



Significant reforms of Greek insolvency proceedings legislation by new Law 4738/2020

New law on insolvency proceedings applicable from 01.01.2021, replacing and abolishing the Greek Bankruptcy Code (Law 3588/2007).

Greek Parliament introduced recently Law 4738/2020 on “*Debt settlement and second chance providence*”¹ (the “**New Law**”) codifying all debt settlement legislative tools. The New Law comes into effect from 01.01.2021, reforming profoundly the insolvency legislation currently applicable in Greece while transposing into Greek law EU Directive 2019/1023 on preventive restruc-

turing frameworks and second chance. The New Law abolishes, among others, law 3588/2007, while as of the date of its enactment, submission of new applications pursuant to law 3869/2010, on indebted households, and art. 68-77 of law 4307/2014, on special administration, is no longer available. Additionally, the reorganization proceeding is also abolished.

In a nutshell:

A. Pre-bankruptcy proceedings

- **Early warning mechanisms** are established for the first time, aiming to detect circumstances that could give rise to a likelihood of insolvency for individuals and legal entities and can signal the need to act without delay. The early warning tools include electronic alert mechanisms and free advisory services for individuals and entities that present a medium or high risk of insolvency. These advisory services are provided for individuals and entities ceasing to obtain income by the Centers or Offices of Borrowers’ Service and for individuals and entities that continue to obtain income from their business activities by the Chambers of Tradesmen or Professional Associations.
- The **extrajudicial debt settlement** procedure, introduced in the past with law 4469/2017, is reformed and incorporated in the New Law, and, from 01.01.2021, the procedure can be

utilized by any individual (entrepreneur or not) and legal entities to settle debts against financing institutions and the Greek State exceeding €10,000 (instead of €20,000 under the previous regime). The reformed procedure is more flexible and does not require any judicial intervention, and thus, it is anticipated to be concluded within 2 months.

- The **rehabilitation procedure** remains, in principle, the same but certain amendments have taken place, including changes in the required percentages of consenting creditors while the “implied consent” of the Greek State is introduced. Additionally, it is foreseen that a rehabilitation agreement can be concluded between creditors (without the debtor’s consent) not only in cases where the debtor is in cessation of payments but also in cases where the debtor’s total equity is lower than 1/10 of its share capital or if the debtor has not filed financial statements for 2 consecutive years, etc.

¹ Government Gazette, issue A’, no. 207/27.10.2020

B. Bankruptcy proceedings

- **Natural persons** become also eligible to bankruptcy.
- A debtor is **presumed** to be in cessation of payments when at least 40% of its monetary debts exceeding €30,000 is towards the Greek State, Social Security bodies or credit or financial institutions and due for at least 6 months.
- **Small scale bankruptcies** are reformed. Legal entities meeting one of the 'micro' entities' criteria (as per art. 2 of law 4308/2014) and natural persons with assets up to €350,000 may be subject to a simplified bankruptcy process, via the Electronic Insolvency Registry while the court competency is transferred to the Magistrate Court.
- Creditors representing at least 30% of the debtor's total debt, at least 20% of which must be of secured creditors, are now able to request through the bankruptcy application that the debtor's assets are **liquidated** either as a whole or in operational parts.
- A **faster and simpler** procedure is pursued through various provisions of the New Law, such as the obligation to nominate a bankruptcy trustee with the bankruptcy application and the abolishment of the stage of creditors' union.
- A **digital insolvency registry** is introduced through which all announcements, creditors' communications and registrations of procedural actions shall be realized. All other means of bankruptcy registration, monitoring and publication, except filings with the General Commercial Registry (GEMI) are abolished.
- As regards individuals, and provided that certain conditions are met, part of the debtor's **annual income**, forms now part of the bankruptcy estate.
- The period required for an individual debtor to be **discharged** from any debt towards its bankruptcy creditors is, under certain circumstances, shortened, and may take place after 1 year from the bankruptcy declaration or the registration of the debtor's name in the digital insolvency registry.
- The **creditors ranking rules** are aligned with the relevant provisions of the Greek Code of Civil Procedure, with the introduction of the following senior general privileges for claims generated within the context of the rehabilitation procedure aiming to the continuation of the debtor's business: claims from (a) financing facilities, and (b) the provision of goods or services.
- Certain provisions are introduced relating to **vulnerable debtors** who have been declared bankrupt or whose main residence runs the risk to be seized.

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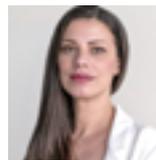
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