conducted by the bankruptcy administrator or the person he will authorize and supervise.

The assets shall be sold at a public auction or by public collection of offers or through a direct agreement in accordance with the provisions of this law.

If the sale is conducted through public collection of offers, the bankruptcy administrator must announce the sale in at least three daily newspapers with high circulation, no less than 30 days from the date determined for the delivery of offer.

The announcement should especially include: proposed terms and conditions, as well as the details on when and where potential buyers may view the property which is the subject of a sale.

The sale through direct agreement can be conducted only with prior approval of the creditors' committee.

The Procedure For Sale

Article 111.

Before the sale of the property the bankruptcy administrator is obliged to inform the bankruptcy debtor, the creditors' committee, all creditors with a secured claim on the property and any other person interested in the property, on his

intention to sell the assets, the sale plan, the manner of conversion into cash, as well as on sale deadlines.

The bankruptcy administrator shall issue the notification from paragraph (1) of this Article no less than 30 days prior to the proposed date of public auction, or no less than 15 days prior to the date of consummation of the sale by public collection of offers or by direct agreement.

If the property will be sold by public auction, the notification shall include:

- 1) place and address where the property is located;
- 2) detailed description of property with data on the functional operations of the property;
- 3) starting price and conditions of public auction.

In case of sale through public collection of offers or by direct agreement, the notification must include:

- 1) place and address where the property is located;
- 2) detailed description of property and its function;
- 3) estimation of property's value;
- 4) the procedure for solicitation of offers;
- 5) a summary of the offers received;
- 6) data on the proposed purchaser;
- 7) all relevant terms of the proposed sale including the price and the procedure for obtaining payment.

Where the asset to be sold is subject to one or more security interests, the secured creditor may, within 10 days of receipt of the notice on the planned sale, propose a method conversion into cash that would be more favorable.

The bankruptcy debtor and creditors may file a complaint to the proposed sale no later than 10 days in advance of the day of the proposed sale, auction or transfer where proper grounds to do so exist. The bankruptcy judge shall decide on the complaint. The complaint does not stay the sale, unless the bankruptcy judge decides otherwise.

Within 10 days after the auction is conducted, bankruptcy administrator must notify the bankruptcy judge, bankruptcy panel and creditors' committee of the sale, its conditions and the price achieved.

Creditors may file the complaint to the conducted sale where proper grounds to do so exist. The complaint shall not affect the sale, but shall have the effects to the

possible damage caused by the bankruptcy administrator during the procedure of the sale. The grounds for the complaint to the sale could be: fraud, biased actions of the bankruptcy administrator, inadequate notice given or any other reason showing that the bankruptcy administrator conducted the sale by damaging the bankruptcy estate. A mere assertion that the price achieved at an auction was too low is insufficient grounds for the complaint.

Where the property is unencumbered by security interests the proceeds of the sale shall enter into the bankruptcy estate and be distributed to the bankruptcy creditors according to the distribution provisions of this law.

Where the property sold is secured by one or more security interests, the direct costs of conducting the sale shall be settled first from the proceeds of the sale, and the remaining amount shall be paid to the secured creditors in the order of their priority. Payment to the secured creditors must take place within 3 days of the receipt of the proceeds by the administrator. Any amount remaining after satisfaction of the secured creditors shall enter into the bankruptcy estate and be distributed to the bankruptcy creditors according to the distribution provisions of this law.

At the moment when the buyer pays the purchase price, the buyer obtains the property free of any security interest (burden-free).

Precious metals, minerals, securities or other like assets normally bought and sold on regulated exchanges with disclosed market prices shall be sold at the quoted market price at the exchange or applicable market. If the precious metals, minerals, securities or other traded assets do not have quoted market prices on an exchange they shall be sold by direct agreement with the consent of the creditors' committee.

Selling the Debtor in Whole or Part

Article 112

With creditors' committee approval **consent**, the bankruptcy administrator may offer the whole bankruptcy debtor for sale as one legal entity or may offer the sale of individual plants or units.

Before the sale from paragraph (1) of this Article, bankruptcy administrator must determine in the prescribed manner the market value of the debtor by engaging appraisal experts.

Effects of Debtor's Sales

Article 113

After selling the bankruptcy debtor as a whole legal entity, the bankruptcy case against the bankruptcy debtor shall be suspended.

The money earned by selling the bankruptcy debtor becomes a part of the bankruptcy estate and bankruptcy case proceedings shall continue by satisfying bankruptcy creditors.

In the case where the bankruptcy debtor is sold as a whole legal entity, by plant or business unit secured creditors holding security interests on the assets sold shall still receive priority in distribution of proceeds from the sale in accordance with the priority they are entitled to under applicable law.

Neither the bankruptcy debtor, nor its buyer, is liable to the creditors for the claims against the debtor that arose before the bankruptcy proceedings.

The Sale of Perishable Goods

Article 114

Bankruptcy administrator shall sell the perishable good after giving notice to the bankruptcy judge on the intended sale.

If the bankruptcy judge does not notify the administrator on issuing a conclusion on the sale of perishable goods within 24 hours from the receipt of administrator notification, the administrator may conduct the sale.

In case of this sale bankruptcy administrator is not obliged to conduct the procedure from Article 111 of this law.

Distribution

General Rules

Article 115

The bankruptcy estate (distribution estate) shall be comprised of the bankruptcy debtor's cash on the day of the bankruptcy case opening, money earned from

continuing business operations, proceeds of selling the assets and rights of the debtor, as well as the payment of claims held by the bankruptcy debtor that were received during the course of the bankruptcy proceedings.

Distributions to bankruptcy creditors in full or partial satisfaction of their claims shall be conducted based upon the availability of cash for distribution.

Upon recommendation of the bankruptcy administrator, the bankruptcy panel decides whether to permit a partial distribution, depending on the cash inflow of the bankruptcy debtor.

Upon the concluding of bankruptcy proceedings bankruptcy judge shall issue the decision on the final distribution.

Draft of the Main Distribution

Article 116

Before the main distribution of the bankruptcy estate, the bankruptcy administrator must make a draft of the main distribution of the bankruptcy estate.

The draft from paragraph (1) of this Article shall include:

- 1) the final list of all claims from article 93 of this Law;
- 2) the amount of every claim;
- 3) the rank of payment of every claim;
- 4) the amount of the bankruptcy estate that will be distributed to creditors with the proposed percentage for the settlement of bankruptcy creditors

The bankruptcy administrator must deliver the draft of the main distribution to the creditors` committee. Creditors` committee must notify bankruptcy creditors that the draft of the main distribution is published at the court`s bulletin board or at the court`s notary office.

The draft of the main distribution shall be made available to the participants of the proceedings through the notary office of the bankruptcy court and the court's bulletin board.

Decision on the Main Distribution

Article 117

Fifteen days after the submission of the draft of the main distribution, the bankruptcy panel shall issue a decision on the main distribution, if the creditors' committee or any individual creditor has not raised an objection to the draft.

If the creditors committee or an individual creditor has objected to the draft of the main distribution, the bankruptcy panel shall hold a hearing to resolve the objection at which a decision on the main distribution shall be delivered.

The decision on the main distribution shall be published at the court's bulletin board and shall be delivered to the creditors' committee, the creditors who filed the complaint and the bankruptcy administrator.

The bankruptcy administrator and the creditors have a right to appeal against the decision on the main distribution.

The appeal from paragraph (4) of this Article is submitted to the court of the second instance within eight days from the date of delivery of the decision.

Contested Claims

Article 118

A creditor who was directed to resolve the dispute over its claim by means of separate litigation must submit evidence to the clerk of the court that he/she filed a claim or resumed previously initiated litigation, within 15 days of publishing the draft of the main distribution in the court's notary office.

If the conditions from paragraph (1) of this Article are fulfilled, the funds the creditor would receive if his claim was not contested will be separated from the estate, in a proportion determined in the decision about the main distribution, until the final decision on the litigation is passed.

Conditional Claims

Article 119

If the bankruptcy creditor's claim is under a resolutely condition, the claim will be taken into account if the creditor provides security that he will return the received funds should the resolutive condition be fulfilled.

If a bankruptcy creditor has a claim with a suspensive condition, he will receive a proportional amount of his claim if the condition is fulfilled before the hearing for main distribution.

Final and Subsequent Distribution

Article 120

The final distribution of the bankruptcy estate or satisfaction of the creditors shall be done after the decision on the main distribution becomes final.

Any subsequent distribution shall be carried out based upon availability of cash in the distribution estate.

Final Distribution

Article 121

The final distribution shall be conducted after the conversion of the entire or substantially all of the bankruptcy estate into cash, if the main distribution did not cover the entire estate.

Final distribution shall be conducted in the manner and under conditions prescribed for the main distribution.

Final Hearing

Article 122

The bankruptcy panel issues a decision scheduling the final hearing at which:

- 1) the final balance of the bankruptcy administrator is discussed;

- 2) the final compensation and reimbursement requests are discussed;
- 3) complaints against the final balance or compensation and reimbursement are made
- 4) parts of bankruptcy estate that were not distributed are decided upon and;
- 5) other issues of importance for the liquidation of the bankruptcy estate are decided upon.

The decision on the final hearing is publicized on the bulletin board of the court and is published in the "Official Gazette of Republic of Serbia".

Between announcing the invitation to the final hearing and holding the hearing a time period of not less than eight and not more than 30 days must pass.

When the bankruptcy proceedings have been concluded, the entrepreneur may be discharged of the remaining debt.

Submission of Separated Funds

Article 123

The bankruptcy administrator will, with the approval **consent** of the bankruptcy panel and on behalf of the interested parties, submit funds that were separated during the final distribution of the bankruptcy estate to the court.

Procedure Regarding the Remaining Parts of the Bankruptcy Estate

Article 124

If all claims of the bankruptcy creditors are fully satisfied in the course of the final distribution, the bankruptcy administrator will give the remaining part of the bankruptcy estate to the shareholders or owners.

If the remaining part of the bankruptcy estate is state or socially owned, it shall be distributed according to the Privatization Law.

Concluding the Bankruptcy Proceedings

Decision on Concluding the Bankruptcy Proceedings

Article 125

At the final hearing, the bankruptcy panel shall issue a decision on closing the bankruptcy proceedings.

The decision in paragraph (1) of this article is published in the "Official Gazette of Republic of Serbia" and it is delivered to the court or other authorized body that is in charge of the registry of legal entities or entrepreneurs whose bankruptcy was concluded.

Distribution After Concluding the Bankruptcy Proceedings

Article 126

The bankruptcy judge shall, at the request of the bankruptcy administrator or one of the creditors; order a distribution after concluding the bankruptcy proceedings, if after the procedure is ended:

1. assets that are a part of the bankruptcy estate are discovered;
2. conditions are fulfilled or it is discovered that conditions have been fulfilled for satisfying conditional claims.

The bankruptcy administrator and any of the creditors can appeal against the decision ordering a distribution after the end of the bankruptcy proceedings to the bankruptcy panel.

The decision ordering the distribution after concluding the bankruptcy proceedings shall be delivered to the bankruptcy administrator, who shall then convert the subsequently discovered assets into cash and distribute it according to the decision about the main distribution, including the creditors with a suspensive condition which was fulfilled.

The bankruptcy administrator will submit the additional final balance on conversion into cash and the distribution to the bankruptcy court.

X REORGANIZATION

Plan of Reorganization

Content of the Plan

Article 127.

The bankruptcy proceedings that include the reorganization shall be implemented according to the plan of reorganization that shall be formulated in a written form.

The plan of reorganization may be submitted at the same time that a petition is submitted, provided that other requirements of this Law have been complied with.

The plan of reorganization shall include:

- 1) A brief introduction generally describing the debtor's business activity and the circumstances leading to financial difficulty, of no more than one page in length;
- 2) A description of the method and means for accomplishing the plan, detailing what measures are intended to be taken and how the reorganization shall be accomplished;
- 3) A statement of what amount of money or property is proposed to be transferred for the full or partial satisfaction of claims by ranks, including secured and unsecured classes of creditors, as well as the procedure satisfaction of the claims and the timing for such payment;
- 4) A description of the procedure to be used for the sale of any assets, describing what assets are to be sold, whether with or without continuation of any pledge, as well as the intended use of any proceeds from such sales;
- 5) A statement of the time periods for completion of the plan, and statement of the time periods anticipated for the implementation of major components of the plan where possible;
- 6) A statement of who the management will be and what their compensation shall be;
- 7) A statement of what hired specialists are to be utilized and what their compensation shall be, as well as what the administrator's compensation shall be;
- 8) Annual financial reports for the preceding five years;
- 9) Financial projections including projected income statement, balance sheet and cash flow for the next five years;
- 10) An estimate of what amounts of money would be expected to be generated in a liquidation, if the company were liquidated;
- 11) The date that the plan shall come into effect.

Measures for implementation of Reorganization Plan

Article 128.

Measures taken to accomplish the reorganization may include:

- 1) Retention of all or part of the property of the bankruptcy estate;
- 2) Sale of property of the bankruptcy estate, with or without continuation of lien, pledge, or security interest; or transfer of the property in satisfaction of claims;
- 3) Closure of unprofitable operations or changing business activities;
- 4) Cancellation or reformulation of burdensome or unfavorable contracts or leases;
- 5) Deferment of debt payments, or providing for repayment by installments;
- 6) Modification of maturity dates, interest rates, or other terms of a loan or security instrument;
- 7) Full or partial debt forgiveness;
- 8) Satisfaction or modification of pledges, liens or security interests;
- 9) Conversion of unsecured loans into secured loans;
- 10) Pledge of unencumbered assets;
- 11) Conversion of debt to equity;
- 12) Obtaining new credit;
- 13) Obtaining new investment;
- 14) Challenge and invalidation of claims lacking in legal validity;
- 15) Curing of defaults;
- 16) Termination of employment;

- 17) Transfer of unencumbered assets in satisfaction of claims;
- 18) Amendments of the debtor's charter, by laws or other founding or governing documents;
- 19) Merger or consolidation with one or more entities;
- 20) Transfer of all or part of the property to one or more existing or newly formed entities;
- 21) Cancellation or issuance of new securities by the debtor, or of any new entity created;
- 22) Any other measures important for the realization of the reorganization plan.

Submission of the Plan and the Costs of Submission

Article 129.

A plan of reorganization may be submitted by the bankruptcy debtor, bankruptcy administrator, creditors holding at least 30% of the secured claims, creditors holding at least 30% of the unsecured claims, as well as persons owning at least 30% of the debtor's ownership interest

Expenses related to the formulation and submission of a plan of reorganization shall be covered by the proposing party. Expenses related to the formulation and submission of a plan of reorganization proposed by the bankruptcy administrator or bankruptcy debtor shall be covered at the expense of the estate.

Period for Plan Submission

Article 130.

A plan of reorganization must be submitted to the bankruptcy judge for approval **(neither consent nor approval in Serbian version - just "submitted to the bankruptcy judge")** no later than 90 days after the date of case opening.

The deadline from paragraph (1) of this Article may be extended by the bankruptcy judge, for an additional 30 days. Any further extension of the

deadline for the submission of the reorganization plan can only be approved upon the unanimous consent of the creditors' committee.

Hearing on the Plan of Reorganization

Article 131

Bankruptcy judge shall schedule a hearing for consideration of the plan and voting by the creditors within 20 days of the plan submission.

Notice of the scheduled hearing shall be given by the Court, or by the plan proponent in a manner approved by the Court, to the debtor, administrator, all creditors, and any other affected party no later than 10 days prior to the hearing. The plan of reorganization shall be delivered or made easily available to the administrator, the debtor, all the creditors known to the Court, and any owners no later than 10 days before the hearing.

The Court shall issue a public notice regarding the voting on the plan for publication in the «Official Gazette of Republic of Serbia». The public notice shall indicate the name of the bankruptcy debtor, the name of the party proposing the plan, the day and place of the hearing, and the procedure for voting.

Voting and Confirmation

Article 132.

All creditors are eligible to vote on plan confirmation in the amount of their claims. Where a claim has not yet been verified and is in dispute, the bankruptcy judge may estimate the claim for purposes of voting.

Where voting is done in the form of letter (in absentia), the legal persons must submit to the Court the ballot ratified by their seal, while natural persons and enterprises not having the status of legal persons must submit their ballots ratified by notary procedure.

Where more than one plan of reorganization has been submitted, then the voting on all submitted plans shall take place at the same hearing.

The voting shall be done according to the classes of creditors. The creditors' claims shall be divided into classes based upon secured and priority rights of the

claims. The bankruptcy judge may allow the formation of one or more additional classes, provided that--

- 1) real and substantial attributes or rights possessed by the claims such that the formation of a separate class is warranted; and,
- 2) all the claims within the proposed separate class are substantially similar, except for any convenience class pursuant to paragraph (5) of this Article.

A special class of claims may be established for administrative convenience where there are more than 200 claims the amount of which does not exceed 50.000 YUM, where the Court approves the establishment of such a class. Upon Court approval, such a class of convenience claims may receive expedited satisfaction where necessary to relieve the administrative burden that a large number of relatively small claims poses. These claims may be paid only when it is clear that there will be sufficient resources available for payment of all Priority and Senior claims.

Prior to the commencement of voting, the Court shall inform all in attendance at the hearing of the results of the votes received as a result of voting in absentia.

The plan shall be considered as accepted by the class of creditors, if creditors owning the simple majority in amount of the claims actually voting in that class vote in favor of its adoption.

A class whose claims are to be satisfied in full at the time of the effective date are deemed to have accepted the plan.

The plan shall be confirmed if all classes of creditors accept the plan and the plan otherwise complies with all other provisions of this law.

If more than one proposed plan is eligible by vote for confirmation at the same time, then the bankruptcy judge shall adopt the plan proposed by the debtor.

If the plan proponent fails to obtain the required votes or submits a plan that fails to otherwise satisfy requirements for confirmation or other provision of this law, the bankruptcy judge may grant the plan proponent an additional 30 days to submit a revised plan and shall schedule another hearing in accordance with this Law. Failure to obtain confirmation of the revised plan shall result in an order for commencement of the liquidation (sale of assets) by the administrator in accordance with this law.

A confirmed plan of reorganization may be amended under the same requirements and conditions that are prescribed for plan confirmation.

Legal Consequences of Confirmation

Article 133.

Upon confirmation of the plan, all claims and rights of the creditors and other interested parties and obligations of the debtor specified by the plan are reformulated and governed by the terms stated within the plan. A confirmed plan has the force of a court order and shall be considered a new contract for the satisfaction of claims presented therein.

The activities and operations of the bankruptcy debtor shall conform to, and comply with, the provisions of the confirmed plan.

The bankruptcy debtor is obligated to undertake all measures set forth within the confirmed plan.

The bankruptcy administrator shall monitor compliance with plan provisions and has the right to object and give notice of such non-compliance to the court.

Upon confirmation, the bankruptcy debtor is no longer required to display the designation "in bankruptcy" in its name.

Priority of the classes of creditors

Article 134.

In any plan of reorganization, no class lower in priority shall receive any distribution or retain any rights unless all higher ranking classes are either satisfied in full or have voted in favor of lesser treatment accorded within the plan.

Full Satisfaction.

Article 135.

A plan of reorganization may propose satisfaction to a class of claims that is greater in amount than the face value of the original claim as compensation for delay in payment with the aim of achieving an equivalent satisfaction.

A class higher in priority shall receive a distribution exceeding the full satisfaction of their claims only when all lower ranking classes of creditors are either satisfied in full or have voted in favor of such treatment under the plan.

Exemption from Certain Securities Laws

Article 136.

Any securities that are issued or canceled pursuant to the provisions of a confirmed plan of reorganization shall be exempt from the requirements of the securities laws governing the new issues of shares by the public offer.

Plan Completion

Article 137.

Upon successful completion of the plan whereby the bankruptcy debtor satisfies all obligations set forth in the plan, the equity holders of the company regain ownership rights to all the property of the estate as of that date.

Upon successful completion of the plan, whereby the bankruptcy debtor satisfies all obligations set forth in the plan, the creditors remaining unpaid claims are extinguished.

The sale of the socially-owned or state owned property of the bankruptcy debtor, in case of successful completion of the reorganization plan shall be conducted in accordance with the applicable laws governing the privatization.

Breach of a Confirmed Plan

Article 138.

Upon a failure by the bankruptcy debtor to abide by the provisions of a confirmed plan, any creditor or other affected party may submit to the Court a Notice of Breach of Confirmed Plan. The Court shall transmit a notice to the debtor and the administrator within five days of receipt of the submission, and schedule a hearing on the matter within 10 days of submission of the notice.

Upon a finding that the bankruptcy debtor has committed a breach of the plan provisions, the Court may:

- 1) issue an order directing the debtor act according to the confirmed plan and to cure the breach within a specified period of time;
- 2) order the bankruptcy administrator to assume control of the bankruptcy debtor enterprise;
- 3) issue an order converting the case to a liquidation ; or
- 4) issue any other order to remedy the breach consistent with this law serving the needs of the case.

Suspension of Reorganization Plan Implementation

Article 139

The bankruptcy judge shall issue an order for commencement of a liquidation in accordance with this Law, in the following cases:

- 1) upon a finding that the bankruptcy debtor has procured the confirmation of a plan of reorganization by fraud or in violation of law,
- 2) where the bankruptcy debtor fails to conform to the requirements of a confirmed plan and no satisfactory cure is proposed;
- 3) where the bankruptcy debtor fails to cooperate with the administrator or the creditors committee in responding to reasonable requests for information;
- 4) where the bankruptcy debtor fails to follow the orders of the bankruptcy judge or bankruptcy panel.

The bankruptcy judge is obliged to ask for the consent of the creditors committee prior to issuing the decision from paragraph (1) of this Article.

Singular Management of the Entrepreneur

Requirements for singular management

Article 140.

Bankruptcy panel may authorize the bankruptcy debtor-entrepreneur, which is an entrepreneur, or the debtors' management, by the decision on starting

bankruptcy proceedings to administer and convey the bankruptcy estate himself if:

- 1) the creditors that initiated the proceedings agree to this;
- 2) if the bankruptcy debtor proposes it;
- 3) if it is reasonably probable that deciding on singular management shall not hurt the interests of creditors or prolong bankruptcy proceedings.

If the bankruptcy proceedings were initiated by the public prosecutor, singular management is not possible.

At the request of the creditors committee, singular management shall be replaced by appointing a bankruptcy administrator.

Status of the Bankruptcy Administrator

Article 141

The decision on starting bankruptcy proceedings stipulating singular management of the bankruptcy debtor, shall appoint the bankruptcy administrator.

By the decision from paragraph (1) of this Article the bankruptcy panel shall determine business actions which require prior approval **consent** of the bankruptcy administrator to be valid.

The limitation from paragraph (2) of this Article shall not apply to conveyances governed by the general rules about relying on the public records.

The other contracting party shall have the right to request the return of counteraction out of the bankruptcy estate as a bankruptcy creditor in the case of breach the provision from paragraph (2) of this Article.

Obligation to Submit a Report

Article 142.

Bankruptcy debtor shall make an inventory of the assets of the bankruptcy estate, list of creditors, and a review of the assets as required by this law.

The bankruptcy administrator may inspect the inventory and creditor list at any time and inform the bankruptcy court by way of a written report whether it is correct and to which parts of the inventory the creditors should object.

Suspending Singular Management

Article 143.

The bankruptcy panel may suspend singular management at the proposal of:

- 1) The creditors committee;
- 2) The creditor that initiated the bankruptcy proceedings;
- 3) The bankruptcy debtor;
- 4) The bankruptcy administrator;
- 5) the bankruptcy judge.

Before issuing a decision suspending singular management, the bankruptcy panel shall examine the bankruptcy debtor.

An appeal may be submitted against the decision on suspension of proceedings.

The bankruptcy debtor, creditors committee, the creditor that initiated bankruptcy proceedings may appeal against the decision.

After issuing the decision suspending singular management, the bankruptcy administrator shall take over bankruptcy estate and carry out all actions stipulated by this law.

Consistent Application of the Provisions of this Law

Article 144.

Provisions of this Law shall be applied to bankruptcy proceedings with singular management.

Provisions of this Law defining bankruptcy proceedings shall apply to proceedings for the termination of commercial entities, unless the Company Law provides the opposite rules.

The provisions of this Law regulating reorganization proceedings, creditors' assembly, creditors committee, secured creditors, contesting debtor's legal

actions and hearing on main distribution shall not apply to the proceedings from the paragraph (2) of this Article.

XI SMALL VALUE BANKRUPTCY

Special rules of the proceedings

Article 145.

Bankruptcy proceedings of a small value are conducted if the value of the bankruptcy debtor's property is smaller than YUM 5.000.000.

In the case of small value bankruptcy, the proceedings shall be conducted and decisions shall be issued by a bankruptcy judge.

Creditors committee shall not be formed in bankruptcy proceedings of small value.

XII INTERNATIONAL BANKRUPTCY

International bankruptcy

Article 146.

This Law applies where:

- (1) Assistance is sought by a foreign court or a foreign representative in connection with a foreign proceeding; or
- (2) Assistance is sought by a foreign State in connection with a proceeding in accordance with this Law; or
- (3) A foreign proceeding and a proceeding in accordance with this Law in respect of the same debtor are taking place concurrently; or
- (4) Creditors or other interested persons in a foreign State have an interest in requesting the commencement of, or participating in, a proceeding under the provisions of this Law.

Definitions

Article 147.

For the purposes of this Law:

- 1) "Foreign proceeding" means a judicial or administrative proceeding in a foreign State, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;
- 2) "Foreign main proceeding" means a foreign proceeding taking place in the State where the debtor has the centre of its main interests;
- 3) "Foreign non-main proceeding" means a foreign proceeding, taking place in a State where the debtor has an establishment;
- 4) "Foreign representative" means a person or body, including one appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding;
- 5) "Foreign court" means a judicial or other authority competent to control or supervise a foreign proceeding;
- 6) "Establishment" means any place of operations where the debtor carries out a non-transitory economic activity with human means and goods or services.

Relevant Law

Article 148.

Unless otherwise stipulated herewith, the law of the State where the proceedings were initiated shall govern the bankruptcy proceedings.

If the assets subject to excluding rights or secured assets are located at the territory of the State requesting recognition of foreign decision on initiating the bankruptcy proceedings, the law of the requesting country applies.

The law governing labor contracts shall apply to effects of bankruptcy proceedings on labor contracts.

International obligations of the Republic of Serbia

Article 149.

To the extent that this Law conflicts with an obligation of the Republic of Serbia arising out of any treaty or other form of agreement to which it is a party with one or more other States, the requirements of the treaty or agreement prevail.

Jurisdiction of the court

Article 150

The functions referred to in this Law relating to recognition of foreign proceedings and cooperation with foreign courts shall be performed in accordance with the law by the court that has the jurisdiction.

Authorization of the bankruptcy administrator to act in a foreign State

Article 151.

A bankruptcy administrator is authorized to act in a foreign State on behalf of a proceeding under this Law, if permitted by the applicable foreign law.

Public policy exception

Article 152.

Nothing in this Law prevents the court from refusing to take an action governed by this Law if the action would be manifestly contrary to the public policy of the Republic of Serbia.

Additional assistance under other laws

Article 153.

Nothing in this Law limits the power of a court or a bankruptcy administrator to provide additional assistance to a foreign representative under other laws of this State.

Interpretation

Article 154.

Regulations of the bankruptcy with the foreign element shall be interpreted according to the international standards, in order to unify the implementation.

Right of direct access

Article 155

A foreign representative is entitled to apply directly to a court in this State.

Jurisdiction in case of application by a foreign representative

Article 156

The sole fact that an application pursuant to this Law is made to a court in this State by a foreign representative does not subject the foreign representative or the foreign assets and affairs of the debtor to the jurisdiction of the courts of this State for any purpose other than the application.

Application by a foreign representative to commence a proceeding under this Law

Article 157.

A foreign representative is entitled to apply to commence a proceeding under the provisions of this Law.

Participation of a foreign representative in a proceeding under this Law

Article 158.

Upon recognition of a foreign proceeding, the foreign representative is entitled to participate in a proceeding regarding the debtor under this Law.

Participation of foreign creditors in a proceeding under this Law

Article 159.

Foreign creditors have the same rights regarding the commencement of, and participation in, a proceeding under this Law as creditors in the Republic of Serbia.

Notification to foreign creditors of a proceeding under this Law

Article 160.

Whenever under this Law notification is to be given to creditors in the Republic of Serbia, such notification shall also be given to the known creditors that do not have addresses in the Republic of Serbia. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

Such notification shall be made to the foreign creditors individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letters rogatory or other, similar formality is required.

When a notification of commencement of a proceeding is to be given to foreign creditors, the notification shall:

- (1) Indicate a reasonable time period for filing claims and specify the place for their filing;
- (2) Indicate whether secured creditors need to file their secured claims; and
- (3) Contain any other information required to be included in such a notification to creditors pursuant to the law of this State and the orders of the court.

Application for recognition of a foreign proceeding

Article 161

A foreign representative may apply to the court for recognition of the foreign proceeding in which the foreign representative has been appointed.

An application for recognition shall be accompanied by:

- 1) A certified copy of the decision commencing the foreign proceeding and appointing the foreign representative; or
- 2) A certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or
- 3) In the absence of evidence referred to in subparagraphs (a) and (b), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.

An application for recognition shall also be accompanied by a statement identifying all foreign proceedings in respect of the debtor that are known to the foreign representative.

The court may require a translation of documents supplied in support of the application for recognition into an official language of this State.

Presumptions concerning recognition

Article 162.

If the decision or certificate referred to in paragraph 2 of article 161. indicates that the foreign proceeding is a proceeding within the meaning of subparagraph (1) of article 147. and that the foreign representative is a person or body within the meaning of subparagraph (4) of article 147, the court is entitled to so presume.

The court is entitled to presume that documents submitted in support of the application for recognition are authentic, whether or not they have been legalized.

In the absence of proof to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the centre of the debtor's main interests.

Decision to recognize a foreign proceeding

Article 163.

Subject to article 162, a foreign proceeding shall be recognized if:

- (1) The foreign proceeding is a proceeding within the meaning of subparagraph (1) of article 147 of this Law;
- (2) The foreign representative applying for recognition is a person or body within the meaning of subparagraph (4) of article 147;
- (3) The application meets the requirements of paragraph 2 of article 161; and
- (4) The application has been submitted to the court that has the jurisdiction in accordance with provisions of this Law

The foreign proceeding shall be recognized:

- (1) As a foreign main proceeding if it is taking place in the State where the debtor has the centre of its main interests; or

(2) As a foreign non-main proceeding if the debtor has an establishment within the meaning of subparagraph (6) of article 147. in the foreign State.

An application for recognition of a foreign proceeding shall be decided upon at the earliest possible time.

Decision to recognize a foreign proceeding does not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist.

Obligation of informing

Article 164,

From the time of filing the application for recognition of the foreign proceeding, the foreign representative shall inform the court promptly of:

- (1) Any substantial change in the status of the recognized foreign proceeding or the status of the foreign representative's appointment; and
- (2) Any other foreign proceeding regarding the same debtor that becomes known to the foreign representative.

Relief that may be granted upon application for recognition of a foreign proceeding

Article 165.

From the time of filing an application for recognition until the application is decided upon, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature from the paragraph 1. of this Article, including:

- (1) Staying execution against the debtor's assets;
- (2) Entrusting the administration or realization of all or part of the debtor's assets located in the Republic of Serbia to the foreign representative or another person designated by the court, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy;
- (3) Any measures according to the Law.

Unless otherwise stipulated by this Law, the relief granted under this article terminates when the application for recognition is decided upon.

The court may refuse to grant relief under this article if such relief would interfere with the administration of a foreign main proceeding.

Effects of recognition of a foreign main proceeding

Article 166

Upon recognition of a foreign main proceeding:

- (1) Commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities is stayed;
- (2) Execution against the debtor's assets is stayed; and
- (3) The right to transfer, encumber or otherwise dispose of any assets of the debtor is suspended.

The scope, and the modification or termination, of the stay and suspension referred to in paragraph 1 of this article are subject to the provisions of articles 47, 48 and 73 of this Law.

Paragraph 1 (1) of this article does not affect the right to commence individual actions or proceedings to the extent necessary to preserve a claim against the debtor.

Paragraph 1 of this article does not affect the right to request the commencement of a proceeding under this Law, in the Republic of Serbia, or the right to file claims in such a proceeding.

Relief that may be granted upon recognition of a foreign proceeding

Article 167.

Upon recognition of a foreign proceeding, whether main or non-main, where necessary to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including:

- (1) Staying the commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities, to the extent they have not been stayed under paragraph 1 (a) of article 166;

- (2) Staying execution against the debtor's assets to the extent it has not been stayed under paragraph 1 (2) of article 166;
- (3) Suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended in accordance to this Law.
- (4) Providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;
- (5) Entrusting the administration or realization of all or part of the debtor's assets located in the Republic of Serbia to the foreign representative or another person designated by the court;
- (6) Extending relief granted under paragraph 1 of article 165;
- (7) Granting any additional relief that may be available to the court or bankruptcy administrator under the laws of this State.

Upon recognition of a foreign proceeding, whether main or non-main, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in this State to the foreign representative or another person designated by the court, provided that the court is satisfied that the interests of creditors in the Republic of Serbia are adequately protected.

In granting relief under this article to a representative of a foreign non-main proceeding, the court must be satisfied that the relief relates to assets that, under the law of this State, should be administered in the foreign non-main proceeding or concerns information required in that proceeding.

Protection of creditors and other interested persons

Article 168.

In granting or denying relief under article 165 or 167, or in modifying or terminating relief under paragraph 3 of this article, the court must be satisfied that the interests of the creditors and other interested persons, including the debtor, are adequately protected.

The court may subject relief granted under article 165 or 167 to conditions it considers appropriate.

The court may, at the request of the foreign representative or a person affected by relief granted under article 165 or 167, or at its own motion, modifies or terminates such relief.

Actions to contest legal transactions of the bankruptcy debtor

Article 169.

Upon recognition of a foreign proceeding, the foreign representative has standing to initiate avoidance actions in accordance with article 98 of this Law.

When the foreign proceeding is a foreign non-main proceeding, the court must be satisfied that the action relates to assets that, under the law of the Republic of Serbia, should be administered in the foreign non-main proceeding.

Intervention by a foreign representative in proceedings in the Republic of Serbia

Article 170.

Upon recognition of a foreign proceeding, the foreign representative may, provided the requirements of the law of the Republic of Serbia are met, intervene in any proceedings in which the debtor is a party.

Cooperation and direct communication between a court of the Republic of Serbia and foreign courts or foreign representatives

Article 171.

In matters referred to in article 146, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through a bankruptcy administrator.

The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives.

Cooperation and direct communication between the bankruptcy administrator and foreign courts or foreign representatives

Article 172.

In matters referred to in article 146, a bankruptcy administrator shall, in the exercise of its functions and subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

The bankruptcy administrator is entitled, in the exercise of its functions and subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

Forms of cooperation

Article 173.

Cooperation referred to in articles 171 and 172 may be implemented by any appropriate means, including:

- (1) Appointment of a person or body to act at the direction of the court;
- (2) Communication of information by any means considered appropriate by the court;
- (3) Coordination of the administration and supervision of the debtor's assets and affairs;
- (4) Approval or implementation by courts of agreements concerning the coordination of proceedings;
- (5) Coordination of concurrent proceedings regarding the same debtor;

Commencement of a proceeding under this Law after recognition of a foreign main proceeding

Article 174.

After recognition of a foreign main proceeding, a proceeding under this Law may be commenced only if the debtor has assets in the Republic of Serbia; the effects of that proceeding shall be restricted to the assets of the debtor that are located in this State and, to the extent necessary to implement cooperation and coordination under articles 172, 173 and 174, to other assets of the debtor that, under the law of this State, should be administered in that proceeding.

Coordination of a proceeding under this Law and a foreign proceeding

Article 175.

Where a foreign proceeding and a proceeding under this Law are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under articles 171, 172 and 173, and the following shall apply:

- (1) When the proceeding in the Republic of Serbia is taking place at the time the application for recognition of the foreign proceeding is filed,
 - (a) Any relief granted under article 165 or 167 must be consistent with the proceeding in the Republic of Serbia; and

(b) If the foreign proceeding is recognized in this State as a foreign main proceeding, article 166 does not apply;

(2) When the proceeding in the Republic of Serbia commences after recognition, or after the filing of the application for recognition, of the foreign proceeding,

(a) Any relief in effect under article 165 or 167 shall be reviewed by the court and shall be modified or terminated if inconsistent with the proceeding in the Republic of Serbia; and

(b) If the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in paragraph 1 of article 166 shall be modified or terminated pursuant to paragraph 2 of article 166 if inconsistent with the proceeding in the Republic of Serbia;

In granting, extending or modifying relief granted to a representative of a foreign non-main proceeding, the court must be satisfied that the relief relates to assets that, under the law of the Republic of Serbia, should be administered in the foreign non-main proceeding or concerns information required in that proceeding.

Coordination of more than one foreign proceeding

Article 176.

When more than one foreign proceeding is initiated regarding the same debtor, the court shall seek cooperation and coordination under articles 171, 172 and 173, and the following shall apply:

(1) Any relief granted under article 165 or 167 to a representative of a foreign non-main proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding;

(2) If a foreign main proceeding is recognized after recognition, or after the filing of an application for recognition, of a foreign non-main proceeding, any relief in effect under article 165 or 167 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding;

(3) If after recognition of a foreign non-main proceeding, another foreign non-main proceeding is recognized, the court shall grant, modify or terminate relief for the purpose of facilitating coordination of the proceedings.

Presumption of insolvency based on recognition of a foreign main proceeding

Article 177.

In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a proceeding under this Law, proof that the debtor is insolvent.

Rule of payment in concurrent proceedings

Article 178.

A creditor who has received part payment in respect of its claim in a proceeding pursuant to a law relating to insolvency in a foreign State may not receive a payment for the same claim in a proceeding under this Law regarding the same debtor, so long as the payment to the other creditors of the same class is proportionately less than the payment the creditor has already received.

XIII PENALTY PROVISIONS

Criminal Acts

Submission of False Documents

Article 179.

The person that submits the documents in a case under this law, that are false, may be subject to imprisonment from one to three years and may be fined up to the amount of 800,000 YUM.

Submission of False Claim

Article 180.

Where a person submits a false claim or false document to the court in a bankruptcy case under this Law, the person or persons making such submission or assertion may be subject to imprisonment from one to three years and shall be fined for criminal offence in the amount up to 800.000 YUM.

Criminal Concealment of Assets

Article 181.

Any person, who transfers, conceals or fails to turnover any property to an administrator, or to a person acting in the capacity of administrator, or to court to evade the processes and procedures of this Law, may be subject to imprisonment from one to three years and fined for criminal offence in the amount of up to 800,000 YUM.

Knowing Disregard of the Law

Article 182.

Responsible person who in bankruptcy proceedings by knowing disregard of this Law or in any other manner obviously breaches his/her duties in operating business, conducting the bankruptcy proceedings, using the assets from the bankruptcy estate, and who knew, was obliged to know or should have known that the damage which might result from the above mentioned actions, and the damage which results from these actions in the amount higher than 50,000 YUM, may be subject to imprisonment of up to three years and fined in the amount up to 200,000 YUM.

Transferring the Property after the Opening Bankruptcy Proceedings

Article 183.

Any person who after opening of the bankruptcy proceedings and prior to the appointment of the bankruptcy administrator, transfers the assets and rights that are part of the bankruptcy estate, may be subject to imprisonment for up to 5 years, and shall be fined for criminal offence in the amount up to 800,000 YUM.

Offences

Petition Submitted for Improper Purpose

Article 184.

Where a petition was submitted for an improper purpose or in a manner intended to deceive, defraud or subvert the court or creditors inconsistent with this law, the Court may fine the submitting party, in the amount of:

- Up to 1,000,000 YUM if the submitting party is legal entity
- Up to 500,000 YUM if the submitting party is an entrepreneur
- Up to 50,000 if the submitting party is a person or responsible person within the legal entity

XIV TRANSIENT AND FINAL PROVISIONS

Article 185.

Bankruptcy proceedings and proceedings of compulsory composition started (**initiated**) under the Law on Compulsory Composition, Bankruptcy and Liquidation (“Official Gazette of SFRY” No. 84/89 and “Official Gazette of FRY” No. 37/93 and 28/96) in which before the day of entering into force of this Law the Court did not issue the decision on the sale of the property or the decision on compulsory composition shall be concluded in accordance with this Law

Bankruptcy proceedings and proceedings of compulsory composition started (**initiated**) under the Law on Compulsory Composition, Bankruptcy and Liquidation (“Official Gazette of SFRY” No. 84/89 and “Official Gazette of FRY” No. 37/93 and 28/96) in which before the day of entering into force of this Law the Court decision on the sale of the property has been issued, but less than 50% of the book value of the property was sold within six month period (**after the law comes into force**) , shall be concluded in accordance with this Law.

Other bankruptcy proceedings and proceedings of compulsory composition, as well as liquidation proceedings started under the Law on Compulsory Composition, Bankruptcy and Liquidation (“Official Gazette of SFRY” No. 84/89 and “Official Gazette of FRY” No. 37/93 and 28/96) before the day of entering into force of this Law shall be concluded in accordance with the Law with respect of which provisions the proceedings have started.

Article 186.

Unlicensed bankruptcy administrators may continue to conduct their work without satisfying the license requirement for a period no longer than three months after the time when it is first possible to obtain the license from Article 14 (2) of this law.

Article 187.

On the date of effectiveness of the present law the Law on Compulsory Composition, Bankruptcy and Liquidation shall be revoked ("Official Gazette of SFRY" No. 84/89 and "Official Gazette of FRY" No. 37/93 and 28/96).

Article 188.

This law shall enter into force on the eight day of its publication in the «Official Gazette of the Republic of Serbia»; the law shall become enforceable six months after its coming into force.