The Insolvency Law of Central and Eastern Europe

Twelve Country Screenings of the New Member and Candidate Countries of the European Union and Russia: A Comparative Analysis

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V. Hungary

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1. Introduction

a) Historical Background

After the collapse of the command economy in 1989, the Law on the Reorganisation, Liquidation and Winding-up Proceedings IL/1991, the original version of which became effective on 1 January 1992,[239] played an important role in the fundamental economic reforms. The Law has been amended many times; the most important amendments were contained in the Law no. LXXXI of 1993, the Law no. XXVII of 1997 and the Law no. CXXXVII of 2000, which were aimed at designing insolvency proceedings in compliance with the principles of a market economy in order to support a positive economic development.[240] The procedure denoted as "bankruptcy" in the LRL (§§ 7-21) corresponds to the definition of reorganisation and will be referred to as reorganisation hereinafter. The actual bankruptcy proceeding aimed at realising the debtor's property and distributing the proceeds among the creditors is denoted as "liquidation" in the LRL (§§ 22-64); since this term is unambiguous, it will be used here.

Originally, three procedures - reorganisation, liquidation and winding-up – were regulated in this law. However, as only two of these are bankruptcy procedures, the lawmaker relocated the rules on the winding-up procedure[241] to the new Law on Company Publicity, Court Proce-

[239] Magyar Közlöny 1991, p. 2311; hereinafter referred to as LRLW'91.

[240] Further notable amendments until May 2007 were the following: LXIX/1991, LV/1992, LXXV/1993, LXXXI/1993, XCII/1993, CIII/1993, CXV/1993, LXVI/1994, LXII/1995, XCVI/1995, XXXII/1996, LX/1996, LXXXI/1996, XXVII/1997, LXXXII/1997, CXXXII/1997, CXLIV/1997, XCIX/1999, CXIII/2000, CXXXVII/2000, CXLV/2000, LVII/2001, LXXVIII/2001, LXXXIV/2001, CV/2001, CX/2001, CXX/2001, XLII/2002, LXIV/2002, LXIX/2005 and VI/2006 (German translation in: Handbuch Wirtschaft und Recht in Osteuropa UNG 920); the current version of the law hereinafter referred to as LRL.

[241] The winding-up procedure is conducted if a company is to be liquidated without legal successors for other reasons than insolvency.

dure on Company Law Disputes and Winding-Up.[242] Thus, only reorganisation and liquidation procedure are discussed here.

b) Transition-Related Problems of Triggering the Insolvency Proceedings

At the beginning of transition towards market economy, the LRLW'91 stipulated that the management of an enterprise, which did not satisfy one or several claims that have fallen due at least 90 days ago, was obliged to file the petition for reorganisation or liquidation; otherwise, sanctions were imposed. The amount of the outstanding claim and the general financial situation of the enterprise were irrelevant. The rigorous obligation to file was aimed at reducing high accumulated debt[243], at improving payment discipline and at enabling reorganisations.

As a result of this „shock therapy", up to 10,000 petitions were filed monthly from April 1992, whereby the most petitions were aimed at liquidation.[244] According to the data of the Hungarian Ministry of Finance, in 1992 the insolvency proceedings were commenced against enterprises which covered 25% of the GDP and 35% of exports and employed 80,000 employees (30% of all employees in the industry).[245]

Whether the declared objectives were achieved by this regulation, is a debatable issue. On the one hand, the literature criticised that also financially viable enterprises which were creditors of several partly

[242] See Art. 55, 56 and 94-118 of the Law Company Publicity, Court Procedure on Company Law Disputes and Winding-Up (2006/5). The new Company Law (IV/2006) also contains rules on winding-up in Art. 68.

[243] At the beginning of 1992, the accumulated debt of enterprises amounted to 20-21% of the 1991 GDP; see M. Szanyi, Bankruptcy regulation policy credibility and asset transfers in Hungary, Working paper 2001, p. 7.

[244] Only in April 1992, 10,000 petitions for liquidation and 3,500 petitions for reorganisation were filed. Until the LRLW'91 was amended in September 1993, approx. 22,000 petitions were filed; see M. Szanyi, Bankruptcy regulation policy credibility and asset transfers in Hungary, Working paper 2001, p. 15.

[245] See E. Zsubori, Wird die automatische Verpflichtung zur Antragstellung aufgehoben? (Will the automatic insolvency trigger be abolished?) (Hungarian), in: Figyelö of 10 December 1992, p. 25.

insolvent enterprises were forced to file for insolvency.[246] Also long-term business relationships with suppliers were destroyed.[247] On the other hand, losses taken in the course of application of LRLW'91 must be considered as probably unavoidable transition-related losses; in other transition countries, which did not introduce rigorous insolvency laws, the amount of losses was similar or even higher.[248]

Since the remuneration of administrators was calculated as a proportion from the debtor's net turnover during the proceeding and from the proceeds of realisation of debtor's property, the administrators were generally interested in continuation of business activities. For that reason, the average duration of the liquidation proceeding until the beginning of realisation was 13 months, until the end of the proceeding two years.[249] The courts were overloaded by a large number of cases, since they also had little experience with insolvency proceedings, so that the proceedings were further prolonged.[250] Many debtors took advantage of the duration of the proceedings and lack of experience of parties to proceedings and engaged in asset-stripping. Summarising the above, it can be established that the obligation of the management to file the insolvency petition under the restrictive conditions led to reduction of debt, but only few enterprises could be successfully reorganised.

[246] See M. Szanyi, Life After Death? Is Reallocation of Financially Distressed Firms' Assets Efficient? Results from an Empirical Survey, Institute for World Economics, Working Paper no.120 (October), p. 2.

[247] See J. Bonin , M. Schaffer, Banks, Firms, Bad Debts and Bankruptcy in Hungary 1991-94, CEP Working Paper 1995, no. 657.

[248] See E. Balcerowicz, I. Hashi, J. Mládek, T. Novák , A. Sinclair , M. Szanyi, Downsizing as an Exit Mechanism: Comparing the Czech Republic, Hungary and Poland, in: Enterprise Exit Processes in Transition Economies. Downsizing, Workouts and Liquidation, Budapest: CEU Press 1998.

[249] See C. Gray, S. Schlorke, M. Szanyi, Hungary's Bankruptcy Experience 1992-93, The World Bank Economic Review 1996, vol. 10, no. 3, p. 427.

[250] See M. Kopanyi, Bankruptcy Legislation, Enforcement, and Enterprise Restructuring in Transition – Hungary's Ten-year experience and present challenges of 14 March 2000, http://www.worldbank.org/gild, Log-in: 10.06.2003.

c) Reform Objectives and Development

According to the amendment by the Law no. LXXXI of September 1993[251], the automatic insolvency trigger was abolished[252], and the pre-conditions for commencing the reorganisation procedure were substantially restricted. As a consequence, only few petitions for reorganisation have been filed since September 1993.[253] The procedure of composition in liquidation has not proved to be an adequate substitute. Legal loopholes in the regulation of the insolvency proceedings allowed that the debtor could delay the proceedings and especially the appointment of the administrator, so that the administrators were generally appointed ten months after the petition was filed.[254] This was contrary to the interests of creditors; however, they were not entitled to influence the appointment under the law.

The status of creditors was improved by the amendments of 1995 and 1997. According to the amended law, the creditors were now entitled to control the administrator (see i.a. §§ 39 para. 1, 3; 46 para. 3, 4; 47 para. 6; 49 para. 1; 51 para. 1, 2; 56 para. 1 LRL) as well as the debtor's management if the debtor remained in possession (see i.a. § 24 para. 3 LRL); however, the powers of the creditors are still insufficient[255] The protection of the debtor's property and expedition of the proceedings were also addressed by the amendment. It was not anticipated to adopt a new insolvency law, since it was supposed that the continuity of

[251] Magyar Közlöny 1993, p. 6230 et seq.

[252] However, the obligation to file the petition according to the Hungarian Criminal Code remained.

[253] See M. Kopanyi, Bankruptcy Legislation, Enforcement, and Enterprise Restructuring in Transition – Hungary's Ten-year experience and present challenges of 14 March 2000, www.worldbank.org/gild, Log-in: 10.06.2003.

[254] See M. Szanyi, Bankruptcy regulation policy credibility and asset transfers in Hungary, Working paper 2001, p. 18.

[255] See M. Kopanyi, Bankruptcy Legislation, Enforcement, and Enterprise Restructuring in Transition – Hungary's Ten-year experience and present challenges of 14 March 2000, www.worldbank.org/gild, Log-in: 10.06.2003.

economic legislation and, therefore, legal certainty should be demonstrated by maintaining the original law.[256]

d) Insolvency Practice

Whereas the number of petitions for reorganisation as well as the number of reorganisation proceedings has been steadily decreasing since 1993 due to the amendment of LRLW'91, the number of petitions for liquidation as well as the number of liquidation proceedings has been increasing.[257] The number of reorganisation proceedings, which was already relatively low in 1995 (145 petitions and 205 proceedings completed), fell sharply in 1996 (80 petitions, 90 proceedings com-

[256] See É. Hegedüs, Änderungen des ungarischen Konkursgesetzes, WiRO 1998, p. 46 et seq.

[257] Hereinafter the following court statistics are presented: Igazságügyi Minisztérium, Legfelõbb Bíróság, A bírósági ügyforgalom adatai [Court statistics] 1995, Budapest, 1996, p. 3.3.1.-3.3.5.; Igazságügyi Minisztérium, Legfelõbb Bíróság, A bírósági ügyforgalom adatai 1996, Budapest, 1997, p. 3.3.1.–3.3.5.; Igazságügyi Minisztérium, Országos Igazságszolgáltatási Tanács Hivatala, A bírósági ügyforgalom adatai 1997, Budapest, 1998, p. 3.3.1.–3.3.5.; Igazságügyi Minisztérium, Országos Igazságszolgáltatási Tanács Hivatala, A bírósági ügyforgalom adatai 1998, Budapest, 1999, p. 3.3.1.–3.3.5.; Igazságügyi Minisztérium, Országos Igazságszolgáltatási Tanács Hivatala, A bírósági ügyforgalom adatai 1999, Budapest, 2000, p. 3.3.1.–3.3.5.; Az Országos Igazságszolgáltatási Tanács Elnökének tájékoztatója a bíróságok általános helyzetérõl, 2000. január 1. – 2000. december 31., J/4623, p. 59-61; Igazságügyi Minisztérium, Országos Igazságszolgáltatási Tanács Hivatala, A bírósági ügyforgalom adatai 2001, Budapest, 2002, p. 3.3.1.–3.3.5.; Igazságügyi Minisztérium, Országos Igazságszolgáltatási Tanács Hivatala, A bírósági ügyforgalom adatai 2002, Budapest, 2003, p. 3.3.1.–3.3.5.; Igazságügyi Minisztérium, Országos Igazságszolgáltatási Tanács Hivatala, A bírósági ügyforgalom adatai 2003, Budapest, 2004, p. 3.3.1.–3.3.3.; Igazságügyi Minisztérium, Országos Igazságszolgáltatási Tanács Hivatala, A bírósági ügyforgalom adatai 2004, Budapest, 2005, p. 3.4.1.–3.4.3.; Igazságügyi Minisztérium, Országos Igazságszolgáltatási Tanács Hivatala, A bírósági ügyforgalom adatai 2005, Budapest, 2006, p. 3.4.1.–3.4.3.; Igazságügyi Minisztérium, Országos Igazságszolgáltatási Tanács Hivatala, A bírósági ügyforgalom adatai 2006, Budapest, 2007, p. 3.4.1.–3.4.3.

pleted), reached the bottom line in 2001 after a steady decrease (24 petitions, 25 proceedings completed) and has remained at a very low level until 2006 (39 petitions, 38 proceedings completed). In contrast, the number of liquidation proceedings has tripled between 1995 (6,316 petitions, 5,457 proceedings completed) and 2006 (20,373 petitions, 19,823 proceedings completed). However, this does not mean that liquidation proceedings are more efficient than reorganisation proceedings: the duration of liquidation proceedings exceeds the procedural terms stipulated by law, whereby there seems to be little improvement over time (2004 43%, 2006 41% of all proceedings lasted longer than one year) and recovery rates are dramatically low (2004 2-5% of the total amount of creditors' claims).[258] 90% of petitions for liquidation were filed by creditors, mainly by suppliers, between 1992 and 2001.[259] Vast majority of debtors in liquidation have the legal form of a limited partnership or limited liability company, which is not surprising, since these are the most common business forms in Hungary.

In the past, certain problems arose in insolvency practice that could not or could only partly be solved under the existing insolvency legislation. In particular, delays in filing the petition, duration of insolvency proceedings, their relative inefficiency and lack of reorganisation mechanisms were criticised by the insolvency judges, administrators as well as in legal publications.[260] The fact that the necessary reform of the insolvency law could not have been implemented until now led to the destruction of previously efficient insolvency institutions. E.g. insolvency practitioners had a strong position at the beginning of transition, and

[258] See I. Aszódi, Proposed amendments to the legislation on bankruptcy proceedings in Hungary, in: eurofenix, Newletter of INSOL Europe, Autumn 2004, p. 13.

[259] See E. Károly, A fizetésképtelenségi eljárások főbb adatainak és jellemzőinek áttekintése (1992-2001), FOE, www.foe.hu/hirek/2001/fikeptel.php, Log-in: 07.11.2003.

[260] See e. g. Á. Simkó, On the Amendments of the Bankruptcy Law (Hungarian), in: A. Számvitel, Könyvvizsgálat (Accountancy, Tax, Audit), 12/2005, pp. 523-525; The Bankruptcy Law Will Not Solve Fines, Business News ("Cégalku") web portal, www.cegalku.hu/modules.php?name=News&file=article&sid=88 http://www.cegalku.hu/modules.php?name=News&file=article&sid=88, Log-in: 29.05.2007.

their efficiency was highly appreciated.[261] Especially due to the poor quality of the insolvency law, recovery ratios have been decreasing over years, so that, by 2004, in 7 proceedings out of 10 the administrator could not obtain his remuneration and, as a result, the number of insolvency practitioners has decreased by 1/3 between 1998 and 2004.[262]

2. Commencement of Insolvency Proceedings

a) Forms and Principles of Procedure

The most important forms of procedure are reorganisation (section II) and liquidation (section III). In the course of the reorganisation procedure, a composition agreement is always concluded, whereas an agreement can be concluded in the course of the liquidation procedure. Under certain conditions, a simplified proceeding can be commenced instead of a standard liquidation proceeding (§ 63b LRL).

The reorganisation procedure is initiated by the petition of the debtor's director submitted to the competent court (§ 8 para. 3 LRL). A written proof of the approval of the highest organ of the debtor, a recent balance not older than three months, the tax identification number, an advance payment for covering publication costs, a list of creditors and of outstanding claims, including the amount and the date of maturity, must be attached to the petition. At this stage of procedure, the debtor is obliged neither to submit a reorganisation plan nor to guarantee a minimum satisfaction, so that he can submit the reorganisation petition

[261] See E. Balcerowicz, I. Hashi, J. Lowitzsch, M. Szanyi, The Development of Insolvency Procedures in Transition Economies: A Comparative Analysis, in: J. Lowitzsch (ed.), Das Insolvenzrecht Mittel- und Osteuropas, Berlin 2004, p. 31.

[262] See I. Aszódi, Proposed amendments to the legislation on bankruptcy proceedings in Hungary, in: eurofenix, Newletter of INSOL Europe, Autumn 2004, p. 13.

merely to delay liquidation. However, the petition will be rejected by the court if the debtor was already granted a moratorium by a court order within the last two years (§ 7 para. 2 LRL). If the petition for liquidation is submitted at the same time or later than the petition for reorganisation, the court can decide on the petition for liquidation only after the end or termination of the reorganisation proceeding (§ 8 para. 4 LRL).

The petition for liquidation can be filed by a creditor, by the debtor; the liquidation proceeding can be further initiated on the basis of a notice of the commercial court or of the criminal court (for further details on the filing of the petition see 2 d) below). The court examines the financial situation of the debtor. Before adjudication, the debtor can apply to the court to grant him up to 30 days for debt settlement; the debtor and the creditor who filed the petition for liquidation can jointly submit an application for a suspension of the proceeding (§ 26 para. 3, 4 LRL). The court must decide on the insolvency of the debtor within 60 days after the petition for liquidation has been filed. If the court establishes the insolvency of the debtor according to § 27 para. 2 LRL, it issues the court order on liquidation and appoints an administrator. The liquidation begins on the day when the court order on liquidation is published (§ 27 para. 1 LRL). The court is obliged to inform numerous state organs and certain private legal entities, i.a. the competent tax and customs authorities, the local employment agency, the competent agency for environment protection, the competent land registry and all credit institutions holding the debtor's accounts about the commencement of liquidation proceedings (§ 29 LRL).

b) Scope and Applicability

According to § 2, the LRL is applicable to commercial organisations and their creditors. Thus, only commercial organisations can be subject to insolvency.[263] The LRL cannot be applied to physical persons and indi-

[263] In the literature, an opinion was expressed that the list should be extended; see A. Csōke, Considerations of the necessity of a new Insolvency Law on the Basis of the Statistics to the Effective Law (in Hungarian), Magyar Jog 2002, no 2, p. 87.

vidual entrepreneurs. The definition of commercial organisations in § 3 i) LRL is broad. According to this provision, state enterprises, trusts, national commercial companies and European public limited companies, national cooperatives and European cooperatives, private water supply companies, associations of forest owners, sport clubs and all entities without legal personality, which have their centre of main interests defined in the Council Regulation (EC) 1346/2000 on insolvency proceedings of 29 May 2000 in an EU member state, are within this definition[264] Since 1 January 2002, the execution office is also deemed commercial organisation for the purposes of the LRL.

The following assets are excluded from the insolvency proceedings according to § 4 para. 3-5 LRL, even if they are owned or administered by a debtor who can be subject to insolvency proceedings:

- property administered on the basis of a contract with a state property organisation;
- state-owned forest land, real estate protected as a nature reserve or as a historical monument;
- real estate encumbered by restitution claims or transferred to the members of a cooperative as a result of the restitution procedure;
- real estate which had to be returned to the church by the government according to the Law no. XXXII/1991;
- property of the armaments factories, as long as the government has not abolished the prohibition to sale;
- state reserve for the purposes of defence.

c) Grounds for Opening Insolvency Proceedings

The liquidation proceeding is commenced in the case of illiquidity of the debtor which has to be established by the court, whereby the court has the obligation to examination only if the petition was filed by a creditor, the debtor does not recognise the content of the creditor's petition and informs the court (§§ 22 para. 1, 24, 26 para. 1, 27 para. 2

[264] It should be noted that commercial companies are defined differently in the LRL and in the Hungarian Civil Code (§ 685c).

LRL). If the debtor does not object to the creditor's petition submitted to him by the court within eight days, his illiquidity shall be assumed on the basis of the law (§ 24 para. 3 LRL). The court establishes illiquidity if the debtor has not paid or disputed a mature debt within 15 days following the receipt of the dunning letter containing a warning to initiate a liquidation procedure, has not settled the debt before the deadline determined by an effective and final court decision, if the execution proceedings against the debtor failed or if the debtor has not fulfilled his obligations to payment in violation of a composition agreement concluded in the course of the reorganisation proceeding (§ 27 para. 2 LRL). Over-indebtedness or additional possible criteria are not regulated in the LRL.

d) Persons Entitled and Persons Obliged to File the Petition

The reorganisation proceeding can only be initiated upon a petition of the debtor (§ 7 para. 1 LRL), the liquidation proceeding upon a petition of the debtor, a creditor, on the basis of a notice of the commercial court or of the criminal court (§ 22 para. 1 LRL).

Under the LRL, neither creditors nor – since September 1993 – the debtor are obliged to file petitions for reorganisation or liquidation.[265] The commercial court is authorised to control the lawfulness of the business activities of companies according to Art. 72-84 of the Law on Company Publicity, Court Procedure on Company Law Disputes and Winding-Up. If the commercial court establishes that an enterprise violates the law and less radical measures against the enterprise do not achieve their objective, the commercial court can wind up the enterprise and, if it is insolvent, initiate a liquidation proceeding by submitting a petition to the competent court.

In order to initiate a reorganisation proceeding, the director of the debtor must obtain the approval of the highest organ of the enterprise according to § 8 para. 1 LRL, to submit a recent balance not older than three months, the tax identification number, a receipt about the advance

[265] However, failing or delaying to file the petition is a criminal offence under § 290 of the Hungarian Criminal Code.

payment for covering publication costs, a list of creditors and of outstanding claims and to state whether a moratorium has been already granted to the enterprise within the last two years (§ 8 para.2 LRL). The date on which the court receives all required documents is the date of commencement of the reorganisation proceeding (§ 8 para. 3 LRL).
To initiate the liquidation proceeding, the debtor must fulfil the same requirements as for reorganisation and, additionally, to submit a list of all his bank accounts.

A creditor, who obtained an effective enforceable judgment against the debtor or who has a claim accepted or not disputed by the debtor, can file a petition for liquidation where he must give legal grounds and maturity dates of his claims against the debtor and state the grounds for his belief that the debtor is insolvent and attach documentary evidence (§ 24 para. 1 LRL).

3. Institutional Framework

Liquidation and reorganisation proceedings are conducted by the competent courts as a non-contentious special proceeding, whereby administrators are appointed to implement the proceedings. The interests of creditors are represented by the creditors' committee and, in a reorganisation proceeding, also the creditors' meeting, which have control and decision powers under the LRL.

a) Courts

Liquidation and reorganisation proceedings are within the subject-matter jurisdiction of district courts or of the capital city court in Budapest (§ 6 para. 1 LRL). Proper venue is determined by the location of the debtor (§ 7 para. 1 LRL). The powers of the court are:

- commencement of proceedings (reorganisation § 8 para. 3 LRL, liquidation § 27 para. 1, 2 LRL) or rejection of the petition (liquidation § 25 para. 1 LRL);
- appointment of the administrator (reorganisation § 14 para. 1 LRL, liquidation § 27a para. 1 LRL);
- decision on the stay of proceedings (reorganisation § 10 para. 2, 21 para. 2 LRL, liquidation § 27 para.5 LRL);
- decision on the distribution of debtor's property in the simplified liquidation proceeding (§ 63b para. 1 LRL);
- decision on objections against the actions of the administrator as trial and appellate court (§ 51 LRL) and against the content of the final balance the proposal on property distribution (§ 56 para. 1 LRL);
- termination of proceedings (liquidation § 60 para. 1, 2 LRL);
- pronouncement of decisions (i.a. §§ 11, 28, 60 para. 3 LRL);
- notification (§ 29 LRL).

The commercial court (§ 22 para. 1 c) LRL) and the criminal court (§ 22 para. 1 d) LRL) are authorised to file the petition for liquidation.

b) Liquidation Administrator and Reorganisation Administrator

Both in the liquidation proceeding (§ 27a para. 1 LRL) and in the reorganisation proceeding (§ 14 para. 1 LRL), an administrator is appointed by the competent court in order to implement the proceeding.

According to the amendment of 1997, the administrator now is deemed as a party to proceedings, like the debtor and creditors. In the LRL, the administrator in reorganisation proceedings is denoted as „sequester" and in liquidation proceedings as „liquidator". For better understanding, the administrator in reorganisation proceedings will be hereinafter denoted as reorganisation administrator and the administrator in liquidation proceedings as liquidation administrator.

The liquidation administrator is appointed by the competent court in the court order on commencement of the liquidation proceeding from the government register of liquidation administrators according to § 27a

LRL.[266] The administrator can be a physical person or a legal entity. If a legal entity is appointed as liquidation administrator, it should appoint a representative who must be a physical person with special qualifications and be entitled to act in the name of the legal entity on the basis of an employment contract, a commission or as a shareholder (§ 27a para. 3 LRL). By several amendments to the LRL, the control over the liquidation administrator has been extended already at the moment of appointment. Creditors, owners or majority shareholders, executive officers of the debtor, close relatives[267] of these persons and, if there is a conflict of interest, persons who are owners, majority shareholders or executive officers in other companies cannot be appointed as liquidation administrators or representatives of a legal entity appointed as liquidation administrator (§§ 27a para. 4a, 4b LRL).

If one of the above grounds for conflict of interest is applicable, the liquidation administrator must inform the court within eight days following the official service of the court order on appointment; otherwise, the administrator can be deleted from the register (§ 27a para. 5 LRL). A liquidation administrator can be dismissed by the court, if a ground for conflict of interest is established in the course of proceedings, if the administrator is deleted from the register, if a liquidation proceeding is opened against the administrator (§ 27a para. 6 LRL) or in the case of a gross or repeated breach of duty by the administrator (§ 27a para. 7 LRL). The liquidation administrator can lodge an appeal with the appellate court, whereby the court must decide in a summary proceeding (§ 27a para. 8 sentence 1 LRL). If the court order on dismissal becomes effective, the court can appoint a new administrator. These provisions are to be applied to reorganisation administrators by analogy (§ 14 para. 1 LRL).

The administrator has the following functions:

- examination of the debtor's property (reorganisation § 14 para. 3 a) LRL, liquidation § 46 para. 1 LRL);

[266] Regulated by the Government order no. 167/1993 of 30 November 1993 on the Administrators' Register.

[267] The term "close relative" is defined in Art. 685/B of the Hungarian Civil Code.

- drawing up the opening balance and the plan of liquidation measures and costs (§ 46 para. 2 LRL), the interim balance (§ 50 LRL) and the final balance (§ 52 LRL);
- registration of claims in liquidation proceedings (§ 46 para. 5-8 LRL);
- participation in the preparation of the composition agreement in reorganisation proceedings (§ 15 LRL);
- protection of debtor's property in liquidation proceedings (§ 48 para. 3 LRL);
- exercising rights and performing duties of the employer in liquidation proceedings (§ 47 para. 5, 6 LRL);
- approval of debtor's payments to third persons (reorganisation § 14 para. 3 c) LRL);
- control over collection of debts by the debtor (reorganisation § 14 para. 3 d) LRL);
- rescission of debtor's transactions (reorganisation § 14 para. 3 e) LRL, liquidation § 40 para. 1 LRL) and termination of contracts (liquidation § 47 LRL);
- reporting on his activities and on the financial situation of the debtor (reorganisation § 16 para. 1 LRL, liquidation §§ 46 para. 2-6, 50 para. 7, 52 para. 1 LRL);
- realisation of debtor's property in liqudation proceedings (§§ 49, 49a, 49b LRL);
- drawing up a proposal on distribution of the proceeds (§§ 50 para. 1, 52 para. 1 LRL).

The administrator should exercise his functions with due care (reorganisation § 14 para. 5 sentence 1 LRL; liquidation § 54 sentence 1 LRL). In the case of breach of duty of care, which is established i.a. if the administrator does not fulfil his duty to report and to give notice, he is liable according to § 339 of the Hungarian Civil Code. Whereas the liability of the reorganisation administrator is still unlimited, the liability of the liquidation administrator was limited, by the amendment of 1997, to the amount corresponding to the estimated value of the debtor's property at the beginning of the liquidation proceeding plus the value of assets acquired in the course of the proceeding.

The administrator receives a compensation for the proved costs and remuneration. In reorganisation proceedings, the remuneration amounts to 1% of the book value of debtor's assets according to the balance

drawn up according to § 8 para. 2 LRL; it is paid on the basis of the court order on the stay or termination of the proceeding (§ 17 para. 2 LRL). Pursuant to the amendment of 1997, the administrator's remuneration in liquidation proceedings should not exceed 5% of the total amount accumulated by realisation of debtor's property and collection of debts, but at least HUF 100,000 (approx. EUR 400 in May 2007) (§ 59 para. 1 LRL). If the debtor actively participates in the liquidation proceedings, the administrator's remuneration is reduced to 2%; however, this amount can be increased by the court „in complicated cases". After the interim balance drawn up by the administrator has been approved by the court, the administrator is entitled to receive a part of his remuneration amounting to 4% of the total amount of the proceeds, but at least of HUF 50,000 (approx. EUR 200 in May 2007) (§ 50 para. 6 sentence 3 LRL). In a simplified liquidation proceeding under § 63b LRL, the administrator's remuneration amounts to a lump sum of HUF 300,000 (approx. EUR 1,200 in May 2007) (§ 59 para. 1 sentence 4 LRL). If a composition agreement is concluded in a liquidation proceeding, the administrator's remuneration amounts to 5% of the net value of the debtor's property, but at least HUF 100,000.

c) Creditors' Meeting and Creditors' Committee

The creditors can establish the creditors' committee to protect their interests within each procedure regulated in the LRL.[268] In liquidation proceedings (but not in reorganistion proceedings), it is required that the creditors' committee is comprised of at least one third of all creditors holding at least one third of the claims of which notice was given according to § 28 para. 2 f) LRL (§ 5 para. 2, 3 sentence 3 LRL). Since this requirement does not apply to reorganisation proceedings, the authority of the creditors' committee to represent in reorganisation proceedings is limited to the members of the committee (see i.a. § 19 para. 3, 4 LRL).

[268] Since only one creditors' committee can be formed in one proceeding under the effective LRL, the committee, which was registered first with the competent court, and, if several committees were registered at the same time, those committee, which has more creditors, is recognised by the court (§ 5 para. 3 sentence 2 LRL).

The creditors' committee elects a (sub)committee consisting of three creditors, decides on standing rules and informs the debtor, the court and the administrator about the establishment and the members of the committee (§ 5 para. 3 sentence 3, 4 and para. 4 LRL). Other creditors can later become members of the committee if they accept the standing rules (§ 5 para. 3 sentence 5 LRL). If the creditors did not establish a committee on their own initiative, the administrator must summon all registered creditors within 90 days following the court order on commencement to form the creditors' committee, unless the pre-conditions of the simplified proceedings according to § 63b LRL are established (§ 39 para. 1, 2 LRL). However, the creditors are not obliged to form a committee or to join the formed committee.

The creditors' committee represents creditors in relation to the court and to the administrator (§ 5 para. 2 LRL). The powers of the creditors' committee have been extended by the amendment of 1997. The committee is enabled to take influence on the proceeding: partly, the approval of the committee or of individual creditors, partly their opinion are required for the continuation of the proceeding. The administrator and the court are obliged by law to submit important information to the creditors' committee within terms stipulated by law, e.g. on the following issues:

- property and financial situation of the debtor according to § 5 para. 1 a) LRL;
- conclusion of contracts outside the usual course of business, termination of contracts, sale of debtor's assets and current amount of the proceeding costs according to § 39 para. 3 LRL;
- rescission of contracts according to § 40 para. 5 LRL;
- continuation of business activities of the debtor according to § 46 para. 3, 4 LRL;
- wage rises for employees of the debtor according to § 47 para. 6 LRL;
- procedure of realisation of the debtor's property according to § 49 para. 1 sentence 2 LRL;
- interim balance and final balance and the proposal on distribution of the proceeds according to § 50 para. 5, 56 para. 1 sentence 1 LRL.

In reorganisation proceedings, the debtor must call the creditors' meeting within 30 days following the commencement of the reorganisa-

tion proceeding, so that the creditors can approve the moratorium (§ 9 LRL). Creditors known to the debtor must be personally informed about the venue and date of the meeting already at the moment when the petition is filed; for other creditors, information on the meeting must be published in two nation-wide daily newspapers within three days following the commencement. If more than a half of creditors holding claims which were due at the commencement and more than a quarter of creditors holding claims which have not become due at the commencement vote for the moratorium and the claims of these creditors constitute at least two thirds of all claims, the moratorium is deemed as approved. If the moratorium is not approved, the court terminates the reorganisation proceeding.[269]

4. Insolvency Proceedings

a) Effect of Commencing the Insolvency Proceeding

If the pre-conditions for termination of reorganisation proceedings are not fulfilled, the court issues an order granting the moratorium which leads to the deferment of the maturity of claims which became due prior to or during the moratorium. Pursuant to § 12 LRL, i.a. claims for wages, compulsory contributions to health care and pension insurance funds, some taxes and levies are excluded from the moratorium. The reorganisation administrator is appointed in the court order granting the moratorium, who should control the financial situation of the debtor and participate in the negotiations on the composition agreement (on the status of the reorganisation administrator see above 3. b)).

After the liquidation proceeding has been commenced, the debtor shall be exclusively represented by the liquidation administrator in

[269] The creditors' meeting plays an important role in reorganisation proceedings; however, its powers are limited to a single voting. After the voting, it is dissolved.

business activities as well as in relation to the court and the state authorities; the owner's and the management's power to represent expires (§ 34 LRL). All claims against the debtor become due, there is a stay of all execution proceedings and the power to represent is transferred from the debtor's management to the administrator (§§ 34, 35, 38 LRL).

State court and arbitration court proceedings on disputed claims which have been commenced before the opening of liquidation proceedings are conducted by the same court; however, the creditors of these claims are obliged to give notice of the claims according to § 28 para. 2 f) LRL and to pay the court fee according to § 46 para. 7 LRL (§ 38 para. 2 LRL). If the creditor loses his case, the court fee is returned to him within 30 days upon his application to the administrator. All execution proceedings pending at the commencement of liquidation proceedings are to be immediately suspended by the competent court or the competent state authority (§ 38 para. 1 LRL). Movable assets of the debtor under seizure and collected money which have not been transferred to the creditors are to be transferred to the administrator; claims to satisfaction concerning real estate that have arisen in connection with execution proceedings and prohibition of disposal and encumbrance expire when the liquidation proceeding is commenced. The land register must be changed accordingly.

Contracts which are still effective at the commencement of liquidation proceedings can be terminated without notice by the administrator; he has the right of rescission if the contract has not yet been performed (§ 47 para. 1 LRL). However, this does not concern tenancy agreements with physical persons, training contracts, loan contracts for charity purposes and collective wage agreements; the other party of agreements on maintenance and life annuity is entitled to compensation payment (§ 47 para. 3, 4 LRL).

b) Rescission and Invalidity

The creditor or the liquidation administrator can contest the following transactions within 90 days from the day when they obtained knowledge of the court order on the commencement of liquidation proceedings, but not later than one year after the publication of the court order:

- legal transactions conducted within five years prior to the submission of the petition for liquidation or after the submission, which resulted in diminution of debtor's assets, if the debtor's intention was to evade payment to creditors and the other party of the transaction knew it or must have known it;
- legal transactions conducted within two years prior to the submission of the petition for liquidation or after the submission if this were gratuitous transactions or transactions for an inequivalent consideration on the part of the debtor;
- legal transactions conducted within 90 days prior to the submission of the petition for liquidation or after the submission if they benefit one creditor at the expense of other creditors (Art. 40 para. 1 LRL).

If the liquidation administrator obtains knowledge of such transactions, he is obliged to inform the creditors' committee or, if there is no creditors' committee, individual creditors without delay. The creditors must submit the application to the competent court within 15 days following the receipt of the administrator's notice in order to contest a legal transaction (§ 40 para. 4 LRL).
In addition, the liquidation administrator is entitled to file an action for annulment according to §§ 201 et seq. of the Civil Code on the grounds of inequivalent consideration.[270]

c) Reorganisation

The debtor must conduct the creditors' meeting within 30 days following the commencement of the reorganisation proceeding to obtain the approval of creditors to the moratorium (on the voting procedure at the creditors' meeting see II.1.c) above). He is obliged to inform the competent court about the result of the creditors' meeting within three days. On the basis of the decision of the meeting, the court decides to grant the moratorium or to terminate the reorganisation proceeding. An exhaustive list of grounds for termination is contained in § 10 para. 3

[270] Decision of the Supreme Court, GE no. 1995/240.

LRL. The court decision must be published in Cégközlöny (Commercial Gazette) within 15 days (§ 11 LRL).

During the moratorium, the debtor must prepare the plan aimed at recovering the solvency and the proposal for a composition agreement to be negotiated with his creditors (§ 18 para. 1, 2 LRL). As in the case of announcing the creditors' meeting on the moratorium, the debtor has to publish information on the date and venue of the negotiations in two nation-wide daily newspapers; the rules of the voting procedure during the negotiations are also the same as in the first creditors' meeting. If the debtor and the creditors cannot achieve a result in the first round of negotiations, further rounds can be conducted during the moratorium (§ 18 para. 5 LRL). If the creditors accept the composition agreement, they sign it. The composition agreement is then binding also for dissenting creditors and creditors who did not attend the negotiations, although they have been notified. The administrator must approve the agreement within three days. The debtor is obliged to inform the competent court about the result of negotiations within three days after the moratorium expired; otherwise, a fine up to HUF 50,000 can be imposed (§ 21 para. 1 LRL). The court terminates the reorganisation proceeding if no composition agreement was concluded, if the agreement was not approved or does not meet the requirements stipulated by law. If all requirements are met, the court passes the judgment that the reorganisation proceeding is completed (§ 21 para. 2, 3 LRL).

d) Composition in Liquidation

During the liquidation proceeding (from 40 days after the publication of the court order on commencement of the liquidation proceeding until the submission of the final balance), a composition agreement between the debtor and creditors can be concluded at any time (§ 41 para. 1 sentence 1 LRL). However, claims for the costs of proceedings, alimony or pension payments cannot be included into the composition agreement; creditors of these claims have no voting rights in this procedure (§ 41 para. 3 LRL). The debtor must submit an application to the competent court, and the court organises the negotiations on the composition agreement within 60 days. According to the proposal by the administra-

tor, the court determines the part of the debtor's property, on which the composition agreement should be concluded (§ 41 para. 5 LRL).

Before the negotiations, the debtor prepares the plan aimed at recovering the solvency and the proposal for a composition agreement (§ 41 para. 4 LRL). The draft composition agreement is deemed as agreed upon if at least a half of the creditors who have given notice of at least two thirds of claims have voted for it (§ 44 para. 1 LRL). The composition agreement is binding also in relation to dissenting creditors and creditors who have not attended the negotiations. The court approves the agreement if the debtor's solvency can be recovered and the agreement meets the requirements stipulated by law (§ 45 para. 1 LRL). Otherwise, the liquidation proceeding is continued.

e) Liquidation

The liquidation administrator draws up the opening balance as well as the cost and time schedule (§ 46 para. 2 LRL). If the administrator plans the continuation of the debtor's business activities, the approval of the creditors' committee is required which is effective for one year (§ 46 para. 3, 4 LRL). The administrator collects the debts from the garnishees after the debtor's claims fall due and initiates the enforcement proceedings (§ 48 para. 1 LRL). He protects the debtor's property and safeguards that the norms of environmental law are not violated during the liquidation proceeding. The administrator realises the debtor's property and draws up the final balance, at the latest, two years after the commencement of the liquidation proceeding, prepares a proposal on the distribution of the proceeds to the creditors according to § 57 LRL and submits these documents to the competent court. The court delivers the final balance and the proposal to the creditors within 30 days upon receipt, whereby the creditors can submit their objections within 30 days (§ 56 para. 1 LRL). Not enforced claims and not realised assets of the debtor are distributed among the creditors by the court. The court passes a judgment on the costs of proceedings, satisfaction of creditors, closure of the debtor's bank accounts and on the termination of the liquidation proceeding. The judgment shall be published in Cégközlöny.

The creditors must give notice of their claims to the administrator within 40 days following the publication of the judgment (§ 28 para. 2

f) LRL). By an amendment to the LRL, a fee for the notice was introduced; the transfer of the fee to a special account of the court is a pre-condi tion for the registration of the claim (§ 46 para. 7 LRL). Claims the notice of which is given after 40 days, but within one year from the publication of the judgment are included in an additional register of claims by the administrator and can only be satisfied, after all claims from the main register have been satisfied (§ 37 LRL). The administrator examines all claims from the main register within 45 days and contacts creditors of disputed claims (§ 46 para. 6 LRL).

The members of the management body of the debtor are obliged to hand over balance statements, tax declarations and books of the debtor to the administrator. The management body must inform the employees, the trade union, the workers' council, the tax authorities and, under certain conditions, the Environmental Agency about the commencement of the liquidation proceeding (§ 31 LRL). If the management body does not fulfil these obligations, its members will be liable to a fine up to 50% of their annual earnings from the last year, even if they have left the debtor's enterprise in the meantime (§ 33 LRL).

If the administrator establishes that the debtor's property is insufficient for covering the estimated costs of liquidation or that the proceeding cannot be conducted due to incorrect accounting, he can submit an application for a simplified liquidation proceeding according to § 63b, after he has informed the creditors' committee or the creditors. The register of creditors' claims, information on the costs of the administrator and the proposal on the distribution must be attached. The court has to decide on the application within 15 days following the receipt of application; under certain conditions, it can order the winding-up of the debtor.

f) Status of Secured Creditors

Prohibition to dispose of and to encumber the debtor's movable and immovable property is abolished when the liquidation proceeding is commenced (§ 38 para. 4 sentence 1 LRL). For that reason, the competent land registry must be informed by the court about the commencement (§ 29 h) LRL). Creditors who secured their claims by pledge or mortgage have a pre-emptive right to purchase the collateral, which has,

however, no priority over other pre-emptive rights. Pledge and mortgage expire after the collateral has been realised, so that the land registry deletes these rights from the land register on the basis of the record of sale of the collateral submitted by the administrator. If the collateral could not be realised in the liquidation proceeding, the court passes a judgment on the expiry of the pledge and/or mortgage ex officio (§ 56 para. 3 LRL).

After realisation of the collateral, the amount corresponding to the difference between the proceeds from the sale of the collateral and the realisation costs, but not exceeding the amount of the claim, is directly transferred to the secured creditor by the administrator. However, there is a pre-condition that the pledge or mortgage must have been registered not later than one year prior to the commencement of liquidation and no bad faith or gratuitousness can be assumed according to § 203 para. 2 of the Civil Code.[271] If the claim is not satisfied in full, the satisfaction of the remaining amount is regulated by § 57 LRL. Pursuant to this provision, the claims of secured creditors which could not be satisfied after realisation, are to be satisfied in the second priority (§ 57 para. 1 b) LRL).

In the first priority, claims for wages and for other kinds of remuneration and compensation for work, realisation costs, court fees of other proceedings in connection with the liquidation, costs of maintenance of the debtor's property, tax claims and claims for damages, which have arisen after the commencement of the liquidation proceeding, are to be satisfied (§ 57 para. 2 LRL). If the collateral is encumbered by several pledges or mortgages, the ranking of claims follows the time order in which these securities were established according to § 256 para. 1 of the Civil Code. Claims secured by a security deposit and claims which were enforceable before the commencement of the liquidation proceeding have the same ranking as the claims secured by rights in rem.

[271] Under this provision, bad faith or gratuitousness are assumed if the secured creditor is a family member, shareholder or employee of the debtor or if the creditor and debtor enterprise are controlled by the same person or by the same third enterprise.

g) Realisation of Debtor's Property

The debtor's property must be realised within 120 days after the publication of the court order on commencement of liquidation proceedings by the administrator, unless the creditors make a deviating decision (§ 49 para. 2 LRL). The realisation is aimed at selling the debtor's property at the highest possible price. According to the amendment of 1997, the realisation must be generally conducted in the form of a public tender (§ 49a LRL) or a public auction (§ 49b LRL). Exceptions from this rule are only possible if the creditors' committee gives its consent, if the expected proceeds would not cover the realisation costs or if the difference between the expected proceeds and the expected realisation costs are less than HUF 100,000 (§ 49 para. 1 sentence 3 LRL).

The administrator must publish the information stipulated by law in Cégközlöny, at the latest, 15 days before the auction or tender (§§ 49a para. 1, 49b para. 1 LRL). The auction or tender must be conducted under the control of a notary public (§§ 49a para. 2, 49b para. 6 LRL). The administrator, shareholders of the debtor and their close relatives are not entitled to participate in the realisation (§ 49 para. 3 LRL). In connection with a public auction concerning real estate, all participants must make an advance payment amounting to 5% of the estimated value of the immovable property before the auction; if the bidder does not pay the full price of the real estate, the advance payment will not be returned (§ 49b para. 4 LRL). If the immovable property is protected as a nature reserve or as a historical monument, the Ministry of Environment Protection has a pre-emptive right (§ 49c LRL). If the rules of realisation procedure are violated, e. g. by violation of pre-emptive rights, a participant of the procedure can file an action for annulment of the sales contract concluded at the auction or tender to the liquidation court within 30 days after the realisation (§ 49 para. 5, 6 LRL).

h) International Insolvency Law

After the accession of Hungary to the European Union on 1 May 2004, the Council Regulation (EC) 1346/2000 on insolvency proceedings is directly applicable in Hungary in relation to other member states. The Regulation has also been incorporated into the LRL. In reorganisation

and liquidation proceedings against commercial organisations not registered in Hungary that are within the scope of the Regulation the Capital City Court of Budapest has exclusive jurisdiction (Art. 6 para. 2 LRL). The provisions of the Regulation are partly reproduced in Art. 6-6c and 25 LRL.

However, provisions regulating international insolvency cases in relation to Denmark and the states outside the EU are neither systematic nor detailed. According to § 4 para. 1 LRL, all assets of a commercial organisation shall be realised in a liquidation proceeding. It can be concluded that also foreign assets must belong to the liquidation estate. In such cases, the administrator is obliged to organise the realisation of the debtor's assets according to the law of the forum state. It can be assumed that an insolvency proceeding against a Hungarian commercial organisation commenced in a foreign country outside the EU will not be recognised by the Hungarian courts.

In connection with branch offices of foreign companies in Hungary, the LRL refers to the Law on Branch and Representative Offices of Foreign Enterprises in Hungary.[272] Under this Law, an insolvency proceeding opened abroad is extended to the branch office in Hungary if a treaty between Hungary and the state where the parent company is located has been ratified or if reciprocity is guaranteed. If there is no treaty and no reciprocity, the competent district court issues the court order on the liquidation of the branch office ex officio according to § 19 para. 3 of the above Law. If the foreign enterprise became insolvent due to economic activities of the branch office in Hungary, the creditors can file the petition for liquidation of the branch office with the competent district court in Hungary. The procedure is governed by Chapters I, III and IV and § 22 of the above Law. The insolvency proceeding can be opened in Hungary, even if the creditors file the petition directly against the foreign parent company.

[272] Law no. CXXXII/1997.

i) Criminal Offences in Connection with Bankruptcy

The Hungarian Criminal Code of 1978 as amended (CrimC) contains the following offences which are relevant in connection with bankruptcy:

Violation of rules of correct bookkeeping (§ 289 CrimC). The offence is committed if the rules of correct bookkeeping and accounting stipulated by the Law on Accounting and implementing provisions are violated and, as a consequence, the control over the financial situation of the debtor is impeded (§ 289 para. 1). The qualified offence is gross violation of rules of correct bookkeeping (§ 289 para. 4). It is committed if the violation of bookkeeping rules in the annual statement causes a substantial deviation from the actual balance value or makes impossible the examination of the financial situation of the enterprise in the last year. According to the reports of the insolvency administrators, the directors of the debtor often commit this offence.[273] By the amendment of 1 June 2007, a new offence was included: if the offence of § 289 para. 4 is committed negligently, it will be punished as a misdemeanour.

Offences Connected to Bankruptcy (§ 290 CrimC). The offence of § 290 para. 1 is committed if the debtor conceals, damages or destroys his assets, pretends to have debts or accepts fictive claims, concludes fictitious transactions or incurs losses in the course of his economic activities which are performed in violation of the regular business principles or actually diminishes his assets by other means or intentionally gives such impression and, by that, makes impossible the satisfaction of creditors. The offence of § 290 para. 2 is committed if the insolvency is caused or such impression is given by the activities described in § 290 para. 1, whereby § 290 para. 3 regulates the case where the satisfaction of creditors of an insolvent company is endangered by the activities described in § 290 para. 1. All above offences are qualified if the above activities cause grave consequences for the economy. Under § 290 para. 5, the debtor is punishable if he violates the order of satisfaction of creditors' claims which leads to preferential treatment of certain creditors. Further, the director of the debtor can commit tax evasion or insur-

[273] See L. Juhász, Handbook of the Hungarian Insolvency Law (Hungarian), Budapest 2003, p. 352.

ance fraud if he does not timely transfer taxes and social security contributions before the commencement of insolvency proceedings.

5. Summary and Perspectives

At the beginning of transition, the Hungarian LRL was considered to be a relatively successful codification of insolvency law as compared to insolvency laws of other Eastern European countries. However, it has become out-dated over time, and it is does not surprise that it is criticised in the literature which also demands a systematic reform.[274]

On the one hand, contradictions within the LRL and between the LRL and other laws emerged due to numerous amendments. On the other hand, practical problems cannot be adequately solved by this law. As examples, the following important problems can be mentioned: asset-stripping, especially by conversion or by the sale of the property of insolvent enterprises to foreigners, limited powers of creditors, restrictive pre-conditions of reorganisation proceedings and insufficient remuneration of administrators. Political and economic objectives were substantially changed, but the LRL was not adapted to the new objectives and environment. Indeed, Hungary is one of the few countries in Eastern Europe which did not enact a completely new version of the insolvency law since the beginning of the 1990s.

The government published a plan of the reform of insolvency law and related legislation in 2005.[275]

[274] This criticism is in line with the early evaluation by the EBRD in EBRD Legal Indicator Survey: assessing insolvency laws after ten years of transition, Individual country assessments.

[275] See the decision of the government no. 1094/2005 (IX.19) on the concept of the Bankruptcy Law and on measures facilitating predictable and more transparent business environment.

The formulation of the plan is ambiguous: the amendment of the existing law as well as the adoption of a new law is mentioned. This could be interpreted as a combination of a short-term and a long-term objective. The principles of the new law given in the annex to the decision should be i.a. introduction of unitary proceedings, better protection of the insolvency estate, creation of incentives for reorganisation, and stricter liability of executive officers. These notions are in line with the recent reforms of insolvency laws in other Eastern European countries. Unfortunately, neither substantial amendments to the existing law nor a new insolvency law have been adopted in the two years following the publication of the government decision. It remains to be seen when and in what form the Hungarian insolvency law will finally be reformed, but it is obvious that the reform is necessary and a further delay will endanger the existing institutions.