**THE PARLIAMENT OF ROMANIA**

# Law No. 64/1995 (r1) on insolvency proceedings[1]

## CHAPTER I
## General provisions

**Art. 1. - (1)** This law shall apply to any of the following categories of traders, who are insolvent and who shall be hereinafter referred to as "*debtors"*:

**a)** traders:

**1.** trade companies;

**2.** consumption cooperatives ("*cooperative de consum*") and handicraft cooperatives - called hereinafter *organisations of the co-operative type*, territorial associations of consumption cooperatives and handicraft cooperatives, created according to the Decree-Law No.66/1990 on the organisation and operation of handicraft cooperatives, with its ulterior amendments, and respectively to Law No. 109/1996 on the organisation and operation of consumption cooperatives and of credit cooperatives, with its ulterior amendments, as well as cooperative companies;

**3.** natural persons, acting individually or in family associations;

**b)** farming companies;

**c)** economic interest groups.

**(2)** „*Insolvency*" shall be understood as that state of a debtor's estate characterised by an obvious inability to pay the due and payable debts with the available moneys.

**Art. 2.** – The purpose of this Law is to set out a procedure for covering insolvent debtors' liabilities either by means of a reorganisation of the trader and his business activities, or by a liquidation of certain goods belonging to the debtor's estate until the liabilities have been covered, or by bankruptcy.

**Art. 3.** – For the purposes of this law, a "debtor's estate" shall include all his goods and property-related rights – including those acquired in the course of the procedure established herein – which may be subject to judicial enforcement, in accordance with the Civil Procedure Code.

**Art. 4. - (1)** All expenses related to the procedure set out by the present Law shall be borne from the debtor's estate.

**(2)** Payments shall be made from an account opened with an entity of a banking company, based on orders issued by the debtor or, the case being, the administrator, and, during bankruptcy, by the liquidator.

**(2[1])** Pecuniary funds may be kept in a special bank deposit account.

[1] Republished in the Official Gazette, Part I No. 608 of 13 December 1999. The text has been updated while taking account of the following acts: (i) The Rectification of 28.02.2000; (ii) The Government Ordinance No. 38/2002; (iii) Law No. 82/2003 and (iv) Law No. 149/2004

**(3)** In the absence of available funds in the debtor's account, the liquidation fund shall be used, which shall be created from the fees paid by natural and/or legal persons to the Trade Register for services provided by the latter.

**(4)** The fund in para. (3) shall be created by increasing the fees levied by the Trade Register offices by 10%.

**(5)** - *Abrogated*

## CHAPTER II
## Participants in insolvency proceedings

**Art. 5. - (1)** The bodies to apply these proceedings shall be: law courts, bankruptcy judges (bankruptcy judge), administrators and liquidators.

**(2)** The bodies under para. (1) shall ensure the fast performance of acts and operations provided in this law, as well as the abidance by the legal requirements in the fulfilment of the rights and obligations of the other participants in these acts and operations.

### Section 1
### Law courts

**Art. 6.** - All proceedings provided in the present law, with the exception of the appeal in points of law provided in Art.7, shall be of the exclusive competence of the tribunal having jurisdiction over the debtor's establishment, as it is registered in the Trade Register, and respectively in the register of agricultural companies, and shall be exercised by a bankruptcy judge, designated by the tribunal president, under the conditions in Art.8.

**Art. 6[1]. - (1)** The summoning of the parties and the communication or notification of any other procedural act shall be subject, as a rule, to Art. 85-94 of the Civil Procedure Code.

**(2)** As an exception, the acts in para.(1) shall be performed by publication, in cases expressly provided by the law.

**(3)** *Abrogated.*

**Art. 7. - (1)** Appeals in points of law shall be tried by courts of appeal, in what regards the decisions handed down by the bankruptcy judge, based on Art. 10.

**(1[1])** The time limit for appeal in points of law is 10 days from notification of the decision, if not otherwise provided in the law.

**(2)** Appeals in points of law shall be tried, by specialised panels, within 30 days from registration of the file with the court of appeal. The parties shall be summoned by publication. In view of solving the appeal in points of law, only the documents that are relevant to the solving of the appeal be sent, in certified copy signed by the chief tribunal clerk, to the court of appeal.

**(3)** By derogation from Art. 300 para.2 and 3 of the Civil Procedure Code, with its ulterior amendments and supplements, decisions of the bankruptcy judge may not be suspended by the court judging the appeal in points of law.

**(4)** Para.(3) shall not apply in case of judgment of appeals in points of law against the following decisions of the bankruptcy judge:

a) decisions to reject the debtor's objections filed based on Art. 31 para. (5);

b) decisions on entry into bankruptcy, handed down according to Art. 77;

c) decisions to solve the contestation of plans of distribution of the funds obtained from the liquidation and from the collection of claims, made based on Art.107.

**(5)** For all requests for appeal in points of law made against decisions of the bankruptcy judge in proceedings opened against a debtor, only one file shall be constituted.

## Section 2
## The bankruptcy judge

**Art. 8. –** In each case, a bankruptcy judge shall be appointed by the tribunal president, from among the judges designated as bankruptcy judges, according to Art. 12 para. 3 of Law No. 92/1992*) on judicial organisation, republished, with its ulterior amendments.

**Art. 9. –** In the accomplishment of his duties, a bankruptcy judge may designate specialised persons, by means of a resolution ("concluzie"), also establishing their remuneration. Remunerations shall be paid according to Art. 4.

**Art. 10. –** Under the present law, the main prerogatives of a bankruptcy judge are:

**a)** handing down the decision on the opening of proceedings;

**b)** trying the debtor's objections against the introductory petition lodged by the creditors in view of commencement of proceedings;

**c)** designating the administrator or liquidator, by means of decision, establishing their prerogatives, controlling their activity and, as the case may be, replacing them;

**d)** judging applications for removing the debtor's right to conduct his own business activity;

**e)** trying actions lodged by the administrator or the liquidator for the cancellation of property-related transfers, prior to the opening of proceedings;

**f)** judging the debtor's or the creditors' objections against measures taken by the administrator or the liquidator;

**g)** confirming the reorganisation plan or, the case being, the liquidation plan, after it is voted by the creditors;

**h)** deciding to continue the debtor's activity, in case of reorganisation;

**i)** solving objections to the quarterly and final reports of the administrator or liquidator;

**i**[1]) authenticating legal documents drawn up by the liquidator, the validity of which requires the authenticated form;

**j)** handing down the decision to close the proceedings.

**(2)** If the issues submitted for deliberation in the court sessions chaired by the bankruptcy judge cannot be examined in one day, the deliberation shall continue *de jure* on the following working day, without a new notification, and shall proceed in the same manner until all issues are solved.

**(3)** *Abrogated.*

**Art. 11. –** Decisions of the bankruptcy judge are final and enforceable. They may be appealed against separately, in points of law.

**Art. 12. –** At any stage of the proceedings, the tribunal may replace a bankruptcy judge by another, by means of a reasoned resolution handed down in the Council Chamber.

## Section 3
## The Assembly of Creditors. The Board of Creditors

**Art. 13. - (1)** The Assembly of Creditors shall be convoked and chaired by the administrator or, the case being, the liquidator, unless it is otherwise stipulated by the law or by the bankruptcy judge; the administrator or, the case being, the liquidator shall handle the secretariat work for the meetings of the Assembly of Creditors.

**(2)** Known creditors shall be convoked by the administrator/liquidator in the cases provided in the law or any time it is necessary.

**(3)** The Assembly of Creditors shall be convoked also upon request of the creditors holding claims adding up to at least 30% of the total value of existing claims.

**Art. 13[1]. - (1)** Convocations sent to creditors shall include the agenda of the meeting.

**(2)** Any deliberation upon issues not included in the convocation shall be null, except for cases when the meeting is attended by the holders of all the existing claims.

**(3)** Creditors may be represented at the Assembly by agents empowered for each meeting, based on a special authenticated mandate or, for budgetary creditors and the other legal persons, based on a delegation signed by the person in charge of the unit.

**(4)** No account shall be taken of any written statements sent by the creditors, except for cases when the law permits voting by adhesion. If voting by mail is permitted, creditors may send their vote by a written document in electronic format in which they include, or to which they attach or associate their extended electronic signature, based on a valid qualified certificate.

**(5)** The meetings of the Assembly of Creditors shall be attended by 2 delegates of the debtor's employees, who shall vote for the claims that represent salaries and other pecuniary rights.

**(6)** *Abrogated.*

**(7)** If the issues submitted for deliberation of the creditors cannot be examined in one day, the deliberation shall continue *de jure* on the following working day, without a new notification, and this shall be the case until all issues are solved.

**(8)** The minutes of the Assembly of Creditors shall be signed by the meeting president and shall contain a summary of the debates held, the votes of the creditors on each issue and the decisions adopted.

**Art. 14. - (1)** In meetings of the Assembly of Creditors, the creditors may designate a Board of Creditors and are entitled to analyse the debtor's status, the reports drawn up by the Board of Creditors, the measures taken by the administrator/liquidator and their effects and to make reasoned proposals for other measures.

**(2)** Except for cases where the law requires a special majority, meetings shall take place in the presence of holders of claims adding up to at least 30% of the total value of claims against the debtor's estate, and the decisions of the Assembly of Creditors shall be adopted with the vote of the holders of a majority, in terms of value, of the attending claims.

**(3)** The aggregate value of claims provided under paragraph (2), existing against the debtor's estate, shall be computed based on the following criteria:

**a)** after the posting of the final list and until confirmation of a reorganisation plan, as it is shown in the final list;

**b)** after confirmation of the reorganisation plan and until the posting of the final consolidated list, as it is shown in the confirmed plan of reorganisation; and

**c)** after display of the final consolidated list, as it is shown in it.

**(4)** The reorganisation plan shall be submitted for voting in the Assembly of Creditors, according to Art. 67.

**Art. 15. - (1)** If necessary, in relation to the size of the case, the bankruptcy judge shall designate a board comprising 3-7 of the creditors holding the highest value secured or unsecured claims who are registered in the list under Art. 26, Art. 32, and respectively Art. 33.

**(2)** *Abrogated.*

**(3)** The Board shall be designated either by the decision on the opening of proceedings, or after presentation or drawing up of the list of creditors, if the list is not available at the date of opening of proceedings.

**(4)** Within the first meeting of the Assembly of Creditors they shall be able to elect a board of 3 - 7 creditors from among secured and unsecured creditors who volunteer; the board thus designated shall replace the board previously designated by the bankruptcy judge.

**(5)** If the required majority is not obtained, the bankruptcy judge may designate the board according to para. (1) or can maintain the previously designated board.

**(6)** During his activity, the bankruptcy judge may request assistance from the Board of Creditors or from a delegate of this Board.

**Art. 16. - (1)** The Board of Creditors is one of the parties entitled to request − when the debtor has not stated his wish to reorganise according to Art. 26, and respectively Art. 32, or when a reorganisation plan has not been proposed by the debtor or confirmed − that the bankruptcy judge remove the debtor's right to administer.

**(2)** The Board of Creditors may be authorised by the bankruptcy judge to lodge actions for cancellation of certain property-related transfers– made by the debtor in fraud against the creditors -, where such actions have not been lodged by the administrator/liquidator.

## Section 3[1]
## The General Assembly of Members or Partners/Shareholders. The representative of members or of partners/shareholders

**Art. 16[1]. - (1)** During the course of the proceedings provided in this law, the General Assembly of Partners/Shareholders shall be convoked any time necessary and it shall be chaired by the administrator/liquidator, unless the law or the bankruptcy judge stipulates otherwise.

**(2)** The General Assembly of Partners/Shareholders shall be convoked also upon request from the partners/shareholders representing at least 10% of the registered capital or a lesser percentage, if the act of foundation so provides.

**(3)** Paragraphs (1) and (2) shall apply accordingly to the General Assembly of the members of economic interest groups and respectively, of cooperative companies; in the case of these legal entities, the percentage provided in para.(2) shall be in accordance with the number of members.

**(4)** The members or, the case being, the partners/shareholders shall be notified, according to the law, obligatorily:

a) a) on decisions to open proceedings;

b) on propositions to perform certain acts, operations and payments that exceed the ordinary conditions of the exercise of current activity;

c) on requests to enter bankruptcy, as well as on decisions of the bankruptcy judge on the debtor's entry into bankruptcy;

d) on propositions for wholesale or sale of immovable property;

e) on the final report and the general balance sheet, drawn up by the liquidator;

f) on the decision closing the proceedings.

**Art. 16[2]. - (1)** In meetings of the General Assembly of members or, the case being, partners/shareholders, they shall designate, at their expense, one representative, being either a natural or legal person, to represent their interests, and shall have the right to analyse the debtor's status, the reports made by the representative of the members or, the case being, of the partners/shareholders, the measures taken by the administrator or the liquidator and their effects and to make reasoned propositions for other measures.

**(2)** Except for cases when the law requires a special majority, meetings shall take place in the presence of partners/shareholders representing at least half of the registered capital, and decisions shall be adopted by simple majority, in accordance with the represented registered capital. In all cases, however, decisions shall be adopted only with the vote of partners/shareholders representing at least one third of the registered capital.

**(3)** For economic interest groups and respectively, for cooperative companies, the percentages in para.(2) shall be in accordance with the number of their members.

**(4)** The notification of any act of procedure to the members or, the case being, partners/shareholders shall be sent to the address of the representative of the members or, the case being, of the partners/shareholders, chosen by him.

**(5)** The representative of the members or, the case being, of the partners/shareholders shall be empowered to exercise any rights or prerogatives that a debtor-natural person can exercise, except for cases when the law provides that they shall be exercised by the members or, the case being, the partners/shareholders, either individually or in other conditions.

**(6)** In the cases in Art.16[1] para.(4) (b), (c) , (d) and (e), the representative of the members or, the case being, of the partners/shareholders shall be able to utter objections according to the law, but shall not partake in the exercise of the vote to approve those measures, if such a vote is provided in the law.

**Art. 16[3]. - (1)** The bankruptcy judge shall designate a representative from among the first 3 partners/shareholders who hold the greatest (in terms of value) shares/social parts.

**(2)** Designation may be made either through the decision on the opening of proceedings or subsequently.

**(3)** In the first meeting of the General Assembly of partners/shareholders or afterwards, they can elect, at their expense, one representative, being either a natural or legal person; the representative thus designated shall replace the representative previously designated by the bankruptcy judge.

**(4)** During his activity the bankruptcy judge shall be able to request the assistance of the representative of the partners/shareholders or of a delegate of the representative.

**(5)** Paragraphs (1)-(4) shall apply accordingly concerning the designation of the representative of the members of an economic interest group or, the case being, of a cooperative company.

**Art. 16[4]. –** The representative of the members or, the case being, of the partners/shareholders may have the following prerogatives:

a) proposing the designation of an administrator;

b) consulting the administrator/liquidator concerning the course and the administration of proceedings;

c) examining acts committed by the debtor, administrator or liquidator, the debtor's activity and financial status, as well as the possibility for the debtor's activity to continue;

d) drawing up and negotiating a reorganisation plan, as well as informing and advising the members or, the case being, the partners/shareholders concerning the contents of any other plan suggested;

e) performing any other activities needed to protect the interests of the members or, the case being, of the partners/shareholders.

## Section 4
## The administrator

**Art. 17. - (1)** Within the first meeting of the assembly of creditors or afterwards, the creditors who hold at least 50% of the total value of claims may decide the appointment of an administrator – either a natural person or a trade company – establishing also his remuneration, according to the criteria approved by Government decision.

**(2)** Creditors who are not satisfied may object to the decision in para.(1) within 3 days, with the bankruptcy judge, who shall solve all the objections, in emergency proceedings and at the same time by an irrevocable resolution designating the administrator suggested by the creditors or, the case being, shall keep the administrator designated by the decision on opening the proceedings.

**(3)** If within the time limit in para. (2) the decision of the assembly of creditors is not objected to, the bankruptcy judge shall, by irrevocable decision, designate the administrator suggested by the creditors, also ordaining the cessation of prerogatives of the administrator appointed by him in the decision on opening the proceedings.

**(4)** The administrator, being either a natural person or a trade company, including the representative of this trade company, must be a practitioner in reorganisation and liquidation, according to the law.

**($4^1$)** A natural person may not be designated as administrator/liquidator if he may not be a founder, an administrator, director, auditor or representative of a trade company, according to Art. 6 para. (2) and Art. 135 of Law No. 31/1990 on trade companies, republished, with its ulterior amendments.

**($4^2$)** In cases under Art. 145 of Law No. 31/1990, republished, with its ulterior amendments, the administrator/liquidator shall be obliged to refrain from taking part in the proceedings. In case of failure to refrain, any person concerned may initiate a challenge procedure, according to the Civil Procedure Code, which shall apply accordingly.

**($4^3$)** Before his designation, an administrator must prove that he is insured for professional liability, by submitting a valid insurance policy that is able to cover any prejudice caused in the fulfilment of his prerogatives. The risk insured must represent the consequence of the administrator's activity for the duration of exercise of his capacity.

**($4^4$)** Subject to revocation from office and to reparation of any prejudice caused, it is prohibited for the administrator to either directly or indirectly reduce the value of the sum insured by means of the insurance contract.

**(5)** *Abrogated.*

**Art. 18. –** Under this law, the main prerogatives for administrators shall be:

**a)** examining the debtor's business activity in relation to the factual situation and drawing up a detailed report on the reasons and circumstances that led to insolvency, while mentioning the persons who could be made responsible for the insolvency, as well as on the actual possibility for effective reorganisation of the debtor's activity or on the reasons that do not allow for the debtor's reorganisation and submitting that report to the bankruptcy judge within a time limit established by the latter, however not exceeding 60 days from designation of the administrator;

**a$^{1}$)** drawing up the documents in Art. 26 para. (1), if the debtor failed to fulfil this obligation within the legal time limit, as well as checking, correcting and supplementing the information contained in those documents, where they have been submitted by the debtor;

**a$^{2}$)** drawing up the reorganisation plan for the debtor's activity, according to the report in a) and to the conditions and time limits in Art. 59;

**b)** supervising the operations of administration of the debtor's estate;

**c)** fully or partly running the debtor's activity, in which case with the express mention of his prerogatives and of the requirements for making payments from the account of the debtor's estate;

**d)** appointing the dates of meetings of the Assembly of Creditors;

**e)** lodging actions for cancellation of fraudulent acts concluded by the debtor to the detriment of the creditors' rights, as well as of property-related transfers, of commercial operations concluded by the debtor and of the creation of securities granted by the latter and which are likely to prejudice the creditors' rights;

**e$^{1}$)** applying seals, making the inventory of the assets and taking the appropriate measures to preserve them;

**e$^{2}$)** urgently notifying the bankruptcy judge if he finds that there are no assets in the debtor's estate or that they are insufficient to cover the administrative expenses;

**f)** maintaining or rejecting contracts concluded by the debtor;

**g)** checking the claims and, where necessary, uttering objections thereto;

**h)** monitoring the receipt of claims pertaining to assets in the debtor's property or to sums of money transferred by the debtor before the opening of proceedings;

**i)** on condition of confirmation by the bankruptcy judge, concluding transactions, discharging debts, relieving guarantors, releasing securities;

**j)** notifying the bankruptcy judge with regard to any issue that would require resolution by the latter;

**k)** any other prerogatives set forth by resolution of the bankruptcy judge, except for those provided in the law as being of the latter's exclusive competence.

**Art. 19. – (1)** The administrator shall file a monthly report in the record of the cause, containing a description of the manner in which he fulfilled his prerogatives and justifying the expenses made according to Art. 106 para.(1) and Art. 108.

**(2)** The debtor-natural person, the representative of members or of partners/shareholders, any creditor, and any other person concerned may lodge an objection against measures taken by the administrator.

**(3)** Objections shall be registered within 5 days from the filing of the report in para. (1).

**(4)** The bankruptcy judge shall solve the objections within 10 days from registration, in the Council Chamber, while summoning the author of the objection and the administrator. If he sees is necessary, the bankruptcy judge may suspend execution of the measure objected to.

**Art. 20. - (1)** The bankruptcy judge shall sanction with a judiciary fine from 5.000.000 lei to 10.000.000 lei any insufficiently reasoned refusal of the practitioner in reorganisation and liquidation to accept his designation as administrator.

**(2)** In the exercise of his control prerogative under Art. 10 para. (1) c) the bankruptcy judge may cancel any illegal measures taken by the administrator, even if they have not been objected against, and he may, if he deems it necessary, summon the administrator and the persons concerned to the Council Chamber.

**(3)** For serious reasons, at any stage of the proceedings, the bankruptcy judge may hand down a resolution to replace the administrator.

**(4)** In view of adopting the measure in para. (3), the bankruptcy judge shall summon the administrator and the Board of Creditors to the Council Chamber.

**(5)** The bankruptcy judge shall sanction the administrator with a judiciary fine from 5.000.000 lei to 20.000.000 lei if the latter, either out of negligence or in bad faith, fails to fulfil or belatedly fulfils his prerogatives as established by the law or by the bankruptcy judge.

**(6)** If the administrator caused a prejudice through the act in para. (5), the bankruptcy judge may, upon request from any party concerned, oblige the administrator to cover the prejudice caused.

**(7)** In case of the fines and reparations in para. (1), (5) and (6), Art. $108^4$ and $108^5$ of the Civil Procedure Code shall apply accordingly.

**Art. 21. –** In view of fulfilling his prerogatives, the administrator may designate specialists. The appointment and the amount of remunerations for these persons shall be subject to approval by the bankruptcy judge.

## Section 5
## The liquidator

**Art. 22. - (1)** In the event that it is ordered that the debtor be declared bankrupt, the bankruptcy judge shall designate a liquidator, and Art. 17, 19, 20, 21 and Art. 69 para. (4) shall apply accordingly.

**(2)** The administrator's prerogatives shall cease at the time when the bankruptcy judge establishes the liquidator's prerogatives.

**(3)** The previously designated administrator may be appointed as liquidator.

**Art. 23. –** Under this law, the main prerogatives of a liquidator shall be:

**a)** examining the debtor's business activity in relation to the factual situation and drawing up a detailed report on the reasons and circumstances that led to insolvency, while mentioning the persons who could be made responsible for the insolvency and submitting that report to the bankruptcy judge within a time limit established by the latter, however not exceeding 60 days from designation of the liquidator, if a report on the same subject had not been previously drawn up by the administrator;

**b)** running the debtor's activity;

**c)** lodging actions for cancellation of fraudulent acts concluded by the debtor to the detriment of the creditors' rights, as well as of property-related transfers, of commercial operations concluded by the debtor and of the creation of securities granted by the latter and which are likely to prejudice the creditors' rights;

**d)** applying seals, making the inventory of the assets and taking the appropriate measures to preserve them;

**e)** maintaining or rejecting contracts concluded by the debtor;

**f)** checking the claims and, where necessary, uttering objections thereto;

**g)** monitoring the receipt of claims pertaining to assets in the debtor's property or to sums of money transferred by the debtor before the opening of proceedings;

**h)** receiving payments on behalf of the debtor and depositing them in the account of the debtor's estate;

**i)** selling assets from the debtor's estate according to this law;

**j)** on condition of confirmation by the bankruptcy judge, concluding transactions, discharging debts, relieving guarantors, releasing securities;

**k)** notifying the bankruptcy judge with regard to any issue that would require resolution by the latter;

**l)** any other prerogatives set forth by resolution of the bankruptcy judge.

**Art. 23[1]. - (1)** Documents concluded by the liquidator, the validity of which requires an authenticated form, shall be authenticated by the bankruptcy judge.

**(2)** The bankruptcy judge shall hand down a resolution of authentication, based on which the document may be entered in the public registers.

## CHAPTER III
## Procedure

### Section 1
### Introductory requests

**Art. 24. – (1)** Proceedings shall begin based on an introductory request lodged with a tribunal by the debtor or by the creditors.

**(2)** The National Bank of Romania, the National Commission of Securities and the Commission for the Supervision of Insurance can lodge requests against legal entities that are under their supervision and control, and which, according to the data held by those authorities, meet the criteria provided in the special legal stipulations for the initiation of the proceedings provided in the present law.

### § 1. The debtor's request

**Art. 25. - (1)** Any insolvent debtor shall be obliged to lodge a request for being subjected to this law, with a tribunal, within 30 days from the occurrence of the state of insolvency.

**(2)** A debtor in whose case the occurrence of insolvency is imminent also may lodge a request with a tribunal for being subjected to this law.

**(3)** Requests by legal persons shall be signed by the persons who are designated to represent them by their foundation documents or statutes.

**(4)** The premature lodgement in bad faith, by the debtor, of a request for opening proceedings entails property-related liability of the debtor who is a natural person or of the legal representatives of legal persons that are debtors, for the prejudice caused.

**Art. 26. - (1)** Requests lodged by the debtor shall be accompanied by the following documents:

**a)** the balance sheet and copies of the current accounting books;

**b)** a full list of all the assets belonging to the debtor, including all accounts and banks in charge of the debtor's cash flows; for charged property, the data in the public registers shall be mentioned;

**c)** a list of the names and addresses of creditors, regardless of the form of their claims: conditional or unconditional, liquid or non-liquid, due or not due, contested or not contested, indicating the amount, the cause and the rights of preference;

**c[1])** a list of the property-related payments and transfers made by the debtor during the 120 days before the lodgement of the introductory request;

**d)** the profit and loss account for the year prior to the lodgement of the request;

**e)** a list of the members of the economic interest group or, the case being, of the partners with unlimited liability, for general partnerships and limited partnerships;

**f)** a statement of the debtor showing his intention to enter bankruptcy or reorganisation, according to a plan, by restructuring the activity or by liquidating his estate either fully or in part, in view of extinguishing his debts; if this statement is not lodged by the end of the time limit in para.(2), the debtor shall be presumed to agree with the commencement of bankrupcty;

**g)** a statement on his own responsibility or a certificate from the register of agricultural companies or, the case being, from the Trade Register office that has jurisdiction over the professional domicile/registered office, showing whether the debtor has ever been subject to the proceedings provided in this law within the 5 years that precede the lodgement of the introductory request.

**(2)** If, at the time of registration of the request, the debtor does not have one of the pieces of information in para.(1) a)-e) and g), he may register that piece of information with the tribunal, within 10 days; should he fail to do so, his request shall be rejected.

**Art. 27. - (1)** In case of a request lodged by a general partnership or a limited partnership, the request shall no longer be deemed as having been lodged also by the partners with unlimited liability or, according to Art. 29-31, also against them.

**(2)** A request lodged by or against a partner with unlimited liability for his debt shall not take juridical effect with regard to the general partnership or limited partnership of which he is part.

**(3)** Paragraphs (1) and (2) shall apply accordingly also for requests lodged by economic interest groups or by their members.

**Art. 28. –** The tribunal shall not receive requests for reorganisation from debtors who, within the previous 5 years, have lodged such a request or have been subject to such a request lodged by the creditors.

### § 2. Requests from the creditors

**Art. 29. – (1)** Any creditor having one or several valid, liquid and enforceable claims may lodge a request with a tribunal against a debtor who is presumed to be insolvent because of having stopped making payments to the former for at least 30 days, under the following conditions:

**a)** if the claims arise from work relations or civil law contractual obligations, the quantum of the claim must exceed the sum of 6 average salaries in the economy, established according to the law and calculated at the date of lodgement of the introductory request;

**b)** in the other cases, claims must have a quantum that exceeds the equivalent in lei of 3.000 euro, calculated at the date of lodgement of the introductory request;

**c)** in case of a creditor holding claims belonging to both categories in a) and b), the total quantum of claims must exceed the sum of 6 average salaries in the economy, established according to the law and calculated at the date of lodgement of the introductory request.

**(2)** If between the moment of a creditor's lodging a request and that of judgement of this request by the bankruptcy judge, requests are lodged by other creditors, the bankruptcy judge shall ordain their connection and shall establish the meeting of requirements in para.(1) concerning the minimum quantum of claims according to the total value of claims of all creditors who lodged requests.

**(3)** If proceedings have been opened in a case, the other cases having the same object that may be on the roll shall be connected to the first case.

**Art. 30. –** After registration of an introductory request, the tribunal president shall at once nominate the bankruptcy judge, according to Art. 8.

## Section 2
## Opening of proceedings and effects of the opening of proceedings

**Art. 31. - (1)** If the debtor's request meets the conditions in Art.25, 26 and 28, the bankruptcy judge shall hand down a resolution opening the proceedings, which he shall notify according to Art.$58^{1}$. If the creditors oppose the opening of proceedings within 15 days from publication of the notice, the bankruptcy judge shall hold, within 10 days, a session to which the debtor and the creditors who oppose the opening of proceedings shall be summoned, in which session he shall solve all oppositions at the same time and by a single sentence.

**(2)** Within 48 hours from registration of the creditors' request, the bankruptcy judge shall notify a copy of the request to the debtor and shall ordain the display of a copy at the door of the court.

**(3)** If within 5 days from receipt of the copy, the debtor contests the fact that he is insolvent, according to Art.29, the bankruptcy judge shall hold, within 10 days, a session to which the debtor and the creditors who lodged the request shall be summoned.

**(4)** Upon request of the debtor, the bankruptcy judge may oblige the creditors who lodged the request to deposit with a bank, within 15 days, a bond of 10% of the value of the claims. If their request is accepted, the bond shall be returned to the creditors,. If their request is rejected, the bond may be used to cover the damage sustained by the debtor. Failure to deposit the bond within the appointed time limit shall entail rejection of the introductory request.

**(5)** If the bankruptcy judge establishes that the debtor is insolvent, he shall reject his objection and open the proceedings by means of a sentence.

**(6)** If the bankruptcy judge establishes that the debtor is not insolvent, he shall reject the creditors' request and ordained that the sentence be displayed at the court door. In case of rejection of the request, it shall be deemed as devoid of any effect beginning with its very lodgement.

**(7)** If the debtor does not make an objection within the time limit in para. (3) to the fact that he is insolvent, the bankruptcy judge shall hand down a sentence to open the proceedings.

**(8)** - *Abrogated.*

**Art. 32. - (1)** Within 10 days from the opening of proceedings, according to Art. 31 para. (5) or (7), the debtor is obliged to file the documents and information in Art. 26 para. (1) to the record of the case.

**(2)** *Abrogated.*

**Art. 33. –** If the debtor has not provided the information in Art.26 para.(1) b), c), $c^1$), d) and g) or he presented it in an inappropriate manner, the administrator may, at the expense of the debtor's estate, hire, according to the law, one or several specialised experts who, using the debtor's balance of payments, the accounting and extra-accounting books and documents, draw them up or, the case being, correct them, with maximum emergency.

**Art. 34. –** Through the decision opening the proceedings, the bankruptcy judge shall designate an administrator, establishing his prerogatives, according to Art.18, as well as his remuneration, according to the criteria approved by Government Decision.

**Art. 35. –** From the date of opening of proceedings, all judicial or extrajudicial actions for the realisation of claims against the debtor or his assets shall be suspended.

**Art. $35^1$. - (1)** A creditor holding a claim secured by mortgage or pledge or other security interest in movable property or by lien, of any kind, may request the bankruptcy judge to remove the suspension in Art. 35 with regard to his claim and the immediate realisation, within the proceedings, of the asset to which the security or lien pertains, in one of the following cases:

**A. a)** when the value of the object of the security is fully covered by the total value of claims and parts of claims secured with that object; and

**b)** the object of the claim is not of vital importance to the success of a reorganisation that, in a concrete case, would have actual chances of accomplishment;

**B.** when the secured claim is not properly protected in relation to the object of the security, because of:

- reduction in the value of the object of the security or existence of a real danger that it may be considerably reduced;

- reduction in the value of the secured part of a claim of inferior rank, following the accrual of interest, additions and penalties of any kind to a secured claim of superior rank;

- the absence of insurance on the object of the security against destruction or damage.

**(2)** In the cases in para. (1) B, the bankruptcy judge may reject the request for removal of suspension lodged by the creditor, if the administrator/debtor proposes, in exchange, the adoption of one or several measures meant to provide appropriate protection for the creditor's secured claim, such as:

**a)** the making of periodical payments in favour of the creditor, to cover the reduction in the value of the object of the security or in the value of the secured part of a claim of inferior rank;

**b)** the making of periodical payments in favour of the creditor, the creditor to satisfy the interest, additions and penalties of any kind and, respectively, for reducing the principal of the claim below the percentage of reduction in the value of the object of the security or in the value of the secured part of a claim of inferior rank;

**c)** novating the obligation to secure by creating an additional real or personal security, or by replacing the object of the security by another object.

**(3)** The author of a request for removal of suspension must prove the fact in para. (1) A. a), while the debtor/administrator or any other party concerned shall produce the evidence to the contrary and, respectively, the other elements.

**Art. 36. –** The opening of proceedings shall suspend any periods of time limitation for the actions under Art. 35. These periods shall resume their course 30 days after the closing of proceedings.

**Art. 37. –** No interest, addition or penalty of any kind or expense may be added to the claims arisen prior to the opening of proceedings and not secured by mortgage or pledge or other security interest in movable property or lien, of any kind, or to the unsecured parts of claims thus secured, as of the date of opening of proceedings, unless the claims payment schedule included in the reorganisation plan derogates from the abovementioned provisions.

**Art. 38. – (1)** After the opening of proceedings has been ordained according to Art.31, it shall be prohibited to administrators, debtors-legal persons, subject to nullity, to alienate shares or social parts held in the debtor who is the object of the proceedings, without the approval of the bankruptcy judge.

**(2)** The bankruptcy judge shall ordain that the shares or social parts, in accordance with paragraph (1), be recorded in the special registers or in the electronically registered accounts as inalienable.

**Art. 39. –** The debtor shall be obliged to make available to the administrator or, the case being, the liquidator, all the information requested by them with regard to his activity and estate, as well as a list of the property-related payments and transfers made by him during the 120 before the opening of proceedings.

**Art. 39[1]. - (1)** After the decision opening the proceedings remains irrevocable, all the documents and letters issued by the debtor, administrator or liquidator shall include, obligatorily and in visible characters, in Romanian, English and French, the mention „in insolvency".

**(2)** After the commencement of judicial reorganisation or bankruptcy, the documents and letters shall bear, according to para. (1), the mention „in judicial reorganisation" or, according to case, „in bankruptcy".

**(3)** Any damages suffered by *bona fide* third parties following the non-compliance with the obligation in para. (1) and (2), shall be exclusively repaired by the persons who concluded the documents as legal representatives of the debtor, while not inflicting any effect upon the debtor's estate.

**Art. 40. - (1)** Outside the cases provided in this law or those authorised by the bankruptcy judge, all documents, operations and payments made by the debtor after the opening of proceedings shall be null.

**(2)** The debtor and/or, the case being, the administrator shall be obliged to draw up and keep a list of all documents and operations concluded after the opening of proceedings, while mentioning their nature and value and the identification data of the co-contractors.

**Art. 40[1]. - (1)** The opening of proceedings shall entail in the debtor's loss of his right of administration – which consists of the right to run his activity, to administer the assets in his estate and to dispose of them -, if the debtor has not stated, according to Art. 26 para. (1) f) or, the case being, Art. 32 para. (1), his intention to reorganise.

**(2)** Except for the cases expressly provided in the law, para. (1) shall apply also to the assets acquired by the debtor after the opening of proceedings.

**(3)** The bankruptcy judge may ordain the removal, wholly or partly, of the debtor's right of administration, upon designating an administrator, while also specifying the conditions for the exercise of this right.

**(4)** The debtor's right of administration shall cease by operation of law at the date when commencement of bankruptcy is ordained.

**(5)** Creditors, the Board of Creditors or the representative of members or, the case being, of partners/shareholders may at any time lodge a request with the bankruptcy judge for the removal of the debtor's right of administration, justified by the continuous loss from the debtor's estate or the absence of a probability of achieving a rational plan of activity.

**(6)** The bankruptcy judge shall examine such the request in para. (5) within 15 days, in a session to which the debtor, the creditors, the administrator, the Board of Creditors and the representative of members or, the case being, of partners/shareholders shall be summoned.

**Art. 40[2]. - (1)** *Abrogated.*

**(2)** *Abrogated.*

**(3)** The bankruptcy judge shall order all the banks where the debtor has available monies in accounts to not dispose of the same without his order or the order of the administrator/liquidator.

**(4)** Failure to comply with the order of the bankruptcy judge as mentioned in para. (3), shall entail liability of the banks for the prejudice caused, as well as a judiciary fine from 4.000.000 lei to 10.000.000 lei.

**Art. 40[3]. - (1)** For the period in which the debtor or/and the administrator is/are exercising the right of administration, he/they may conclude any documents and operations – including the use, sale and leasing of assets – and may make payments, if all these comply with the regular conditions of exercise of the current business activity.

**(2)** Acts, operations and payments that exceed the conditions in para. (1) may be authorised by the bankruptcy judge; he shall convoke a session within 20 days from receipt of the request, notifying the creditors on the possibility of lodging reasoned objections at least 5 days before the date of convocation.

**(3)** Within the session in para. (2) the bankruptcy judge shall solve all objections and decide, by resolution, on the request made by the debtor/administrator.

**(4)** In case of proposals to alienate assets belonging to the debtor's estate which are burdened by guarantees, the provisions of Article 35[1] regarding the appropriate protection of secured claims shall be taken into account.

**Art. 40[4]. –** If at the date of opening of proceedings a legal document had not become binding on third parties, the registrations, transcriptions, entries and any other specific formalities required for this purpose, which were performed after the opening of proceedings, shall take no effect upon the general body of creditors, except for the case where the legally lodged request or notification was received by the competent court, authority or institution no later than on the day before the decision opening the proceedings.

**Art. 40[5]. –** The opening of insolvency proceedings shall not infringe upon the right of a creditor to request compensation of his claim with the claim that the debtor holds against him, when the legal conditions in matters of legal compensation are met at the date of the opening of proceedings.

**Art. 40[6]. –** Assets alienated by the administrator/liquidator, in the exercise of his prerogatives as provided in this law, shall be acquired free of all burdens, such as mortgages, real securities or security interests in movable property or liens, of any kind, or interim measures.

**Art. 41. – (1)** The administrator shall draw up and submit to the bankruptcy judge, within the time limit appointed by the bankruptcy judge, while not exceeding 60 days from designation of the administrator, a detailed report on the reasons and circumstances that led to the debtor's insolvency, while mentioning the persons who could be made responsible for the insolvency.

**(2)** The report shall specify whether there is an actual possibility for effective reorganisation of the debtor's activity or, the case being, the reasons that do not allow for his reorganisation and, in this latter case, a proposal for entering bankruptcy.

**(3)** The report suggesting the debtor's entry into bankruptcy shall be submitted for approval to the General Assembly of Creditors, in its first meeting.

**(4)** The bankruptcy judge shall ordain, within 48 hours from receipt of the report in para.(3), the publication of an announcement on the report in the Official Gazette of Romania, Part IV , and in two widely read newspapers, while specifying the date of the meeting of the Assembly of Creditors and the fact that it is admissible to vote by letter if the creditor's signature is authenticated by a public notary; letters may be sent by any means and must be registered with the tribunal at least 3 days before the date appointed for the vote.

**(5)** The administrator shall make the report available for perusal at his office, at the expense of the requester. One copy of the report shall be filed with the tribunal clerk's office and with the Trade Register or, the case being, with the Register of agricultural companies and shall be sent to the debtor.

**Art. 41[1]. – (1)** In the first meeting of the Assembly of Creditors, the administrator shall inform the creditors present of the valid votes received in writing with regard to the report suggesting the debtor's entry into bankruptcy.

**(2)** The Assembly of Creditors shall approve the report in para.(1) by the vote of holders of at least two thirds of the claims attending the vote.

**(3)** Based on the decision of the Assembly of Creditors to approve the report in para.(1), the bankruptcy judge shall ordain, by means of a resolution, the debtor's entry into bankruptcy according to Art.77.

**(4)** Para.(1)-(3) shall not apply if the bankruptcy judge admitted a reorganisation plan by the date of the first meeting of the Assembly of Creditors.

## Section 3
## The status of certain juridical acts of the debtor

**Art. 42. –** Actions lodged by the administrator for the application of this Section shall be exempt of stamp fees. All actions and requests lodged by the judicial liquidator shall be exempt of the stamp fee.

**Art. 43. –** The measures in this Section shall apply both for cases of reorganisation or liquidation according to a plan, as well as for cases of bankruptcy.

**Art. 44. –** The administrator or, the case being, the liquidator may lodge with the bankruptcy judge actions for the cancellation of fraudulent acts concluded by the debtor in the detriment of the creditors' rights, during the 3 years that precede the opening of proceedings.

**Art. 45. - (1)** The administrator or, the case being, the liquidator may lodge with the bankruptcy judge actions for the cancellation of creations or transfers of property-related rights to third parties and for the restitution by them of the rights transferred and of the value of other services performed, achieved by the debtor through the following acts:

**a)** transfers with free title made in the three years prior to the opening of proceedings; humanitarian sponsorships shall be excepted;

**b)** commercial transactions, where the debtor's services evidently exceed the ones received, made in the three years prior to the opening of proceedings;

**c)** documents concluded in the three years prior to the opening of proceedings, with the intention of all parties involved to appropriate goods from creditors or to harm in any other way the creditors' rights;

**d)** transfers of property to a creditor on account of a prior debt or to the creditor's benefit, made in the 120 days prior to the opening of proceedings, if the amount that the creditor might obtain in case of bankruptcy is less that the value of the document of transfer;

**e)** the creation or perfecting of a legal security for an unsecured claim in the 120 days prior to the opening of proceedings;

**f)** payments of debts in advance, made during the 120 days prior to the opening of proceedings, if they had been appointed a maturity date subsequent to the opening of proceedings.

**(2)** The following commercial transactions, concluded during the year previous to the one of opening of the proceedings, with persons who are in judicial relations with the debtor, may, also, be cancelled and the services be regained, if they are prejudicial to the creditors:

**a)** with a limited partner or a partner holding at least 20% of the registered capital of the trade company or, the case being, of the rights to vote in the general assembly of partners, when the debtor is that limited partnership, and respectively an agricultural company, a general partnership or a limited liability company;

**a$^{1}$)** with a member or administrator, when the debtor is an economic interest group;

**b)** with a shareholder holding at least 20% of the debtor's shares, or, the case being, of the rights to vote in the general assembly of shareholders, when the debtor is the respective joint stock company;

**c)** with an administrator, director or member of the bodies of supervision of the debtor, which is a cooperative company, a joint stock company, a limited liability company or, the case being, an agricultural company;

**d)** with any other natural or legal person holding a dominant position over the debtor or his business;

**e)** with a co-owner over joint property.

**Art. 46. - (1)** Actions for cancelling a property-related transfer, according to Art.44 or 45, may be lodged by the administrator/liquidator within one year from the expiry of the time limit appointed for making the report in Art.18 a), however not exceeding 18 months from the date of the opening of proceedings.

**(2)** The bankruptcy judge may authorise the Board of Creditors to lodge such an action, if the administrator/liquidator does not lodge it.

**Art. 47. –** As an exception to Art. 45, cancellation of a property-related transfer made by the debtor during the normal course of his activity may not be requested.

**Art. 48. - (1)** The third party transferee in a transfer of property that was cancelled according to Art. 46, shall return the transferred asset to the debtor's estate or, if the asset no longer exists, he shall return the asset's value at the date of the transfer made by the debtor.

**(2)** A third party transferee who has returned the asset that had been transferred to him by the debtor or this asset's value, to the debtor's estate, shall hold a claim of the same value against the estate, on the condition that the third party transferee accepted the transfer in good faith and with no intent to obstruct, delay or defraud the debtor's creditors.

**(3)** The third party transferee with free title and acting in good faith shall return the assets in the state in which they are, and in the absence of assets, shall return the difference in value by which he became richer. In case of ill faith, the third party transferee shall in all cases return the entire value as well as the fruits acquired.

**Art. 49. - (1)** The administrator, liquidator or the Board of Creditors may lodge an action to recover from a sub-transferee the assets or the value of the assets transferred by the debtor only providing that the sub-transferee did not pay the appropriate consideration and he knew or should have known that the initial transfer was susceptible to be cancelled.

**(2)** In the event that the sub-transferee is the debtor's spouse, relative or in law up to including four times, it shall be relatively presumed that the sub-transferee was aware of the circumstances in para. (1).

**Art. 50. – (1)** Requests for cancellation of a property-related transfer shall be mentioned, *ex officio*, in the corresponding public registers.

**(2)** A person who obtains a title or acquires any security or another real right over that asset, after the making of such a mention, shall have his title or right conditioned by the right to have regained the asset.

**Art. 51. - (1)** In view of fully maximising the debtor's estate, the administrator/liquidator may recognise or reject any contract, leases not yet expired or other long-term contracts, as long as these contracts were not entirely or substantially executed by all the parties involved. The administrator/liquidator must respond, within thirty days, to a request of a contractual party in which he is requested to choose between rejecting or recognising a contract; in the absence of such a response, the administrator/liquidator can no longer request the performance of the contract, which shall be deemed to be rejected.

**(2)** In the event that a contract is rejected, the contractual party may lodge an action for damages against the debtor.

**(3)** The administrator/liquidator may recognise loan agreements and he may, with the contractual parties' consent, modify their clauses, so as to ensure the equivalence of future services by the debtor. The modifications shall be approved by the bankruptcy judge, who shall examine if they are both to the benefit of the debtor's estate, as well as to that of creditors.

**(4)** If the seller of an immovable property has retained property title until the full payment of the sale price, the sale shall be considered as executed by the seller and shall not be subject to para. (1).

**(5)** A work contract or a lease, as lessee, may only be rejected by respecting the legal time limits concerning notification.

**(6)** In a contract which provides for periodic payments from the debtor, the recognition of a contract shall not oblige the administrator/liquidator to make outstanding payments for the

periods prior to the opening of proceedings. For such payments, requests may be lodged against the debtor.

**Art. 52. -** If a movable property, sold to the debtor and unpaid by him, was in transit at the date of the opening of proceedings and the good is not yet at the disposal of the debtor and no other parties have acquired any rights therein, then the seller may take back his good. In such cases, all the expenses shall be borne by the seller and he must return to the debtor any down payment from the price. If the seller accepts that the goods be delivered, he may recover the price by registering his claim in the list of claims. If the administrator/liquidator orders that the goods be delivered, he must take measures to pay the full price owed under the contract from the debtor's estate.

**Art. 53. -** If the debtor is a party to a contract providing for the transfer of certain commodities, the representative titles of the goods or financial assets, listed on a regulated market for commodities, services and derived financial instruments, at a certain date or within a certain period of time, and the maturity term falls or the period ends after the opening of proceedings, the difference between the purchase price and the listed price, as of the date mentioned above, on that regulated market or the market of the delivery place or, if the place cannot be determined, the most proximate regulated market, shall have to be paid into the debtor's estate, if that is a creditor, and shall be registered in the list of claims, if it is a liability of the debtor's estate.

**Art. 54. –** In the event that an agent holding titles to assets that are to be received or to commodities, becomes subject to an introductory request, his principal shall be entitled to take back his titles or commodities or to request that the agent pay their value.

**Art. 55. - (1)** If a debtor holds the commodities on consignment or any other goods that belong to someone else, at the date of the registration of the introductory request, at the expiry date for the debtor's objection to the creditors' introductory request or at the date of the rejection of the debtor's objection to the request,, the owner shall have the right to recover his goods, if this is permitted by the contract, except in the case where the debtor has a valid security interest over the goods.

**(2)** If at one of the dates referred to in paragraph (1) the commodities are not in the debtor's possession and he cannot recover them from the current holder, the owner shall be entitled to have the claim registered in the list of claims, with the value of the commodities as of that date. If the debtor was in the possession of goods at that date, but subsequently lost possession, the owner may ask that the entire value of the commodities be registered in the list of claims.

**Art. 56. -** The fact that an owner of a leased immovable property is a debtor in insolvency proceedings shall not entail cancellation of the lease contract, unless it was thus stipulated. However, the administrator/liquidator may refuse to perform any services due by the owner to the lessee during the lease. In this case, the lessee may vacate the immovable asset and bring a legal action or he may remain in possession of the immovable, while deducting from the rent that he pays the cost of services due by the owner. Should the lessee choose to remain in possession of the immovable, he shall not be entitled to any action for damages against the debtor; he shall have only the right to deduct the cost of the services due by the owner, from the rent the he pays.

**Art. 57. -** The administrator/liquidator may reject a contract whereby the debtor undertook to perform certain specialised services or services with a strictly personal character, unless the creditor accepts that the service be performed by a person designated by the administrator/liquidator.

**Art. 58. – (1)** If a partner in an agricultural company, a general partnership or a limited partnership or a limited liability company or a shareholder of a joint stock company is a debtor

in proceedings under this law and if the debtor's involvement in such proceedings does not entail the dissolution of that company, the administrator/liquidator may request the liquidation of the debtor's rights in that company, according to the latest approved financial report, or may propose that the debtor remain a partner, if the other partners agree.

**(2)** Para.(1) shall apply accordingly also for members of cooperative companies and of economic interest groups.

## Section 3[1]
## First measures

**Art. 58[1]. - (1)** Following the opening of proceedings, the administrator shall send a notification to all the creditors mentioned in the list submitted by the debtor according to Art.26 or Art.32 or, the case being, drawn up according to Art. 33, to the debtor and to the Trade Register office or, the case being, the register of agricultural companies where the debtor is registered, in view of a mention being made.

**(2)** Should the creditors having their registered office or domicile abroad have representatives in our country, the notification shall be sent to the latter.

**(3)** The notification in para. (1) shall be published, at the expense of the debtor's estate, in a widely read newspaper.

**Art. 58[2]. - (1)** The notification shall include:

**a)** the deadline for the creditor's lodging of objections to the decision on opening the proceedings, handed down following the debtor's request according to Art. 31 para. (1), as well as the time limit for solving the objections, which shall not exceed 10 days from the expiry of the deadline for their lodgement;

**b)** the deadline for entering applications for admission of claims against the debtor's estate, which shall not exceed 60 days from the opening of proceedings, as well as the requirements for an entered claim to be regarded as valid;

**c)** the time limit for checking the claims, drawing up, posting and sending the preliminary list of claims, which shall not exceed 30 days from expiry of the deadline in. b);

**d)** the time limit for completion of the list of claims, which shall not exceed 30 days from the expiry of the time limit in c);

**e**) the place, date and time of the first meeting of the Assembly of Creditors.

**(2)** The first meeting of the Assembly of Creditors shall be convoked within 10 days from expiry of the time limit in para.(1) d).

**(3)** Depending on the circumstances of the cause and for solid reasons, the bankruptcy judge may prolong the time limits in para.(1) b), c) and d) by a maximum of 30, 15, and respectively 15 days.

**Art. 58[3]. –** Should the debtor have assets that are subject to transcription, entry or registration into the public registers, a copy of the decision to open the proceedings shall be sent to the courts, authorities or institutions that keep the registers, in view of a mention being made.

**Art. 58[4]. - (1)** With the exception of employees, whose claims shall be registered by the administrator according to the accounting books, all the other creditors whose claims are prior to the opening of proceedings shall lodge their applications for admission of their claims within the time limit appointed in the decision opening the proceedings; the statements of claims shall be entered in a register kept with the tribunal clerk's office.

**(1[1])** Para.(1) shall apply accordingly to the holders of bearer's stocks.

**(2)** Applications for admission of claims must be lodged even if the claims are not established under a title.

**(3)** Claims that are not due or that are conditioned at the date of opening of proceedings shall be accepted on a preliminary basis as part of the aggregate verified claims and shall be entitled to partake in the distribution of amounts to the extent permitted by this law.

**(4)** The claims which may be satisfied against the debtor only after the enforcement of a principal co-debtor shall also be considered as conditional.

**Art. 58[5]. - (1)** Applications shall include: the creditor's name/corporate name, domicile/establishment, the amount due, the grounds of the claim, as well as mentions of any rights of preference or securities.

**(2)** Justifying documents of the claim and of the creation of securities shall be attached to the applications.

**(3)** The holders of bearer securities or bills payable on demand may request that the administrator return their original titles and that copies of these certified by the administrator be kept in the file. The administrator shall make a mention on the originals that they have been presented. The originals shall be presented again for any assignment of sums among the creditors, as well as when exercising the vote in the Assembly of Creditors.

**Art. 58[6]. - (1)** All claims shall be subject to the checking procedure provided in this law, except for claims ascertained by writs of execution.

**(2)** Budgetary claims emerging from writs of execution not contested within the legal time limits shall not be subject to this procedure.

**(3)** Budgetary claims, for the purposes of the present law, shall mean claims arising from taxes, fees, contributions, fines and other budgetary revenues, as well as their accessories, namely interests, sanctions and sanctions for delay.

**(4)** All the claims presented for admission and registered with the tribunal clerk's office shall be presumed to be valid and correct if they are not contested by the debtor, administrator or creditors.

**Art. 58[7]. - (1)** The administrator shall at once check each application and the documents filed and may perform detailed research to establish each claim's legitimacy, exact value and priority.

**(2)** In view of fulfilling the task in para. (1), the administrator may request explanations from the debtor, may discuss with each creditor and request additional information and documents, if he finds it necessary.

**Art. 58[8]. -** Unsecured claims and unsecured parts of secured claims, which do not fall due as of the registration of the application for admission of claims, shall be registered in the list of claims with their entire value; however, in the course of bankruptcy proceedings, any distribution of amounts for such claims shall take place in compliance with Art. 111.

**Art. 58[9]. -** Claims consisting of liabilities, which were not calculated in monetary value or the value of which is subject to modification, shall be calculated by the administrator and registered in the list of claims at their nominal value as of the date of the opening of proceedings. The bankruptcy judge shall decide upon any objection to the calculation made by the administrator for such a claim.

**(2)** Claims expressed in foreign currency shall be registered with their value in lei, at the exchange rate of the National Bank of Romania at the date of opening of proceedings.

**Art. 58[10]. -** A claim belonging to a creditor with several joint debtors shall be registered in all lists of claims of the debtors at their nominal value, until it is covered in full. No reduction in the amount of a claim provided in the list of claims can be made on any of the lists of claims of the debtors until the creditor has been fully satisfied, in cash or in kind. If the total amounts distributed to a creditor, in all the actions with the debtors, exceed the aggregate amount which was owed to him, then the creditor shall return the additional amounts, which shall be re-registered as funds belonging to the debtors' estates *pro rata* with the amounts paid by each debtor for the amounts due.

**Art. 58[11]. - (1)** A creditor who, before the registration of an application for acceptance of claims, received a partial payment for his claim from a co-debtor or a guarantor ("fidejussor") of the debtor, may have his claim registered on the list of claims only for the part he has not yet received.

**(2)** A co-debtor or guarantor ("fidejussor") entitled to restitution or compensation by the debtor for the amount paid shall be registered on the list of claims with the amount he paid to the creditor. In this case, the joint creditor shall be entitled to ask to be paid until his claim is fully covered the share due to the co-debtor or guarantor ("fidejussor"), thus remaining a creditor of the latter only for the amount not paid.

**(3)** A co-debtor or guarantor ("fidejussor") of the debtor, who, in order to secure his right to recovery, has a guarantee over the goods of the debtor shall be added to the aggregate verified claims in order to make possible the realisation of his guarantee, but the price of the sale of the charged property shall be attributed to the creditor, while deducting it from the amount owed.

**Art. 58[12]. - (1)** As a result of the checks made, the administrator shall draw up and register with the tribunal a preliminary list containing all the claims against the debtor's estate, and shall indicate whether they are unsecured, secured, with priorities, conditional or not falling due and shall indicate for each claim the name/corporate name of the creditor, the amount for which the checking was sought and the amount registered in the list.

**(2)** For secured claims with a right of preference, he shall indicate the title giving rise to preference, its rank and the reason for which the claims or the rights of preference were partially registered in or were removed from the list.

**(3)** The preliminary list shall be posted by the court clerk at the door of the court, while drawing up an official record of the posting, and shall be sent to the debtor.

(4) Upon the posting of the list, the administrator shall at once send notifications to the creditors whose claims or rights of preference have been partially included in or removed from the preliminary list, while also specifying the reasons for this.

Art. 58[13]. - (1) The debtor, the creditors and any other party concerned may object to the claims and rights of preference that the administrator included in the preliminary list of claims.

(2) Objections must be lodged with the tribunal at least 10 days before the date appointed for the completion of the list of claims by the sentence on the opening of proceedings.

(3) At the date appointed for completion of the list of claims by the sentence opening the proceedings, the bankruptcy judge shall solve al objections at once through a single sentence, even if the resolution of some of the objections would require the administration of evidence; in this latter case the bankruptcy judge may wholly or partly provisionally accept claims to be added to the aggregate verified claims, both as regards deliberations and distributions.

(4) If a claim is accepted without the claimed right of preference, the claim will participate in the distribution of the proceeds from the realisation on goods not charged by security.

(5) From the proceeds that would be obtained from the realisation of assets subject to the contested right of preference, the part that would be due to that claim shall be deposited separately.

Art. $58^{14}$. - (1) After all the objections to the claims have been solved, the administrator shall at once register the final list of all claims against the debtor's estate with the tribunal and shall make sure that the list is posted at the tribunal premises, while showing each claim's amount, priority and situation - secured or unsecured.

(2) After registration of the final list, only the holders of claims registered in the final list shall be allowed to vote on the reorganisation plan, to partake in the Assemblies of Creditors and to enjoy any distributions of amounts in case of bankruptcy.

Art. $58^{15}$. - (1) After expiry of the deadline for lodging objections, as provided in Art. $58^{13}$ para. (2), and until the closing of proceedings, any party concerned may object against the inclusion of a claim or of a right of preference into the final list of claims, in case of discovery of forgery, fraud or any other essential error that determined the admission of the claim or preference right, as well as when decisive titles are discovered that had been until then unknown.

(2) Objections shall be tried by the bankruptcy judge, after summoning the author of the objection and the other parties concerned.

(3) Until the irrevocable judgement of the objection, the bankruptcy judge may declare the claim or the right of preference objected to as being accepted only provisionally.

Art. $58^{16}$. - (1) Unless notification of the opening of proceedings violated Art. 61, holders of claims prior to the opening of proceedings, who fail to lodge the application for admission of claims by the deadline in Art. $58^{2}$ para. (1) b), shall lose, as regards those claims, the following rights:

1. the right to partake and vote in the Assembly of Creditors;

2. the right to partake in distributions of amounts in reorganisation and bankruptcy;

3. the right to realise claims against the debtor or the members or partners with unlimited liability of a legal person that is a debtor, after the closing of proceedings, unless the debtor was convicted for simple or fraudulent bankruptcy or he was found liable for having made fraudulent payments or transfers.

(2) Loss of rights may be claimed at any time, by any party concerned, by means of action or plea.

Section 4
The plan

Art. 59. - (1) The following categories of persons may suggest a reorganisation plan on the conditions below:

a) the debtor, either together with his introductory request or subsequently, until the posting of the final list of claims, if he has shown his intention to reorganise according to Art. 26, and respectively Art. 32;

b) the administrator, from the date of his designation to the expiry of 30 days from the date of posting the final list of claims;

c) the Board of Creditors, the representative of the members or, the case being, of the partners/shareholders, within 30 days from the date when the final list of claims is posted.

($1^1$) *Abrogated.*

($1^2$) *Abrogated.*

($1^3$) Upon request from any party concerned, the bankruptcy judge may, for serious reasons, shorten the periods provided in para.(1).

(2) The plan shall provide either the reorganisation and continuation of the debtor's activity, or the liquidation of certain assets from his estate.

(3) A debtor who, within the 5 years before the lodgement of introductory requests, was subject to the proceedings set forth by this law and a debtor who was convicted, under a final sentence, for fraudulent bankruptcy, fraudulent management, breech of trust, perjury, embezzlement, forgery or the criminal offences incriminated by Law No. 21/1996 on competition, with its ulterior amendments, shall not be allowed to suggest a reorganisation plan.

(4) - *Abrogated*

(5) Non-observance of the terms in para.(1) shall entail the loss of those parties' right to submit a reorganisation plan and, hence, the moving onto bankruptcy, by order of the bankruptcy judge.

Art. 60. - (1) The reorganisation plan shall specify the perspectives of restoration according to the possibilities and the nature of the debtor's activity, with the financial resources available and with the market demand related to the debtor's supply and shall include measures in accordance with the interests of creditors and members or partners/shareholders, as well as with public order, including in what concerns the manner of selecting, designating and replacing the administrators and directors.

(2) The reorganisation plan shall indicate the manner and the time limits for total or partial liquidation of the liabilities for each creditor registered in the final list of claims.

(3) Enforcement of the reorganisation plan shall not exceed 2 years from the date of confirmation.

(4) The reorganisation plan shall include:

a) the categories of claims that are not disadvantaged;

b) the treatment of the disadvantaged categories of claims;

c) if and to what extent the debtor, the members of the economic interest group, the partners in general partnerships and active partners in the limited partnerships shall be relieved of their liability;

d) what compensations are to be offered to the holders of all categories of claims, compared to the estimated value that could be received by distribution in case of bankruptcy; the estimated value shall be calculated at the date of submission of the plan;

(5) The plan shall specify the appropriate measures for its application, such as:

A. the debtor's maintaining, either wholly or in part, the right to run his own activity, including the right to dispose of the assets in his estate, his activity being supervised by an administrator designated according to the law;

B. the obtainment of financial resources for supporting the achievement of the plan and the origin of these resources;

C. the transmission of all or some of the assets from the debtor's estate to one or several natural or legal persons, created prior to or after the confirmation of the plan;

D. the debtor's merger with or his absorption by another legal person;

E. the liquidation of all or part of the debtor's estate, as a piecemeal sale or wholesale, free of any encumbrance, or the distribution thereof to the creditors of the debtor for the account of their claims against the debtor's estate;

F. modification or release of security, while obligatorily providing, to the secured creditors, a security or equivalent form of protection, according to Art.$35^1$ para.(2) c);

G. extension of the maturity date, as well as modification of the interest rate, penalties or any other provisions of the agreement or the other sources of his obligations;

H. modification of the constitutive act of the debtor, including for the purpose of increasing the registered capital;

I. the issuing of securities by the debtor or any of the persons mentioned in indents C. and D., under the conditions of Law No.31/1990 on trade companies, republished, with its ulterior amendments, and of the Government Emergency Ordinance No.28/2002 on securities, financial investment services and regulated markets, approved by Law No.525/2002, with its ulterior amendments and supplements, by the following methods:

a) in exchange for the following categories of goods: cash, main real rights, intellectual property rights, securities;

b) by converting the claims; or

c) any other appropriate method;

J. insertion in the debtor's constitutive act – for legal persons – or of the persons in indents C. and D. of provisions:

a) that prohibit the issuing of shares deprived of a right to vote;

b) that determine, for the various categories of ordinary shares, an appropriate distribution of the vote among these categories; and

c) in case of categories of preferential shares with priority dividend against the other categories of shares, satisfactory regulations on the appointment of administrators representing those categories of shares in the event that the obligation to pay the dividend is not fulfilled.

(6) Postponements, spreading out or reductions in the payment of budgetary obligations shall be included in the plan according to the special law in this matter.

(7) For failure to pay the budgetary obligations due both before and after the opening of proceedings of judicial reorganisation, the debtor shall pay additions and penalties for the delay according to the special law in this matter, until they are paid or, the case being, until entry into bankruptcy.

Art. $60^1$. - (1) In view of effectively administering the proceedings, the plan may designate a distinct category of claims, comprising only unsecured claims of minor value, a value deemed as appropriate by the bankruptcy judge.

(2) The plan shall establish the same treatment for each claim in a distinct category, unless the holder of a claim in a certain category consents to a treatment that is less favourable for his claim.

Art. $60^2$. - (1) According to Art. 60, the reorganisation plan may:

a) disadvantage any category of claims, be they unsecured or secured;

b) recognise or reject, according to Art. 51-58, any contract to which the debtor is a party;

c) provide for transactions with regard to the debtor's claims against third parties;

d) provide for total or partial sale of the assets in the debtor's estate and the distribution of the money obtained to the creditors;

**e)** modify the rights of holders of secured or unsecured claims or not modify the rights attaching to any category of claims.

**(2)** In the event that the debtor is a natural person, the plan suggested may not provide for the use, in any form, or for the alienation of those of his assets that were exempted either totally or partly from the judicial enforcement, unless the legal requirements are met.

**Art. $60^3$. - (1)** It shall be presumed that a category of claims is disadvantaged by the plan if the plan provides for any of the claims in that category a modification either in the claim or in the conditions for realisation of the claim.

**(2)** A claim or the conditions for realisation of a claim shall not be deemed as modified if the plan suggested provides for a return to the conditions of realisation of the claim prior to the occurrence of the events that led to the modification in those conditions, such as failure to pay one or several due instalments of a loan, within the time limits and requirements stipulated in the contract, which leads to the speeding up of the payment of the entire rest of the loan.

**Art. 61. –** If the draft reorganisation plan provides, in view of restoration through continuation of activity, reductions of personnel for economic reasons, mention shall be made of the

measures already taken and of the actions and perspectives likely to lead to the professional reorientation of the personnel.

**Art. 62. - (1)** A copy of the plan suggested shall be submitted to each of the following: the tribunal clerk's office and the Trade Register or, the case being, the register of agricultural companies. A copy shall be sent also to each of the following: the debtor, the administrator, the Board of Creditors and the representatives of members or, the case being, of partners/shareholders.

**(2)** The bankruptcy judge shall convoke a session within 20 days from the registration of the plan with the tribunal, summoning those who suggested the plan and the persons in para. (1) and, after hearing the persons summoned, he shall either accept or reject the plan.

**(3)** The bankruptcy judge may accept a plan suggested by the legally entitled parties, which contains all the information required and shows objective chances of success. Before accepting the plan, the bankruptcy judge may request the opinion of an authorised expert practitioner at reorganisation and liquidation, confirming the plan's likelihood of success. The expert shall be paid from the debtor's estate.

**(4)** If several plans have been suggested and accepted at relatively short time intervals, the bankruptcy judge shall attempt to submit them together to a vote in the Assembly of Creditors.

**Art. 63. -** *Abrogated*

**Art. 64. -** *Abrogated*

**Art. 65. -** *Abrogated*

**Art. 66. - (1)** After the plan is accepted, the bankruptcy judge shall ordain the convocation of the Assembly of Creditors within a time limit of 30 to 45 days, however not before the posting of the final list of claims. The debtor and the administrator shall be convoked.

**(2)** The bankruptcy judge shall ordain, within 48 from acceptance, the publication of an announcement on the suggested plan in the Official Gazette of Romania, Part IV, and in two widely read newspapers, specifying the person who suggested it, the date appointed for vote on the plan and the fact that voting by letter is accepted, provided that the creditor's signature is authenticated by a public notary, and that letters may be sent by any means and must be registered with the tribunal at least 5 days before the date appointed for the vote, as well as the date of confirmation of the plan, which shall fall within 15 days from the date of the vote on the plan.

**(3)** Shareholders and creditors holding bearer securities shall be required to submit the originals with the administrator at least 5 days before the date appointed for the vote, subject to loss of the right to vote.

**(4)** From the time of publication, all parties concerned shall be presumed to be aware of the plan and of the date appointed for the vote. In all cases, the debtor shall make the plan available for perusal at his establishment, at the requester's expense.

**Art. 67. - (1)** At the beginning of the voting session, the bankruptcy judge shall inform the creditors present of the valid votes received in writing.

**(2)** Creditors holding subordinated claims, members, partners and shareholders may attend the session, but they may vote regarding the plan only if it grants them less than what they would receive in case of bankruptcy.

**(3)** Claims whose holders are the debtor's spouse, relatives or in-laws four times shall not be included in the quorum and shall not partake in the vote on the reorganisation plan, if the latter was suggested by the debtor-natural person.

**(4)** Each claim shall enjoy a right to one vote, which its holder shall exercise within the category of claims to which that claim belongs.

**(5)** Subject to Art. $60^1$ para. (1), the following claims shall be distinct categories of claims, which are voted for separately:

**a)** every secured claim that exceeds 10% of the total value of against the debtor's estate;

**b)** all the other secured claims;

**c)** the claims in Art. 108 indent 3;

**d)** the claims in Art. 108 indent 4;

**e)** the claims in Art. 108 indent 6;

**f)** claims of unsecured creditors.

**(6)** The claims of the following categories of persons shall be distinct categories of claims and shall take part in the vote, if their holders are entitled to vote according to para. (2):

**a)** holders of each category of subordinated claims, according to Art. 108 indent 10;

**b)** members, partners and shareholders, for the residual rights deriving from their capacity.

**(7)** A plan shall be deemed as accepted by a category of claims, if in that category the plan is accepted under all the following conditions:

**a)** by a majority of two thirds of the value of claims in that category;

**b)** d by at least half of the number of holders of claims in that category.

**(8)** The categories of claims that are not disadvantaged by the plan shall be deemed as having accepted the plan and the claims in that category shall not be required to vote on the plan.

**(9)** If the plan provides that, for the claims in a certain category, nothing is to be received, it shall be deemed that these claims rejected the plan and the claims in that category shall not be required to vote on the plan.

**Art. 68. - (1)** At the appointed date, a plan shall be confirmed by the bankruptcy judge if all the following conditions are met:

**A.** at least three of the categories of claims in Art.67 para.(5) accept or are deemed to have accepted the plan, on the condition that at least one of the disadvantaged categories accepts the plan;

**B.** each disadvantaged category of claims that rejected the plan shall receive fair and correct treatment in the plan;

**C.** each claim that rejected the plan shall receive fair and correct treatment in the plan.

**($1^1$)** There is correct and fair treatment when all the following conditions are met:

**a)** none of the categories that reject the plan and none of the claims that reject the plan will receive less than what they would receive in case of bankruptcy;

**b)** no category or no claim belonging to a category will receive more than the total value of its claim;

**c)** if a disadvantaged category rejects the plan, no member, partner, shareholder or category of claims inferior to the disadvantaged category that does not accept, as shown in the order of priority in Art.108, shall receive anything. It shall be deemed that the members, partners or shareholders receive nothing also if the plan provides that they are to receive a value no more

than equal to a new financial contribution that they made in favour of the debtor, until the date when the plan is confirmed, irrevocably and not subject to any other condition than that of the plan being confirmed.

**(2)** Only one reorganisation plan shall be confirmed.

**(3)** If according to para. (1) several plans may be confirmed, the bankruptcy judge shall confirm the debtor's plan. If the debtor's plan does not meet the requirements in para. (1), the bankruptcy judge shall confirm the plan that was accepted by the greatest number of disadvantaged categories.

**(4)** Confirmation of a reorganisation plan shall exclude the suggestion, acceptance, voting or confirmation of any other plan.

**Art. 69. - (1)** When a decision confirming a plan enters force, the debtor's activity shall be reorganised accordingly; the claims and rights of creditors and the other parties concerned shall be modified as provided in the plan. In case of judicial enforcement, the confirmed plan shall be regarded as a final decision against the debtor.

**($1^1$)** The creditors shall preserve their shares, for the entire value of the claims, against co-debtors and guarantors of the debtor, even if they voted for the acceptance of the plan.

**(2)** If no plan is confirmed and the deadline for forwarding another plan has expired, pursuant to Art. 59, the bankruptcy judge shall order that the procedure of bankruptcy be commenced at once in accordance with Art. 77 et seq..

**(3)** The remunerations of persons hired based on Art. 9, on Art. 17 para. (1), on Art. 21, on Art. 22 and on Art. 62 para. (3) and other administrative expenses shall be paid at the time appointed, as the case may be, by the law, unless the parties concerned accept, in writing, other deadlines for payment. The plan must specify how this payment is to be ensured.

**(4)** Payment may be made quarterly, based on legal documents.

## Section 5
## Reorganisation

**Art. 70. - (1)** Following the confirmation of a reorganisation plan, the debtor shall run his activity under the administrator's supervision and according to the confirmed plan, until the bankruptcy judge ordains, in a reasoned manner, that reorganisation cease and bankruptcy commence, according to Art.77 et seq..

**(2)** In case of reorganisation of a legal entity, it shall be run by the persons legally empowered to represent it, under the administrator's supervision. The shareholders, partners or members with limited liability shall not be entitled to intervene in the running of the activity or in the administration of the debtor's estate, except for and within the limits of cases expressly and exhaustively provided in the law and in the reorganisation plan.

**(3)** The debtor shall be obliged to perform, without delay, the changes in structure provided in the plan.

**Art. 71. -** *Abrogated*

**Art. 72. - (1)** All service providers - electricity, gas, water, telephony or any other such services – shall not be entitled, during the reorganisation period, to change, refuse or temporarily interrupt such a service to the debtor or to the debtor's estate.

**(2)** As a derogation from para. (1), the bankruptcy judge may, upon the provider's request, ordain that the debtor deposit a bond with the bank, as a condition for the provider's obligation

to provide his services, during the course of the proceedings provided in this law. Such a bond may not exceed 30% of the cost of services provided to the debtor and not paid for..

**Art. 73. - (1)** If the debtor fails to abide by the plan or the activity brings losses to his estate, the administrator, the Board of Creditors or any of the creditors, as well as the representative of members or, the case being, of partners/shareholders, may at any time request that the judge approve the entry into bankruptcy, according to Art. 77 et seq..

**(2)** Registration of the request in para. (1) shall not suspend the continuation of the debtor's activity until the bankruptcy judge decides upon it by means of resolution.

**(3)** Should the bankruptcy judge approve such a request, the modifications in the claims operated by the reorganisation plan shall remain final.

**Art. 74 -** *Abrogated*

**Art. 75. - (1)** The debtor or, the case being, the administrator shall present quarterly reports to the bankruptcy judge on the financial status of the debtor's estate. The reports shall be registered with the tribunal clerk's office and the debtor or, the case being, the administrator shall notify this to all the creditors, in view of perusal of the reports.

**(2)** Also, the administrator shall present a report on the status of expenses made for the proper course of activity, in view of them being recuperated, according to Art. 69 para. (3). The bankruptcy judge shall decide upon this request by means of resolution.

**(3)** The creditors shall be convoked every four months to listen to the report and to the financial statement.

**Art. 76. -** *Abrogated*

## Section 6
## Bankruptcy

**Art. 77. - (1)** The bankruptcy judge shall, by means of resolution, decide the entry into bankruptcy, in the following cases:

**A.a)** the debtor has declared his intention to enter bankruptcy or has not declared his intention to reorganise; and

**b)** none of the other subjects entitled has suggested a reorganisation plan, according to Art. 59, or none of the plans suggested was accepted and confirmed;

**B.a)** the debtor has declared his intention to reorganise, but he has not suggested a reorganisation plan or the plan he suggested was not accepted and confirmed; and

**b)** none of the other subjects entitled has suggested a reorganisation plan, according to Art. 59, or none of the plans suggested was accepted and confirmed;

**C.** the payment obligations and the other tasks assumed have not been fulfilled, according to the conditions provided in the confirmed plan, or the debtor's activity during reorganisation is causing loss to his estate.

**D.** the administrator's report suggesting the debtor's entry into bankruptcy, according to Art.$41^1$ has been approved.

**(2)** Through his resolution deciding entry into bankruptcy, the bankruptcy judge shall hand down the dissolution of the debtor's company and shall ordain:

**a)** removal of the debtor's right of administration;

**b)** designation of a liquidator, as well as the establishment of his prerogatives and remuneration, according to the criteria approved by Government decision;

**c)** the deadline for handing over by the debtor/administrator of the administration of the estate to the liquidator, together with the list of acts and operations performed after the opening of proceedings, as mentioned in Art. 40 para. (2);

**d)** preparation and delivery by the liquidator, within 10 days from entry into bankruptcy, of a list of the names and addresses of the creditors and of all their claims at the date of entry into bankruptcy, while indicating those that arose after the opening of proceedings;

**e)** notification of the entry into bankruptcy.

**(3)** The resolution shall specify also the time limits in Art. $77^{1}$ para. (2).

**(4)** Art. 37 shall apply accordingly with regard to claims already existing at the date of entry into bankruptcy.

**(5)** After entry into bankruptcy, Art. $58^{1}$-$58^{16}$ shall be applied accordingly, if necessary, in what regards the claims that arose from the date of the opening of proceedings to the date of entry into bankruptcy, as well as the procedure for their admission.

**Art. $77^{1}$. - (1)** The liquidator shall send a notification to all the creditors mentioned in the list submitted by the debtor/administrator, mentioned in Art. 77 para. (2) d), to the debtor and to the trade register office or, the case being, the register of agricultural companies where the debtor is registered, in view of a mention being made. Para. (2) and (3) of Art. $58^{1}$ shall apply accordingly.

**(2)** Notifications shall include:

**a)** the deadline for registration of applications for admission of the claims in para. (3), in view of drawing up the additional list, which shall not exceed 45 days from the date of entry into bankruptcy, as well as the requirements for validation of a registered claim;

**b)** the time limit for checking the claims in para. (3), for drawing up, posting and sending the preliminary list of such claims, which shall not exceed 30 days from expiry of the deadline in a);

**c)** the deadline for lodging objections with the tribunal, which shall be of at least 10 days before the date appointed in the resolution on entry into bankruptcy for the completion of the additional list;

**d)** the time limit for checking the additional list of claims in para. (3) and for drawing up the final consolidated list, which shall not exceed 30 days from expiry of the time limit in b).

**(3)** All claims against the debtor's estate that arose after the opening of proceedings shall be subject to the check.

**(4)** Claims included in the final list of claims, according to Art. $58^{14}$, shall no longer be subject to the check; the holders of these claims may object to the claims and rights of preference included by the administrator into the preliminary list in para. (2) b).

**(5)** The final consolidated list shall comprise all the claims allowed against the debtor's estate, existing at the date of entry into bankruptcy, while abiding by the requirements in Art. $77^{2}$.

**(6)** The holders of claims arisen after the opening of proceedings who do not lodge applications for admission of claims within the deadline in para. (2) a), shall be subject to Art. $58^{14}$, which shall apply accordingly.

**Art. 77[2]. –** In case of entry into bankruptcy after the confirmation of a reorganisation plan, the holders of claims shall partake in distributions with their value, as they were presented in the confirmed plan, while deducting the quota received during reorganisation.

**Art. 77[3]. –** The real and personal securities created for the fulfilment of obligations assumed by the reorganisation plan shall remain valid in favour of the creditors for the payment of the amounts due to them according to the reorganisation plan.

**Art. 77[4]. - (1)** Creditors shall not be obliged to return the amounts received during reorganisation.

**(2)** Any acts with free title concluded from the date of confirmation of the reorganisation plan to the entry into bankruptcy shall be cancelled.

**(3)** The other acts concluded within the time interval in para. (2), except for those that abide by Art. $40^3$ para. (1) and (2) and those expressly allowed by the reorganisation plan, shall be presumed as having been concluded in fraud against the creditors and shall be cancelled, unless the contracting party can prove his good faith at the time of conclusion of the act.

### § 1. Measures prior to liquidation

**Art. 78. -** *Abrogated*

**Art. 79. -** *Abrogated*

**Art. 80. - (1)** The bankruptcy judge shall ordain the sealing of assets belonging to the debtor's estate. If the debtor has assets in other counties, the bankruptcy judge shall notify the tribunals in those counties, in view of urgent sealing of the assets.

**(2)** Documents drawn up by other tribunals certifying that the seals have been applied shall be sent to the bankruptcy judge.

**Art. 81. - (1)** seals shall be applied on shops, warehouses, storehouses, offices, commercial correspondence, archives, data storage and processing devices, contracts, goods and any other movable property belonging to the debtor's estate.

**(2)** No seals shall be applied on the following:

**a)** objects that must be immediately converted into money to avoid their material deterioration or loss of value;

**b)** accounting books;

**c)** bills and other negotiable instruments which fall due or are to fall due shortly, as well as shares or other titles of ownership belonging to the debtor, which shall be taken by the liquidator in order to obtain cash or to perform the conservation activities required;

**d)** cash which the liquidator shall deposit with a bank in the account of the debtor's estate.

**(2[1])** If the debtor has assets in other counties, the bankruptcy judge shall notify the tribunals in those counties, in view of urgent sealing of the assets.

**(2[2])** Documents drawn up by other tribunals certifying that the seals have been applied shall be sent to the bankruptcy judge.

**(3)** During the sealing, the liquidator shall take the necessary measures for conservation of the assets.

**Art. 82. - (1)** If the whole of the debtor's estate can be inventoried in one day, the liquidator may proceed immediately to making an inventory, without applying the seals. In all other

cases, he shall proceed to making an inventory as soon as possible. If the bankruptcy judge so ordains, the debtor must attend in person the inventory. If the debtor fails to attend, he shall have no right to object to the data in the inventory.

**(2)** During the course of the inventory, the liquidator shall take possession of the assets and become their judicial depositor.

**Art. 83. - (1)** The inventory must describe all the debtor's assets, even those that have not been sealed, and indicate their approximate value at the date of the inventory. Upon request from the Board of Creditors or from the liquidator, the bankruptcy judge may appoint an expert, at the expense of the debtor's estate, to evaluate the assets.

**(2)** The document of inventory shall be signed by the liquidator, by the debtor and the expert, as the case may be.

**Art. 84. -** *Abrogated*

**Art. 85. -** *Abrogated*

### § 2. Establishing the passive aggregate - *Abrogated*

**Art. 86. - 99. -** *Abrogate.*

### § 3. Performing the liquidation

**Art. 100. - (1)** The liquidator shall liquidate the assets in the debtor's estate under the supervision of the bankruptcy judge.

**(2)** With the exception of cases expressly provided in the law, liquidation shall begin at once after the completion, by the liquidator, of the inventory of assets in the debtor's estate. The assets may be sold together – as a whole able to function – or individually. If the assets cannot be sold by direct negotiation, they shall be sold in auction, according to the Civil Procedure Code as subsequently amended and supplemented.

**(3)** The liquidator shall, on behalf of the debtor, hire an assessor, either a natural or a legal person, who shall evaluate the assets in the debtor's estate, according to the international evaluation standards.

**(4)** According to the circumstances of the cause and to the extent possible, the assets in the debtor's estate shall be evaluated both individually, as well as together; *together*, as a functioning whole, shall mean part or all the debtor's assets that are required for the performing of a business, for which a purchaser offers a price not divided for the assets that make up the whole.

**Art. 101. - (1)** If it is absolutely necessary or useful to sell the goods together, the liquidator shall submit to the bankruptcy judge a report which will indicate, describe and assess the assets that are to be sold together, while also specifying any encumbrance thereon, and providing proposals on the modalities of sale. A copy of the report shall be submitted with the tribunal clerk's office, where it shall be available for perusal to any party concerned.

**($1^1$)** The report in para.(1) shall include suggestions on the manner of selling the assets together, as follows:

**a)** sale by direct negotiation to an already identified purchaser, while specifying the minimum requirements of the contract, such as the price and the payment method;

**b)** sale by direct negotiation, without an identified purchaser, while specifying the minimum price suggested. In this case, the liquidator may negotiate the actual price of the sale of the assets, and if the minimum price cannot be obtained, the Assembly of Creditors shall meet again to decide whether to reduce the initial minimum price or to sell the assets individually;

**c)** sale by auction, under the conditions of the Civil Procedure Code, as subsequently amended and supplemented.

**(2)** The bankruptcy judge shall convoke the Assembly of Creditors within 20 days from receipt of the liquidator's notification, informing the creditors on the possibility to peruse the report.

**(2[1])** If it is not necessary to sell the assets together and the purchaser is not firmly identified by the report, the Assembly of Creditors may set a minimum price at which the assets may be sold together. If this price is not obtained, and the Assembly of Creditors does not decide otherwise, the assets shall be sold individually.

**(3)** If the Assembly of Creditors approves the report, the bankruptcy judge shall hand down a resolution ordaining the liquidator to perform the operations and documents for liquidation, according to the conditions suggested in the report.

**(4)** Para. (1)-(3) shall apply accordingly also for the authorisation of the sale together of the claims held by the debtor against third parties.

**Art. 102. - (1)** Immovable assets may be sold directly, on the liquidator's suggestion approved by the bankruptcy judge.

**(2)** The liquidator's suggestion must identify the immovable asset by the field status and by the data in the public registers of immovable property, and must show the burdens that it is charged with.

**(3)** The bankruptcy judge shall convoke a session within 20 days from receipt of the request, notifying the suggestion to the debtor and to the creditors holding real securities over the asset and informing them of the possibility to lodge reasoned objections at least 5 days before the date of the convocation.

**(4)** During the session in para. (3), the bankruptcy judge shall solve all objections and decide, by means of resolution, on the liquidator's suggestions; the resolution shall be notified to those mentioned in para. (3), of they did not respond to the summons posted at the location of the immovable asset that is to be sold, and published in two widely read local newspapers.

**(5)** The sale may be performed, subject to nullity, only 20 days after the date of the last publication in a newspaper.

**Art. 103. –** Revenues obtained from the administration of buildings or other assets of the debtor's estate shall be deposited in the account of the debtor's estate and shall be distributed to the creditors together with the price obtained from the sale of those assets.

**Art. 104. –** Securities shall be sold according to the Government Emergency Ordinance No.28/2002 on securities, financial investment services and regulated markets, approved with amendments and supplements by Law No.525/2002, with its ulterior amendments.

**Art. 105. –** The liquidator shall conclude sale-purchase agreements; and the amounts emerging from the sales shall be deposited in the account in Art. 4 para. (2) and the invoices shall be handed to the bankruptcy judge.

**Art. 106. - (1)** The proceeds of the sale of assets belonging to the debtor's estate, that were burdened, to the creditor's advantage, by mortgage, pledges or other security interests in personal property, or liens of any kind, shall be distributed in the following order:

**1.** fees, stamps and any other expenses related to the sale of those assets, including expenses required for the preservation and administration of these assets, as well as for paying the remunerations of persons hired according to Art. 22;

**2.** debts owed to secured creditors, comprising the entire principal, interests, additions and penalties of any kind, as well as expenses.

**(2)** In the event that the proceeds of the sale are not sufficient to pay in full the secured debts, the creditors shall hold, for the balance, unsecured claims that shall stand along with those included in the corresponding category, according to their nature, as provided in Art. 108, and subject to Art. 37. If after paying the amounts in para. (1) there is a surplus, it shall be deposited by the liquidator in the account of the debtor's estate.

**(3)** A creditor holding a secured claim shall be entitled to participate in any distribution of amounts before the sale of the asset subject to his security. The amounts received from such distributions shall be deducted from the amounts the creditor would be entitled to receive subsequently from the proceeds of the sale of the asset subject to his security, if this is necessary to prevent such a creditor from receiving more than he would have received if the asset subject to his security had been sold before the distribution.

### § 4. Distribution of amounts obtained by liquidation

**Art. 107. – (1)** Every 3 months, calculated from the date of beginning of liquidation, the liquidator shall provide the bankruptcy judge with a report on the funds obtained from the liquidation and from the recovery of claims and a plan of distribution among the creditors. The report shall provide also the payment of his remuneration and of the other expenses in Art.108 indent 1.

**(2)** For serious reasons, the bankruptcy judge may prolong by no more than a month or may shorten the term for providing the report and the plan of distribution. The plan of distribution shall be registered with the tribunal clerk's office and the liquidator shall notify this to each creditor. One copy of the report and of the plan of distribution shall be posted at the tribunal door.

**(3)** Any creditor may lodge objections against the report and the plan within 10 days from posting. A copy of the objection shall be sent, in emergency procedure, to the liquidator and to the debtor.

**(4)** Within 20 days from posting, the bankruptcy judge shall hold, with the liquidator, the debtor and the creditors, a session in which he shall solve all the objections, at the same time, by a single sentence.

**Art. 108. -** In the case of bankruptcy, claims shall be paid in the following order:

**1.** fees, stamps and any other expenses related to the proceedings provided in this law, including expenses required for the conservation and administration of assets in the debtor's estate, as well as the payment of remunerations of the persons hired in accordance with Art. 9, Art. 17 para. (1), Art. 21, Art. 22 and Art. 62 para. (3), subject to the provisions of Art. 69 para. (3);

**2.** Claims representing credits, with the corresponding interests and expenses, granted by credit institutions after the opening of proceedings, as well as the claims emerging from the continuation of the debtor's activity after the opening of the proceedings;

**3.** claims arising from employment relations, for a maximum of 6 months before the opening of proceedings;

**4.** budgetary claims;

**5.** *Abrogated.*

**6.** debts representing amounts owed by the debtor to third parties based on obligations for support, child support or payment of periodical amounts for ensuring livelihood;

**7.** claims representing amounts established by the bankruptcy judge for the support of the debtor and his family, if he is a natural person;

**8.** debts representing bank credits, together with related expenses and interest, those resulting from deliveries of products, provision of services or other work, as well as from leases;

**9.** other unsecured debts;

**10.** subordinated claims, in the following order of preference:

**a)** credits granted to legal persons that are debtors by a partner or a shareholder who holds at least 10% of the registered capital, and respectively of the rights to vote in the general assembly of partners, or, the case being, by a member of an economic interest group;

**b)** claims emerging from documents with free title;

**11.** claims of the members, partners or shareholders of the legal person that is a debtor, derived from the residual right of their capacity, according to the legal and statutory provisions.

**Art. 109. -** *Abrogated.*

**Art. 110. -** Amounts to be distributed among creditors in the same class of priority shall be granted proportionally with the amount allocated for each claim in the list mentioned under Art. $77^1$ para. (2) d).

**Art. 111. - (1)** Holders of claims belonging to one category shall only receive a distribution after the holders of claims of a higher rank have been paid in full, according to the order in Art. 108.

**(2)** In the event that the amounts required to cover the entire value of claims of the same class of priority are not sufficient, the holders thereof shall receive an equitable share ("cota falimentara") representing an amount *pro rata* to the percentage held by their claim in the category of those specific claims.

**Art. 112. –** If the assets that make up the estate of an economic interest group or of a general partnership or of a limited partnership are not sufficient for paying the claims, registered in the final consolidated table of claims against the group or the partnership, the bankruptcy judge shall authorise judicial enforcement, according to the law, against the unlimited liability partners or, the case being, against the members, handing down a final and enforceable judgement that shall be enforced by the liquidator, through a court executor.

**Art. 113. -** When partial distributions are made, the following amounts shall be deposited:

**1.** proportional amounts owed to creditors whose claims are subject to a condition precedent not yet fulfilled;

**2.** proportional amounts due to owners of bearer or promissory notes and who still have the originals of title, but have not presented them;

**$2^1$.** proportional amounts due to claims accepted on a provisional basis.

**3.** reserves designated to cover future expenses of the debtor's estate.

**Art. 114. -** For the creditors holding claims registered in the list of claims who were allotted only partial amounts or holding claims conditioned by a condition precedent and who took

part in the distribution, the amounts owed to them shall be kept with a bank in a special deposit account until their status is clarified.

**Art. 115. - (1)** After the assets belonging to the debtor's estate have been liquidated, the liquidator shall submit to the bankruptcy judge a final report together with a general balance sheet; copies thereof shall be submitted to all the creditors and the debtor and shall be posted at the tribunal door. The bankruptcy judge shall convoke the Assembly of Creditors within 30 days of the posting of the final report. The creditors may file objections to the final report at least 5 days before the date of convocation.

**($1^1$)** In the meeting, the bankruptcy judge shall solve all objections against the final report by means of a resolution. He shall either approve the report or ordain, if required, that it be amended accordingly.

**(2)** Claims that are still conditional as of the date of registration of the final report shall not participate in any distribution.

**Art. 116. -** After the bankruptcy judge has approved the final report of the liquidator, the latter must proceed to the final distribution of all funds from the debtor' estate. The funds not claimed within ninety days by the entitled parties shall be deposited by the liquidator with a bank, in the account of the debtor's estate, and the statement of account shall be filed with the court. Such funds may be used in accordance with Art. 4 para. (3).

## Section 7
## The closing of proceedings

**Art. 117. –** At any stage of the proceedings provided in this law, the bankruptcy judge shall be able to hand down a sentence closing the proceedings, if it is found that there are no assets in the debtor's estate, or that they are insufficient to cover the administrative expenses and no creditor offers to forward the corresponding sums.

**Art. $117^1$. — (1)** Proceedings of reorganisation by continuation of activity or by liquidation based on a plan shall be closed, by a sentence, following the fulfilment of all obligations of payment assumed in the confirmed plan. If the proceedings begin as reorganisation, and then become bankruptcy, they shall be closed according to para.(2).

**(2)** Bankruptcy proceedings shall be closed when the bankruptcy judge has approved the final report, when all the funds or the assets in the debtor's estate have been distributed and when the funds not claimed have been deposited with a bank. Following a request by the liquidator, the bankruptcy judge shall hand down a sentence closing the proceedings and, for legal persons, ordaining their deletion.

**Art. 118. -** *Abrogated*

**Art. 119. -** The bankruptcy judge shall hand down a sentence closing the proceedings even before the full liquidation of assets belonging to the debtor's estate if the claims were covered in full through the distributions made.

**Art. 120. - (1)** In case of proceedings opened by the debtor's introductory request, according to Art.25, if the bankruptcy judge finds, upon expiry of the deadline for registration of the applications for admission of claims, that no application was lodged, he shall hand down a sentence closing the proceedings and revoking the decision opening the proceedings.

**(2)** In the case in para. (1), the closing of proceedings shall not entail the effects in la Art. 123. However, the administration operations performed legally upon the debtor's estate shall take effect, and the rights acquired until the revocation shall remain valid.

**Art. 121 –** The sentence closing the proceedings shall be notified by the bankruptcy judge to the debtor, to all creditors, members or, the case being, partners/shareholders, to the territorial directorate of public finance and to the trade register office or, the case being, the register of agricultural companies where the debtor is registered, in view of a mention being made, and an excerpt of it shall be posted at the premises of the tribunal.

**Art. 122. –** Through the closing of proceedings, the bankruptcy judge, the administrator/liquidator and all persons who assisted them shall be relieved of all duties or prerogatives with regard to the proceedings, to the debtor and his estate, to the creditors, to the holders of securities, to shareholders or partners.

**Art. 123. - (1)** By the closing of bankruptcy proceedings, the debtor-natural person shall be relieved of the obligations that he had before the entry into bankruptcy, however unless he was found guilty of fraudulent bankruptcy or of fraudulent payments or transfers; in such cases, he shall be relieved of his obligations only to the extent that they were paid within the proceedings, with the exception of the case in Art. $58^{16}$ para. (1) indent 3.

**(2)** A debtor-natural person who has benefited from a similar measure in previous reorganisation or bankruptcy proceedings within the 5 years prior to the opening of the subsequent proceedings, shall not enjoy the relieving of obligations in para. (1).

**(3)** At the date of confirmation of a reorganisation plan, the debtor shall be relieved of the difference between the value of obligations that he had before the confirmation of the plan and the one provided in the plan, unless all the following conditions are met:

**a)** the reorganisation plan of the debtor who is an individual provides for a total or substantial liquidation of the assets belonging to the debtor's estate;

**b)** he plan provides that the debtor shall no longer continue his business activities after the implementation of the plan; and

**c)** at the time the plan is conformed, the debtor would not benefit from a discharge of the obligations in the event he was subject to the bankruptcy procedure.

**(4)** A discharge of obligations shall not trigger the discharge of the obligations of the main guarantor ("fidejussor") or co-debtor.

## CHAPTER IV
## Liability of members of the managing bodies

**Art. 124. - (1)** The bankruptcy judge may ordain that part of the debtor's liabilities, if the debtor is an insolvent legal person, be incurred by the members of the managing bodies - administrators, directors, censors and any other person – who contributed to the debtor's current situation, by one of the following acts:

**a)** using assets or credits of the legal person for their own benefit or for the benefit of another person;

**b)** concluding of commercial transactions in their personal interest, under the auspices of the legal person;

**c)** ordaining, in personal interest, the continuation of an activity that was obviously leading the legal person to financial default;

**d)** keeping fictitious accounting books, causing the disappearance of certain accounting documents or not keeping the accounting books in accordance with the law;

**e)** embezzling or concealing part of the legal person's assets or fictitiously increasing its liabilities;

**f)** using harmful methods for obtaining funds for the legal person, in view of delaying the financial default;

**g)** during the month before the financial default, paying or ordaining the payment to a preferred creditor, to the detriment of the other creditors.

**(2)** The application of provisions in para. (1) shall not preclude the application of criminal law for the acts that are offences.

**Art. 125. -** The amounts deposited in accordance with Art. 124 para. (1) shall be added to the debtor's estate and shall be designated, in case of reorganisation, to complete the funds required for a continued operation of the debtor and in case of bankruptcy to cover the liabilities.

**Art. 126. –** In view of taking the measures in Art.124, the bankruptcy judge shall ordain interim measures, either *ex officio* or upon notification by the administrator/liquidator, by any of the creditors, members or, the case being, partners/shareholders.

**Art. 127. - (1)** Judicial enforcement against the persons provided under Art. 124 para. (1) shall take place according to the Civil Procedure Code, except for cases where a special law provides otherwise.

**(2)** After conclusion of bankruptcy proceedings, the amounts emerging from judicial enforcement shall be deposited in a distinct bank account available to the bankruptcy judge for distribution of these amounts according to the law.

## CHAPTER IV[1]
## Offences and penalties

**Art. 127[1]. – (1)** Failure to lodge or failure to lodge in due time the request for the opening of proceedings within the deadline in Art. 25 by the debtor who is a natural person or by the legal representative of the legal person who is a debtor shall be deemed as the offence of simple bankruptcy and shall be punished by imprisonment from 3 months to one year or by fine.

**(2)** The offence of fraudulent bankruptcy, sanctioned by the penalty in Art.276 of Law No.31/1990 on trade companies, republished, with its ulterior amendment and supplements, shall mean the act of a person who:

**a** forges, removes or destroys the records of debtors in Art.1 para. (1) a) indents 2 and 3, b) and c) or conceals part of the assets in their estate;

**b)** presents nonexistent debts or presents, in the registers of the debtors in Art.1 para. (1) a) indents.2 and 3, b) and c), in another document or in the financial statement, amounts that are not due, each of these acts being committed for the apparent diminution of the value of assets;

**c)** alienates a significant part of the assets, in fraud against the creditors, in case of insolvency of the debtors Art.1 para. (1) a) indents 2 and 3, b) and c).

**Art. 127[2]. - (1)** The offence of fraudulent bankruptcy, as provided in Art. 214 para. 1 of the Criminal Code, shall be punished by imprisonment from 3 to 8 years, when committed by the administrator or the liquidator of the debtor's estate, as well as by any representative or intermediary of the administrator/liquidator.

**(2)** The offence of fraudulent management, as provided in Art. 214 para. 2 of the Criminal Code, shall be punished by imprisonment from 5 to 12 years, when committed by the

administrator or the liquidator of the debtor's estate, as well as by any representative or intermediary of the administrator/liquidator, unless the act is a more serious offence.

**(3)** Attempt to the offences in para. (1) and (2) is punishable.

**Art. 127[3]. - (1)** Appropriation, use or trafficking, by the administrator or the liquidator of the debtor's estate, as well as by any representative or intermediary of the administrator/liquidator of money, values or other assets under their management or administration shall be the offence of embezzlement and shall be punished by imprisonment from one to 15 years and the prohibition of certain rights.

**(2)** If embezzlement resulted in particularly serious consequences, the penalty shall be imprisonment from 10 to 20 years and the prohibition of certain rights.

**(3)** Attempt to the offences in para. (1) and (2) is punishable.

**Art. 127[4]. –** The act of a person who, either on his own behalf or by intermediaries, requests the registration of an application for admission of an inexistent claim against the debtor's estate shall be punished by imprisonment from 3 months to one year or by fine.

**Art.127[5]. –** Refusal of the debtor who is a natural person, or of the administrator, director, executive director or legal representative of the debtor who is a legal person, to make available to the bankruptcy judge, to the administrator or to the judicial liquidator, according to Art.32 para.(1), the documents and information in Art.26 para.(1) (a)-e), or the act of preventing them, in bad faith, to compile the documentation concerned, shall be punished by imprisonment from one to 3 years or by fine.

**Art. 127[6]. –** Offences in Art.$127^1$-$127^5$ shall be tried in first instance by the tribunal, with celerity.

## CHAPTER V
## Transitional and final provisions

**Art. 128. –** This law shall be supplemented, to the extent of compatibility, with the provisions of the Civil Procedure Code and of the Romanian Commercial Code.

**Art. 128[1]. –** The amount of fines in Art. 32 para. (2) and Art. $40^2$ para. (2) and (4) shall be amended periodically by Government decision, according to the inflation index.

**Art. 129. -** *Abrogated.*

**Art. 130. –** The proceedings applicable to insolvent *régies autonomes* shall be established by a special law.

**Art. 131. - (1)** This law shall enter force at the date of its publication in the Official Gazette of Romania and shall be applied 60 days after its entry into force*).

**(2)** At the date when this law becomes applicable, the following shall be abrogated:

- Art. 695-888 (Book III - On bankruptcy) and Art. 936-944 (Special procedural provisions in matters of bankruptcy) from the Romanian Commercial Code;

- Art. 34-38 (Stipulations on bankruptcy) from the Regulations on the application of the Romanian Commercial Code, published in the Official Gazette No. 126 of 10 September 1887.

**Art. 132. –** Bankruptcy proceedings opened by the date of application of this law shall continue to be administered and liquidated according to the Romanian Commercial Code.