

Decree-Law No. 53/2004, of March 18

With the changes introduced by: Decree-Law no. 200/2004; Decree-Law No. 76-A/2006; Decree-Law No. 282/2007; Decree-Law no. 116/2008; Ruling of the Constitutional Court no. 173/2009; Decree-Law No. 185/2009; Law no. 16/2012; Law No. 66-B/2012; Decree-Law No. 26/2015; Decree-Law No. 79/2017; Law No. 114/2017; Law No. 8/2018; Ruling of the Constitutional Court no. 557/2018; Ruling of the Constitutional Court No. 675/2018; Decree-Law No. 84/2019; Law No. 99-A/2021; Law No. 9/2022; Decree-Law No. 57/2022;

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Diploma

Using the legislative authorization granted by Law no. 39/2003, of 22 August, approves the Insolvency and Business Recovery Code

1 - The XV Constitutional Government assumed, in its program, the commitment to review the process of company recovery and bankruptcy, with special emphasis on streamlining it, as well as the methods and procedures for the liquidation of assets and payments to creditors, having for this purpose, a proposed law authorizing the review of the legal framework currently in force on this matter was presented to the Assembly of the Republic.

The Code of Special Processes for Company Recovery and Bankruptcy (CPEREF), approved by Decree-Law no. 132/93, of 23 April, constituted an important moment in the legal regulation of the problems of reorganization and bankruptcy of companies that are insolvent or in a difficult economic situation. Eliminating the distinction, at this headquarters, between insolvency of traders and non-traders, removing the procedural and substantive regulation of bankruptcy from the Code of Civil Procedure, and combining in the same diploma, in an innovative way, this matter with that of company recovery, along with In addition to other less far-reaching innovations, significant advances were obtained with that diploma both from the point of view of technical-legal improvement and the goodness of solutions regarding the insolvency of companies and consumers.

However, several circumstances made the need for a broad reform urgent, as is widely recognized today and as has been demonstrated over the years.

Workers' representative structures and economic agents have repeatedly highlighted the urgency in approving legislative measures that resolve or, at least, alleviate the problems that are currently experienced in the rapid and effective resolution of legal proceedings arising from the insolvency of companies. Maintaining the current regime for longer would result in aggravated losses for the economic fabric and workers.

The often late nature of the process, the delay in processing in many cases, especially when processed in ordinary courts, the duplication of calls from creditors to the process, which derives from the existence of a preliminary opposition phase, common to the recovery process and bankruptcy, along with a new phase of claiming claims once the order to continue the action has been issued, the multiple possibilities of converting one form of process into another, the typical and exhaustive nature of the recovery measures, are, along with several other aspects mentioned below, some of the reasons given for the unsuccessful application of CPEREF.

2 - The reform now undertaken is not limited, however, to the specific filling of deficiencies in the current legislation, but rather is based on what is considered to be a more correct perspective and delineation of the purposes and structure of the process, which is presided over by an autonomous and distinct, which should be briefly presented.

3 - The main objective of any insolvency process is the satisfaction, in the most efficient way possible, of the rights of creditors.

Those involved in legal transactions, and especially when carrying out a commercial activity there, assume, for this reason, unavoidable duties, including honoring the commitments made. Economic and business life is a life of interdependence, so failure by certain agents necessarily has repercussions on the economic and financial situation of others. It is therefore urgent to provide them with suitable means to deal with the insolvency of their debtors, whilst it is impossible to promptly fulfill overdue obligations.

Since the common guarantee of credits is the debtor's assets, it is up to the creditors to decide on the best implementation of this guarantee, and it is in this way that, certainly, the public interest of preserving the good market functioning.

When the insolvent estate includes a company that did not generate the income necessary to fulfill its obligations, the best satisfaction for creditors may involve either closing the company or keeping it in business. But it is always on the creditors' estimate that the decision to recover the company, and under what terms, must ultimately depend, particularly regarding its maintenance in the ownership of the insolvent debtor or in someone else's. And, once again, this estimate will always be the best way to achieve the public interest in regulating the market, keeping viable companies in operation and purging those that are not (although, in the latter case, unviability may only result in the fact that creditors see no interest in continuation).

It is understood that the situation does not necessarily correspond to a market failure and that its own mechanisms lead to better results than authoritarian interventions. Insolvency law is responsible for the task of legally regulating the elimination or financial reorganization of a company according to market logic, returning the central role to creditors, converted, due to insolvency, into economic owners of the company. 4 - It is based on the previous considerations, synthetically exposed, that the new Insolvency and Business Recovery Code (CIRE), which is approved by this diploma, also taking advantage of the teachings of other legal systems, adopts a systematization entirely different from that of the current CPEREF (without prejudice to having maintained, although not always with the same formulation or systematic insertion, several of its precepts and taking advantage of numerous of its regimes).

5 - Legal systems similar to ours have been unifying the different procedures that also existed there in a single insolvency process, with a supplementary procedure based on the liquidation of the debtor's assets and the attribution to creditors of the possibility of approving a plan that departs from of this regime, either providing for the liquidation to be carried out in different ways, or restructuring the company, whether or not it remains in the ownership of the insolvent debtor. This is the case of recent German law and the ongoing reform of Italian bankruptcy law.

6 - The new Code embraces this structure, as is clear from its article 1 and, on the other hand, from article 192, which defines the function of the insolvency plan.

Evading the erroneous idea stated in the current law, regarding the supposed prevalence of the company's recovery route, the model adopted by the new Code thus explains, from the beginning, that it is always the will of the creditors that controls the entire process. The option that the law gives them is to take shelter under the additional regime set out in the Code - which could not fail to be the immediate reimbursement of creditors through the liquidation of the insolvent's assets or to move away from it, providing for their own initiative for a different treatment of the payment of their credits. Creditors are responsible for deciding whether payment will be obtained through the full liquidation of the debtor's assets, in accordance with the regime set out in the Code or those contained in an insolvency plan that they may approve, or through the maintenance of activity and restructuring of the company, owned by the debtor or third parties, as set out in a plan.

It should be noted, however, that not even the non-approval of an insolvency plan necessarily means the extinction of the company, which is why, when liquidation begins, the insolvency administrator must, first of all, preferably take steps to sell it as a going concern. In general, not even the approval of an insolvency plan implies the maintenance of the company, as it can only regulate, in terms other than legal ones, the liquidation of the debtor's assets.

It is therefore not worth stating that in the new Code priority is given to the liquidation of the insolvent's assets. The primacy that actually exists, it is worth reiterating, is that of the will of the creditors, as holders of the main interest that competition law aims to protect: the payment of the respective credits, under conditions of equality with regard to the loss resulting from the assets of the debtor is not, from the outset and in most cases, sufficient to fully satisfy his or her rights.

7 - Therefore, because unnecessary, the duplication of special forms of proceedings (recovery and bankruptcy) existing at CPEREF, as well as the preambular phase that was common to them, and which was likely to even generate avoidable delays in processing, ceases. of the process, namely due to the concomitant duplication of calls on creditors, and also because, in numerous cases, resorting to the recovery process translates into a mere expedient to delay the declaration of bankruptcy.

The suppression of the recovery/bankruptcy dichotomy, along with the configuration of the insolvency situation as the sole objective presupposition of the process, also makes it advisable to change the name of the process, which is now "insolvency process". Insolvency is not to be confused with "bankruptcy", as currently understood, given that the impossibility of fulfilling overdue obligations, which the first notion essentially consists of, does not imply the economic unviability of the company or the financial irrecoverability postulated by the second.

8 - The distinction between the figure of the judicial manager (designated within the scope of the recovery process) and that of the judicial liquidator (responsible for carrying out the liquidation of the bankrupt's assets, once his bankruptcy has been declared) is also eliminated. to exist the single figure of the insolvency administrator. Here too, the will of creditors prevails, as they are given back the right - provided for in the original version of CPEREF, but suppressed with the 1998 revision - to appoint themselves

the insolvency administrator themselves, replacing the one appointed by the judge, and also to appoint, with a binding nature, an administrator to occupy the position of another who has been removed from his duties.

On the other hand, with the creditors' committee becoming an eventual body in the insolvency process, the will of the creditors' assembly also prevails in terms of its existence and composition, which can dispense with the committee that the judge has appointed, or appoint one if the judge has not done so, and, in any case, change its composition.

9 - The exhaustive nature of company recovery measures as set out in CPEREF also ceases. The content of the insolvency plan is freely determined by the creditors, and the judge, when acting ex officio, is limited to monitoring its legality, with a view to its approval.

In any case, some of the measures that the plan can adopt are indicated, regulating in more detail certain recovery measures specific to commercial companies, given the importance they assume in economic and business activity.

10 - The affirmation of the supremacy of creditors in the insolvency process is accompanied by the intensification of the dejudicialization of the process.

The indispensability of the judge's intervention in the competitive process is recognized everywhere, with attempts to completely de-judicialize it having failed. Such indispensability is compatible, however, with the reduction of the judge's intervention to what strictly pertains to the exercise of the jurisdictional function, allowing the attribution of competence for everything that does not conflict with it to other procedural subjects. This is how,

on the one hand, the judge is only responsible for declaring insolvency or not, without having to rule on the company's financial recoverability (as is currently the case for the purposes of ordering continuation of the action). The lack of need to carry out such an assessment makes it possible to obtain gains from the point of view of the speed of the process, justifying the prediction that the declaration of insolvency must take place, in the case of filing for insolvency or the debtor's non-opposition to a request made by a third party, on the day of distribution or on the three subsequent business days, or on the day following the end of the deadline for opposition, respectively.

Still in terms of dejudicialization, it is also worth mentioning the disappearance of the possibility of challenging before the judge both the deliberations of the committee of creditors (which can, nevertheless, be revoked by the assembly of creditors), and the acts of the insolvency administrator (without prejudice to the powers of supervision and dismissal for just cause).

11 - The partial dejudicialization described above does not involve a reduction in the powers that the judge must have within the scope of his own competence: it is expressly stated, in article 11 of the diploma, the validity in the insolvency process of the inquisitorial principle, which allows the judge bases the decision on facts that have not been alleged by the parties.

12 - Despite the progress that, along with the reform of the civil procedure, it represented in this aspect, the CPEREF did not allow obtaining the desirable speed that should characterize a competitive process, both in terms of the procedural impulse and the respective processing.

Promoting the speed of the insolvency process is one of the objectives of this law, with numerous mechanisms being introduced for this purpose, which are summarized below.

13 - One of the causes of the failure of many recovery or bankruptcy processes was their late initiation, either because the debtor was not sufficiently penalized for not timely presentation, or because creditors are negligent in requesting recovery measures or declaration of bankruptcy, due to lack of suitable incentives.

An insolvency law is better the more it contributes to maximizing ex post the value of the debtor's assets without thereby constituting ex ante a stimulus for negligent behavior. With the aim of promoting compliance with the duty to file for insolvency, which obliges the corporate debtor or natural person holding a company to request the declaration of their insolvency within 60 days following the date on which they had, or should have, knowledge of the Insolvency situation, a presumption of serious guilt of the administrators, in law or in fact, responsible for the failure to comply with that duty is established, for the purposes of classifying it as culpable.

14 - Creditors favoring the initiation of the process translates, among other aspects, as the extension and improvement of the list of facts that can serve as a basis for the request for declaration of insolvency, mentioned below, in the granting of general movable privilege, ranked last, to the credits held by the creditor requesting the declaration of insolvency, up to a limit of 500 UC.

On the other hand, the new regime, referred to below, regarding the partial extinction of legal mortgages and credit privileges that are ancillary to credits held by the State, social security institutions and local authorities aims to provide an incentive for these entities not to allow too long since the debtor defaulted.

15 - In terms of the processing of proceedings that have already been initiated, speed is enhanced by numerous factors, of which the following stand out: the extension of the urgent nature also to the annexes to the insolvency proceedings; the suppression of the duplication of calls from creditors to the process, with there now being a single phase of summoning creditors with a view to claiming their respective credits, to occur only after the decision declaring insolvency; the attribution of an urgent nature to the records of sentences and orders issued in the insolvency process, as well as to those of any acts carried out within the scope of the administration and liquidation of the insolvent estate or provided for in an insolvency or payments plan; the express proclamation of the rule that insolvency proceedings cannot be suspended; the expedited notification regime of certain acts carried out in the insolvency process, their incidents and attachments.

16 - The need for rapid stabilization of judicial decisions, which in the insolvency process is felt with particular intensity, motivated the limitation of the right of appeal to one level only, except in cases of opposition to judgments on a matter for which there is not yet uniformity of jurisprudence.

17 - Promoting the speed of the process also makes it necessary to adopt measures in terms of judicial organization, which complement the regime contained in the Code. Making use of legislative authorization granted by the Assembly of the Republic, the jurisdiction of commercial courts to prepare and judge insolvency proceedings is limited to cases in which the debtor is a commercial company or a company is part of the insolvent estate.

18 - This diploma provides conceptual and terminological clarification, together with an improvement of the respective regime, in matters relating to the assumptions, objective and subjective, of the insolvency process, as well as those relating to the definition of the insolvent estate and respective debts, and of creditor classes.

19 - Simplifying the plurality of objective assumptions present in the CPEREF, the current diploma is based on a single objective assumption: insolvency. This consists of the impossibility of fulfilling overdue obligations, which, when the debtor is insolvent, may only be imminent.

However, the superiority of their liabilities is recovered as a specific criterion for determining the insolvency of legal entities and autonomous assets.
on the asset.

The list of signs of insolvency is expanded, on the one hand, to include, in particular, the insufficiency of seizable assets to pay the creditor's credit verified in executive proceedings brought against the debtor, and also the failure to comply with obligations set out in an insolvency or payment plan, under certain conditions; and improvement, on the other, specifying certain types of obligations (tax, labor, social security, certain types of income) whose widespread non-compliance most often denounces the insolvency of the debtor.

It is expressly stated, however, that the debtor may reject the declaration of insolvency not only by demonstrating that the indicative fact alleged by the applicant does not occur, but also by invoking that, despite its verification, he is not effectively in a situation of insolvency, obviating any doubts that could arise (and were raised during the validity of the CPEREF) regarding the rebuttable nature of the presumptions embodied in the evidence.

20 - There are profound changes in the delimitation of the subjective scope of application of the insolvency process. Dispelling some doubts that arose regarding the topic during the validity of the CPEREF, article 2 of the new Code presents an open list of taxpayers in the insolvency process. The most relevant criterion for this purpose is not that of legal personality, but that of the existence of patrimonial autonomy, which allows us to consider as passive subjects (also known as "debtor" or "insolvent"), namely, commercial companies and other legal entities still in the process of incorporation, individual establishments with limited liability, associations without legal personality and "any other autonomous assets". In this context, the mere company, as such, if not endowed with asset autonomy, is not considered a taxable subject, but rather its owner.

Therefore, the "derivative" or "drawdown" bankruptcies contained in article 126 of the CPEREF disappear, as it is not believed to be equitable to subject the entities mentioned there, which may well be solvent, to a declaration of insolvency without further ado.

On the other hand, as regards insurance companies, credit institutions and other entities traditionally excluded from the scope of application of common bankruptcy law, it is clarified that non-subjection to insolvency proceedings only occurs to the extent that this is incompatible with the regimes applicable to such entities, thus aiming to put an end to certain regulatory gaps that occur in cases where such regimes do not provide anything regarding the insolvency of the entities covered by them.

The application of the insolvency process to legal persons, incapable natural persons and mere autonomous assets requires the identification of the people who represent them within the scope of the process, and to whom, perhaps, responsibilities may be attributed for the creation or worsening of the debtor's insolvency situation. . Naturally, such people will be those who have or have disposed, to some extent, and both by force of law and legal transaction, of powers incident to the debtor's assets, which legitimizes their gathering in the notion, merely operational, of "administrators » contained in paragraph 1 of article 6.

21 - A precise distinction is made between "insolvency debts", corresponding to credits owed to the insolvent whose basis existed at the date of the declaration of insolvency and those that are equivalent to them (which are now designated as "insolvency credits", and the respective holders as "insolvency creditors"), of the "debts or charges of the insolvent estate" (correlated to the "credits on the estate", held by the "creditors of the estate"), which are, broadly speaking, those constituted during the course of the process.

Since the purpose of the insolvency process is the payment, to the extent that it is still possible, of the insolvency credits, the finding that the insolvency estate is not even sufficient to cover the respective debts - understood here, from the outset, the costs of the process and the remuneration of the insolvency administrator - determines that the process does not continue after the decision declaring insolvency or that it is later closed, depending on whether the insufficiency of the estate is recognized before or after the declaration. In both cases, however, the insolvency qualification incident always continues, with a more mitigated procedure and scope.

22 - Considering the diversity of situations in which holders of credits over the insolvent person may find themselves, and the need to provide them with appropriate treatment, recommends their division into four classes: secured, privileged, common and subordinates.

23 - The category of secured credits covers credits, and respective interest, that benefit from real guarantees - and as such special credit privileges are also considered - over assets forming part of the insolvent estate, up to the amount corresponding to the value of the assets subject to the guarantees.

24 - Privileged credits are those that enjoy general credit privileges over assets included in the insolvency estate, when such privileges are not extinguished as a result of the declaration of insolvency.

It is important to note the significant change introduced in the regime of legal mortgages and credit privileges that are ancillary to credits held by the State, social security institutions and local authorities. As for the former, and making up for CPEREF's omission in this regard, which generated controversy in doctrine and jurisprudence, the extinction of only those that are ancillary to the credits of these entities and whose registration was requested in the two months prior to the date of start of the insolvency process. As for general credit privileges, instead of the extinction of all of them, as is the case in CPEREF when bankruptcy is declared, only those that have been created in the 12 months prior to the start date of the insolvency process are expected to be extinguished. 25 -

The concept of subordinated credits is entirely new among us. It exists in other legal systems, namely German, Spanish and North American, although there are significant differences regarding the way it appears configured in them.

These are credits whose payment only takes place after the common credits have been fully paid. Such graduation is due to the consideration, for example, of the merely accessory nature of the credit (this is the case of interest), or of being assimilable to social capital (which is what happens with credits for supplies), or even of being devoid of compensation from the creditor.

The category of subordinated credits also includes, in particular, those whose holders are "persons especially related to the debtor" (be it a natural or legal person, or autonomous assets), which are carefully indicated in article 49 of the diploma. It does not seem disproportionate, placing ourselves in the perspective of such people, the subjection

of their credits to the subordination regime, given the situation of informational superiority about the debtor's situation, in relation to other creditors.

Combating a frequent source of frustration of the purposes of the insolvency process, which is the use, by the debtor, of organic or group relationships, kinship, special proximity, dependence or others, to carry out acts harmful to creditors is pursued within the scope of the resolution of acts for the benefit of the insolvent estate, as bad faith is presumed by people especially related to the debtor who have participated in or benefited from his acts, even if the special relationship did not exist at the date of the act .

26 - Still regarding the nature of the credits in the insolvency process, the treatment given to conditional credits must be highlighted. For the purposes of applying the Code, an operational notion of such credits is adopted, which covers those subject to both conventional conditions and those of legal origin. The main innovations arise in the credit regime under suspensive conditions.

27 - Turning to the summary analysis of the legally established process, which takes place whenever, through an insolvency plan, the creditors do not provide otherwise, it is analyzed at the following key moments, not necessarily processed in the order indicated: 1) Procedural impulse;

2) Preliminary

assessment and possible adoption of precautionary measures;

3) Judgment declaring insolvency and possible challenge; 4)

Seizure of assets; 5)

Claiming credits, restitution and separation of assets; 6)

Assembly of creditors to review the report; 7)

Liquidation of the insolvent estate;

8) Verification sentence and graduation of credits;

9) Payment to creditors;

10) Insolvency qualification incident; 11)

Closing the process.

The outlined structure may present some deviations in the event of: a) closure due to insufficiency of the insolvent estate; b) maintenance of the administration of the company by the debtor; c) presentation of a payment plan to creditors; d) there will be a period of assignment, for the purposes of exoneration of the remaining liabilities, after the end of the insolvency process.

28 - Since the presentation of insolvency by the debtor implies the latter's recognition of his insolvency situation, this is declared, as already mentioned, by the 3rd business day following the distribution of the initial petition or, if there are correctable defects , to that of the respective supply, which results in notable time savings, as also mentioned.

In other cases, the debtor is summoned to file a competent opposition (and, possibly, add an insolvency or payment plan, or request the release of the remaining liabilities). There is therefore no place for any summons from other creditors, or continuation with a view to the Public Prosecutor's Office, at this stage.

29 - The declaration of insolvency represents a pivotal moment in the process. It is not limited to this declaration but is intensely prospective, shaping much of the subsequent proceedings and triggering a vast array of consequences. On the other hand, the moment of its emanation is decisive for the application of numerous norms of the Code.

Much of the effectiveness and speed, if not justice, of the insolvency process depends on its adequate publicity, so that as many creditors as possible come to the process and do so at the earliest possible moment. The Code largely reinforces the mechanisms for notification and publication of the insolvency declaration and other acts, both of known and unknown creditors, national or foreign, considering the particular case of those who have habitual residence, domicile or headquarters in other Member States of the Union European Union, workers and the general public.

The provision for the unofficial registration of the declaration of insolvency and the appointment of the insolvency administrator in the civil registry office, when the debtor is a natural person, and, regardless of the nature of the debtor, in the computerized record of executions, stand out as innovative. established by the Code of Civil Procedure, as well as the respective inclusion in the

court's computer page, and also the communication of the declaration of insolvency to the Bank of Portugal so that it can register it with the credit risk center.

30 - With regard to the challenge of the insolvency declaration sentence, the current regime of concentration of reaction, in law and in fact, in the embargoes ceases, restoring itself, albeit in terms and for reasons different from those contained in the Code of Civil Procedure, the duality of the means of reacting embargoes/appeals.

Thus, people entitled to file embargoes are permitted, alternatively to this deduction or cumulatively with it, to file an appeal against the insolvency declaration decision, when they understand that, given the elements found, it should not have been issued. As in the CPEREF, the opposition to embargoes against the insolvency declaratory judgment, as well as the appeal against the decision maintaining the declaration, suspends the liquidation and sharing of assets, without prejudice to the insolvency administrator being able to promote the immediate sale of the assets of the insolvent estate that cannot or should not be preserved because they are subject to deterioration or depreciation.

31 - The insolvency declaration is a source of numerous and important effects, which are grouped as follows: «effects on the debtor and other people»; “procedural effects”; “effects on credits”, and “effects on business in course”.

32 - The main effect on the debtor, which is classic, is the deprivation of the powers of administration and disposal of the assets forming part of the insolvency estate, either by him or her or by his administrators, with such powers being the responsibility of the insolvency administrator.

However, the possibility for the debtor to remain in the administration of the insolvent estate is established in cases where it is part of a company. This maintenance presupposes, among other aspects, that the debtor has requested it, having already presented, or committing to do so within a certain period, an insolvency plan that provides for the continued operation of the company by itself, and also which has the consent of the requesting creditor or the meeting of creditors.

The meaning of this regime is clear: not to require the deprivation of the debtor's administrative powers, specifically regarding the company he owns, when it is recognized that his business capacity is not harmed by the insolvency situation, which may even result from factors exogenous to the company, while there is, at the same time, the conviction that the recovery of the company in their hands will allow better satisfaction of the credits than its subjection to the common liquidation regime.

33 - In the field of the procedural effects of the declaration of insolvency, it is worth highlighting the possibility of, upon request from the insolvency administrator, joining the insolvency proceedings of a debtor to the proceedings in which the insolvency of persons who legally responsible for their debts or, in the case of a married individual, their spouse, if the property regime is not that of separation. If the debtor is a commercial company, processes in which the insolvency of companies that, under the Commercial Companies Code, it controls or are in a group relationship with, have been declared insolvent, may be joined.

34 - The chapter on effects on credits regulates in more technically refined terms the fundamental matter of the immediate maturity of the insolvent's obligations operated by the declaration of insolvency. New aspects include updating the amount of obligations that were not due at the date of the declaration of insolvency, the effects on debts covered by tax regularization plans and social security contributions that are still being implemented and the regime the conversion of credits, both pecuniary of an indeterminate amount, as well as non-pecuniary, as well as those expressed in foreign currency or indices.

The possibility of offsetting insolvency claims with debts owed to the estate is now accepted, generally, if the legal requirements for offsetting already existed at the date of the declaration of insolvency, or if, occurring at a later date, the counter-credit of the estate has not first met the requirements established in article 847 of the Civil Code.

35 - The chapter on the effects of the declaration of insolvency on ongoing legal transactions is one of those in which the present reform differs most from the CPEREF counterpart regime. It is the subject of extensive remodeling, both in terms of form and substance, which results from a more careful consideration of the interests at stake and the consideration, regarding specific aspects, of the experience of foreign legislation.

There are few solutions that have remained unchanged in this area. Of particular note is the introduction of a "general principle" regarding bilateral contracts, which immediately points to the notion of "ongoing business" within the scope of the insolvency process: it must be a contract in which, at the date of the declaration of insolvency, there is still not full compliance by both the insolvent party and the other party. The essence of the general regime set out for such businesses is that compliance is suspended until the insolvency administrator declares whether to execute or refuse compliance.

Several other types of contracts are subject to specific treatment, with various and relevant innovations emerging in the areas of purchase and sale, leasing, mandate, among others.

The chapter ends with an important rule that determines the nullity of conventions that aim to exclude or limit the application of the precepts contained therein. However, the cases in which the insolvency situation, once it has occurred, may constitute just cause for termination or termination of the contract, taking into account the nature and content of the contractual provisions, which may happen, by way of example, in the event that the service to which the insolvent party is obligated is non-fungible.

36 - Still with regard to the processing of the process, it is important to note that the decision declaring insolvency is followed by the immediate seizure of the assets forming part of the insolvency estate by the insolvency administrator, essentially maintaining the regime already contained in the CPEREF regarding to this

matter. 37 - It is at the stage of claiming credits that one of the objectives of this law stands out in particular, which is to simplify the administrative procedures inherent to the process. The Code provides, in this regard, that credit complaints are addressed to the insolvency administrator and delivered to or sent to his professional address. The appendix relating to the claim and verification of credits therefore only contains the list of recognized and unrecognized creditors, the objections and the respective responses.

In addition to simplifying the administrative nature, this phase makes it possible to take a step further in the previously mentioned de-judicialization, by establishing that the judgment verifying and grading the credits is limited to approving the list of recognized creditors drawn up by the insolvency administrator and grading credits in accordance with what appears on this list, when no objections to the credit claims have been filed. The need for corrections resulting from the existence of a manifest error is expressly highlighted.

38 - In the decision declaring insolvency, a date is designated, between 45 and 75 days following the respective delivery, for the holding of an important meeting of the creditors' assembly, known as the "report assessment creditors' assembly".

39 - Once the insolvency declaratory judgment has become final and the meeting to assess the report has taken place, the insolvency administrator promptly proceeds with the sale of all seized assets to the insolvent estate, regardless of the verification of liabilities, to the extent that both if they do not oppose the deliberations taken by the creditors at the said meeting.

The general principle is established that the practice of legal acts that assume special relevance for the insolvency process depends on the consent of the committee of creditors, or, if this does not exist, of the meeting of creditors.

The principle of the prevalence of the sale of the company as a whole is reaffirmed, and the insolvency administrator, once his duties have commenced, must immediately take steps to sell the debtor's company or its establishments.

Changing the provisions in this regard in the CPEREF, the insolvency administrator is not required to sell the assets in any of the ways permitted in the executive process, as another may prove to be more convenient in the case concrete.

The concern for speed, already stated for several purposes, cannot lead to the creation of regimes that prove to be unfeasible from the outset. It is for this reason that the period for liquidation is extended to one year, constituting the respective period, or every subsequent six months, without the insolvency process being closed, sufficient reason for dismissal with just cause of the insolvency administrator, unless there are reasons justifying the extension.

The possibility of waiving the liquidation of the estate is provided for, when, as the debtor is a natural person and the insolvent estate does not include a company, the debtor delivers to the insolvency administrator an amount of money not less than that which would result from such liquidation, which may This will avoid countless costs and inconveniences.

40 - One objective of the reform introduced by this diploma is to obtain greater and more effective accountability for company owners and directors of legal entities. This is the purpose of the new "insolvency qualification incident".

The purposes of the insolvency process and, even more so, the very purpose of avoiding fraudulent or intentional insolvencies, would be seriously harmed if company directors, in law or in fact, were not subjected to any consequences whenever they have contributed to such situations. Under the cover of the technical expedient of collective legal personality, it would be possible to carry out the most varied acts harmful to creditors without harm.

CPEREF, particularly after the 1998 review, was not oblivious to the problem, but the regimes then established for this purpose - the joint liability of administrators (with fluid and incorrectly explained assumptions) and the possibility of declaring their bankruptcy jointly with that of the debtor - do not appear technically correct or suitable for the purpose for which they are intended. On the other hand, its application depended on a request made by a creditor or the Public Prosecutor's Office. Furthermore, the sanction of inhibition for the exercise of commerce may be unfair when it is applied as an automatic effect of the declaration of bankruptcy, without taking into account the real situation of the bankrupt.

The treatment given to the subject by the new Code (inspired, in certain aspects, by the recent Spanish Concursal Law), which is believed to be more equitable - even if more severe in certain cases -, consists, in essence, in the creation of the «qualification incident of insolvency», which is opened ex officio in all insolvency proceedings, regardless of the taxpayer, and does not cease to be carried out even in the event of closure of the proceedings due to insufficient insolvency assets (assuming in this case, however, the designation of a "limited insolvency qualifying incident", with a mitigated procedure and scope).

The incident is intended to determine (without effect on criminal proceedings or the assessment of civil liability) whether the insolvency is fortuitous or negligent, understanding that the latter occurs when the situation has been created or worsened as a result of the action, intentional or with serious fault (presuming the second in certain cases), of the debtor, or of his administrators, in law or in fact, in the three years prior to the beginning of the insolvency process, and indicating that bankruptcy is always considered culpable in the event of certain acts that are necessarily disadvantageous to the company.

The classification of insolvency as culpable implies serious consequences for the people affected, which may range from disqualification for a specified period, temporary inhibition from carrying out commerce, as well as from occupying certain positions, the loss of any credits on the insolvency and the order to return the assets or rights already received in payment of these credits.

41 - The main purpose of the insolvency process - the payment, to the greatest extent possible, of the insolvency creditors - could be easily frustrated through the practice by the debtor, prior to the process or during it, of acts of dissipation of the common guarantee of the creditors : the debtor's assets or, once insolvency has been declared, the insolvent estate. It is therefore important to seize for the insolvent estate not only those assets that still remain in the insolvent's ownership, but also those that would remain in the insolvent estate if those acts that prove to be harmful to the estate had not been carried out or omitted.

The possibility of pursuing these acts and obtaining the reinstatement of the assets and values in question in the insolvent estate is significantly reinforced in this diploma.

In the current system, the possibility of resolving a restricted set of acts is foreseen, and the prosecution of the others under the terms only of the Paulian challenge, which is so often ineffective, even if the bad faith of the third party is assumed in relation to some of them. In the new Code, creditors' appeal to Paulian objection is prevented, whenever the administrator intends to resolve the act for the benefit of the estate. It is envisaged that the debtor's assets (the insolvent estate) will be reconstituted through a specific institute - the "resolution for the benefit of the insolvent estate" - which allows, in an expeditious and effective manner, the destruction of acts detrimental to that estate.

42 - Regardless of the aspects of the current regime that were already in need of reformulation, some recent events have highlighted in a particularly significant way the need to more effectively ensure the correct performance of the functions assigned to the insolvency administrator.

This diploma introduces some guarantees for better performance of the role of insolvency administrator, such as the possibility of electing the insolvency administrator by the meeting of creditors and predicting the elapse of the term of a

year without the process being closed as just cause for dismissal of the administrator.

43 - The closure of the process, a matter poorly regulated in the CPEREF, is the subject of systematic treatment in the new Code, which rigorously foresees both its causes and the respective effects.

44 - The subjection to the insolvency process of natural and legal persons, both owners of companies and those outside any business activity, is not done without the provision of different regimes and institutes for each category of entities, which allow for the best regulatory treatment of the respective insolvency situations. As mentioned above regarding the insolvency plan, this will tend to be used by larger companies.

In the treatment given to natural persons, the regimes for the exemption of remaining liabilities and the payment plan stand out.

45 - The Code combines in an innovative way the fundamental principle of creditors' compensation with the attribution to insolvent individual debtors of the possibility of freeing themselves from some of their debts, and thus allowing them to achieve economic rehabilitation. The principle of fresh start for natural persons in good faith who are insolvent, so widespread in the United States, and recently incorporated into German insolvency legislation, is now also accepted among us, through the "exemption of remaining liabilities" regime. .

The general principle in this matter is that the natural person debtor may be granted exemption from insolvency claims that are not fully paid during the insolvency process or within five years following its closure.

The effective obtaining of such a benefit therefore presupposes that, after being subject to insolvency proceedings, the debtor remains for a period of five years - known as the assignment period - still subject to the payment of insolvency credits that have not been fully satisfied. During this period, he undertakes, among several other obligations, to transfer his disposable income (as defined in the Code) to a fiduciary (an entity designated by the court from among those registered on the official list of insolvency administrators), which will affect the amounts received to pay creditors. At the end of this period, once the debtor has fulfilled all the obligations imposed on him towards his creditors, an order of exoneration is issued, which releases the debtor from any debts still pending payment.

The consideration of the requirements required of the debtor and the correct conduct that he necessarily had to adopt will then justify granting him the benefit of exoneration, allowing his full reintegration into economic life.

It should be clarified that the application of this regime is independent of that of other extrajudicial or similar procedures aimed at treating the over-indebtedness of natural persons, namely those that fall under special legislation relating to consumers.

46 - Individuals, non-entrepreneurs or owners of small businesses, are allowed to present, with the initial petition for insolvency proceedings or as an alternative to contesting, a payment plan to creditors.

The plan incident paves the way for people who can benefit from it to be spared the entire insolvency process (with seizure of assets, liquidation, etc.), avoid any damage to their good name or reputation and avoid the consequences associated with classifying insolvency as culpable.

It is possible for the judge to replace, in certain cases, the rejection of the plan by a creditor with an approval, overcoming a source of frequent frustration in extrajudicial conciliation procedures, which is the need for the agreement of all creditors.

47 - The insolvency of married people is regulated in an entirely innovative way, under property regimes other than separation. The active and passive coalition of spouses in the insolvency process is permitted. If both are insolvent, or both are facing proceedings initiated by a third party, the assessment of the insolvency situation of both spouses is included in the same sentence, and a possible proposal for a payment plan must be formulated jointly by them.

48 - The present reform also aimed to harmonize national bankruptcy law with Regulation (EC) No. [1346/2000](#), of 29 May, relating to cross-border insolvencies, and with some relevant community directives on insolvency.

A set of rules of private international law is also established, aimed at resolving conflicts of law with regard to matters related to insolvency.

49 - Essentially, the existing CPEREF regimes regarding the exemption from fees and tax benefits, as well as the indictment of criminal offenses, are maintained.

50 - In addition to the approval of the CIRE, this diploma also amends other diplomas already in force, starting to list the fundamental changes, as others result from a mere adaptation to the terminology adopted in that new Code.

Due to the change to the insolvency regime, it is necessary to change the criminal types included in the Penal Code, eliminating all references to "bankruptcy", which are replaced by "insolvency".

An aggravation is introduced for the crimes of intentional insolvency, frustration of credits, negligent insolvency, as well as for favoring creditors, when the practice of such illicit acts results in the frustration of credits of a labor nature.

51 - With regard to separate legislation whose terminology is not adapted to the new Code, it is intended to introduce a general rule that references made to the legislation now repealed must be understood to be made to the corresponding CIRE standards. In particular, cases of legislation that provide for the expiry of authorizations to carry out activities as a result of the bankruptcy of the respective holder are prevented, clarifying that the mere declaration of insolvency may not involve the aforementioned expiry, thus allowing for the eventual approval of a plan insolvency that provides for the recovery of the company without changing the respective owner.

52 - These are the essential features of the regime now approved, which follows the draft that the Government presented in the 1st half of this year, which was the subject of a broad public discussion in economic, social, judicial and academic circles.

The procedures resulting from the participation of workers' organizations were observed, and several entities with an interest in this matter were also consulted, namely the Bar Association, the Chamber of Solicitors, the Order of Chartered Accountants, the Bank of Portugal, the Portuguese Association of Banks, the Business Association of Portugal, the Confederation of Portuguese Industry, the Confederation of Commerce and Services of Portugal, the Portuguese Association of Managers and Judicial Liquidators, as well as representatives of the judiciary and the Public Ministry.

Like this:

Using the legislative authorization granted by Law no. 39/2003, of 22 August, and in accordance with subparagraphs a) and b) of no. 1 of article 198 of the Constitution, the Government decrees the following:

Article 1

Approval of the Insolvency and Business Recovery Code

The Insolvency and Business Recovery Code is approved, which is published as an annex to this decree-law, of which it forms an integral part.

Article 2

Amendments to the Penal Code

Articles 227, 227-A, 228 and 229 of the Penal Code, approved by Decree-Law No. 400/82, of 23 September, and amended by Law No. 6, are amended. /84, of May 11th, by Decree-Laws no. 132/93, of April 23rd, and 48/95, of March 15th, by Laws no. 65/98, of September 2nd, 7/2000, of May 27th, 77/2001, of July 13th, 97/2001, 98/2001, 99/2001 and 100/2001, of August 25th, and 108/2001, of November 28th, and by the Decrees -Laws 323/2001, of 17 December, and 38/2003, of 8 March, which now have the following wording: «Article 227 [...]

1 - The debtor who, with the intention of harming creditors: a) ...

- b) ...
- c) ...
- d) ...

is punished, if insolvency occurs and is recognized judicially, with a prison sentence of up to 5 years or a fine of up to 600 days.

2 - (Previous no. 3.)

3 - (Previous no. 5.)

Article 227-A [...]

1 -

2 ...

- The provisions of paragraphs 2 and 3 of the previous article are correspondingly applicable.

Article 228 [...]

1 - The debtor who:

- a) ...
- b) ...

is punished, if insolvency occurs and is recognized judicially, with a prison sentence of up to one year or a fine of up to 120 days. 2 - The provisions of paragraph 3 of article 227 are correspondingly applicable.

Article 229 [...]

1 - The debtor who, knowing his insolvency situation or foreseeing its imminent and with the intention of favoring certain creditors to the detriment of others, resolves debts that are not yet due or resolves them in a manner different from payment in cash or usual amounts, or gives guarantees for his debts to which he was not obligated, is punished with a prison sentence of up to 2 years or a fine of up to 240 days, if insolvency is recognized in court. 2 - The provisions of paragraph 3 of article 227 are correspondingly applicable»

Article 3

Addition to the Penal Code

Article 229-A is added to the Penal Code, with the following wording: «Article 229-A

Aggravation The

penalties

provided for in paragraph 1 of article 227, in paragraph 1 of article 227. -A, in paragraph 1 of article 228.º and in paragraph 1 of article 229.º are increased by one third, in their minimum and maximum limits, if, as a result of the practice of any of the facts described therein, credits of a labor nature result in frustration, in the context of executive proceedings or special insolvency proceedings.»

Article 4

Amendment to the Civil Procedure Code

Articles 222 and 806 of the Code of Civil Procedure are amended, approved by Decree-Law no. 44129, of December 28, 1961, amended by Decree-Laws no. , 323/70, of July 11th, 261/75, of May 27th, 165/76, of March 1st, 201/76, of March 19th, 366/76, of May 5th, 605/76, of 24 July, 738/76, of 16 October, 368/77, of 3 September, and 533/77, of 30 December, by Law No. 21/78, of 3 May, by Decrees- Laws No. 513-X/79, of December 27th, 207/80, of July 1st, 457/80, of October 10th, 400/82, of September 23rd, 242/85, of July 9th , 381-A/85, of September 28th, and 177/86, of July 2nd, by Law no. 31/86, of August 29th, by Decree-Laws no. 92/88, of 17th March, 321-

B/90, of 15 October, 211/91, of 14 July, 132/93, of 23 April, 227/94, of 8 September, 39/95, of 15 February, 329-A/95, of December 12th, 180/96, of September 25th, 375-A/99, of September 20th, and 183/2000, of August 10th, by Law No. 30-D/2000, of December 20th, by Decree-Laws No. 272/2001, of October 13th, and 323/2001, of December 17th, by Law no. 13/2002, of 19 February, and Decree-Law no. 38/2003, of 8 March, which now reads as follows:

«Article 222.º

[...]

In distribution there are the following species:

1st...

2nd...

3rd...

4th...

5th ...

6th...

7th...

8th...

9th Special insolvency proceedings;

10th...

Article 806

[...]

1 - ...

two - ...

3 - ...

4 - ...

a) The declaration of insolvency and the appointment of an insolvency administrator, as well as the closure of the proceedings
insolvency special;

B) ...

5 - ...»

Article 5

Change to the regime for the computerized recording of executions

Article 2 of Decree-Law no. 201/2003, of 10 September, is amended, which now reads as follows:

«Article 2.

[...]

1 - ...

two - ...

3 - ...

a) The declaration of insolvency and the appointment of an insolvency administrator, as well as the closure of the proceedings
insolvency special;

B) ...

4 - ...

5 - ...

6 - ...

7 - ...

Article 6

Amendment to the Civil Registration Code

Articles 1 and 69 of the Civil Registration Code, approved by Decree-Law no. 131/95, of 6 June, amended by Decree-Laws no. 36/97, of 31 January, 120 / 98, of May 8th, 375-A/99, of September 20th, 228/2001, of August 20th, 273/2001, of October 13th, 323/2001, of December 17th, and 113/2002 , of April 20th, are now worded as follows: «Article 1 [...]

1 - Civil registration is mandatory and its purpose is the following facts: a) ... b) ...

c) ...

d) ...

e) ...

f) ...

g) ...

h) ...

i) ...

j) ...

The

declaration of insolvency, the rejection of the respective request, in cases of prior appointment of a provisional judicial administrator, and the closure of the insolvency process; l) The appointment and termination of functions

of the judicial administrator and the provisional insolvency administrator, the attribution to the debtor of the administration of the insolvency estate, as well as the prohibition of the performance of certain acts without the consent of the insolvency administrator and the cessation of that administration ; m)

Disqualification and inhibition of the insolvent person from exercising trade

and certain positions; n) The release of the remaining liability, as well as the early beginning and termination of the respective procedure and the revocation of the release; o) [Previous paragraph j).] p) [Previous paragraph l).] 2 -

...

Article 69 [...]

1 - The following are specially endorsed on the birth certificate: a) ... b) ...

c)

[Previous subparagraph

e).] d) [Previous

subparagraph f).] e)

[Previous subparagraph

g).] f) [Previous

subparagraph h).] g) [Previous subparagraph i).] h) The declaration of insolvency, the rejection of the respective request and the closure of

the insolvency process; i) The appointment and termination of functions of the judicial administrator and the provisional insolvency administrator, the attribution to the debtor of the administration of the insolvency estate, as well as the prohibition of the performance of certain acts without the consent of the insolvency administrator and the cessation of that administration ; j)

Disqualification and inhibition of the insolvent person from exercising trade and certain positions; l) The beginning, early

termination and final decision of the remaining liability discharge procedure and its revocation; m) [Previous paragraph j).] n) [Previous paragraph

l).] o) [Previous paragraph

m).]

p) [Previous paragraph n).]

2 - ...

3 - ...»

Article 7.º

Amendment to the Commercial Registration Code

Articles 9, 10, 61, 64, 66, 67, 69 and 80 of the Commercial Registration Code, approved by Decree-Law No. 403/86 , of 3 December, and amended by Decree-Laws no. 349/89, of 13 October, 31/93, of 12 February, 267/93, of 31 July, 216/94, of 20 August , 328/95, of December 9th, 257/96, of December 31st, 368/98, of November 23rd, 172/99, of May 20th, 198/99, of June 8th, 375-A/ 99, of 20 September, 385/99, of 28 September, 410/99, of 15 October, 273/2001, of 13 October, and 323/2001, of 17 December, are now worded as follows : «Article 9 [...]

The following are subject to

registration: a) ... b) ... c) ... d) ... e) ... f) ... g) ... h) ... i) The sentences of declaration of insolvency of individual traders, commercial companies, civil companies in commercial form, cooperatives, complementary groups of companies, European economic interest groupings and individual establishments with limited liability, and the rejection of the respective request, in the cases of prior appointment of a provisional judicial administrator, as well as the final and unappealable decision of the aforementioned sentences; j) Sentences, with final and unappealable effect, disqualifying and inhibiting individual traders from carrying out trade and certain positions, as well as decisions appointing and dismissing the curator of the disqualified person; l) Orders appointing and dismissing the judicial administrator and the provisional insolvency administrator, granting the debtor the administration of the insolvency estate, as well as prohibiting the carrying out of certain acts without the consent of the insolvency administrator and orders that put an end to this administration; m) Orders, with final and unappealable effect, exempting the remaining liabilities of individual traders, as well as the initial and early termination orders of the respective procedure and revoking this exemption; n) Court decisions closing the insolvency process; o) Court decisions confirming the end of the period of supervision applicable to the execution of the insolvency plan.

Article 10 [...]

The following are also subject to

registration: a) ...

b)

(Revoked.) c) ... d) ... e) ... f) ...

Article 61

[...]

1 - ...

2 - The provisions of the previous paragraph are not applicable to records arising from the insolvency process, as well as to those relating to pledge, attachment, seizure and listing of shares of limited liability companies and pledge of parts of collective and limited partnerships. 3 -

...

Article 64 [...]

1 - The following registrations are provisional in nature: a) ... b) ... c) ...

d) ...

e)

Declaration of insolvency or rejection of the respective request, before the sentence becomes final ; f) ... g) ... h) ... i) ... j) ... l) Seizure in insolvency

proceedings, after the judgment declaring insolvency has been handed down, but before the actual seizure; m) ... n) ...

2 - The registrations are also provisional in nature: a) Seizure or

seizure of shares of limited liability companies or rights referred to in the final part of paragraph e) and paragraph f) of article 3 and, as well as , the seizure of the same assets in insolvency proceedings, if there is a record of acquisition on them in favor of a person other than the defendant, defendant or insolvent; B C D) ...

Article 66 [...]

1 - ...

two - ...

3 - The appointment of a judicial insolvency administrator, the attribution to the debtor of the administration of the insolvency estate and the prohibition on the debtor administrator from carrying out certain acts without the consent of the judicial administrator, when determined simultaneously with the declaration of insolvency, do not have an independent registration , and the inscription must include this last fact; joint registration is also made in relation to the aforementioned facts that are determined simultaneously at a time subsequent to that declaration.

4 - The appointment of a curator to an insolvent individual trader, when made in the judgment of disqualification of the latter, is registered in the registration relating to this last fact.

Article 67 [...]

1 - (Previous body of article.)

2 - The registration of the decision to close the insolvency process, when concerning a commercial company or civil society in commercial form, determines the unofficial carrying out:

a) Registration of the company's return to activity, when the closure of the process was based on the approval of an insolvency plan that provides for its continuity; b) Cancellation of the company's registration, in cases where the closure of the process was declared after the final apportionment was carried out.

3 - The registration referred to in the previous paragraph also determines, whatever the entity to which it relates, the unofficial registration of the termination of functions of the judicial insolvency administrator, except in cases where there is an approved insolvency plan and this confers on him powers and also in the cases referred to in paragraph b) of the previous paragraph.

Article 69 [...]

1 - The following facts are recorded by endorsement of the inscriptions to which they relate: a) ... b) ...

c) ...

d) ...

e) ...

f) ...

g) ...

h)

[Previous paragraph i).]

i) [Previous paragraph

j).] j) [Previous paragraph

k).]

l) ...

m) ...

n) ...

o) ... p) A termination of functions of the judicial administrator and the provisional judicial insolvency administrator; q) The judicial decision prohibiting the insolvent debtor from carrying out certain acts without the consent of the insolvency administrator, when such prohibition is not determined together with the attribution to the debtor of the administration of the insolvency estate; r) The court decision that puts an end to the administration

of the insolvent estate by the debtor; s) The court decision to prematurely terminate the procedure for

exoneration of the individual trader's remaining liabilities and to revoke this exoneration; t) The court decision confirming the end of the supervision period applicable to the execution of the

insolvency plan.

two - ...

3 - ...

4 - ...

5 - The final judgment of the sentences provided for in paragraphs e) and g) of paragraph 1 of article 64 determines the endorsement of the definitive conversion of the corresponding records.

6 - The judicial decisions provided for in subparagraph s) of paragraph 1 are endorsed, respectively, at the inscription of the initial order exempting the remaining liabilities and the final order determining this exemption.

7 - The judicial decision provided for in subparagraph t) of paragraph 1 is endorsed with the inscription of the decision to close the insolvency process that publicizes the subjection of the execution of the insolvency plan to supervision.

Article 80 [...]

1 - If there is a provisional record of arrest, attachment or seizure in insolvency proceedings of shares or rights relating to shares registered in the name of a person other than the defendant, executed, or insolvent, the judge must order the summons of the registered holder to declare, within 10 days, if the share or share belongs to you.

two - ...

3 - ...
4 - ...
5 - ...
6 - ...»

Article 8

Amendment to the Law on the Organization and Functioning of Judicial Courts

Article 89 of Law no. 3/99, of 13 January (Law on Organization and Functioning of Judicial Courts), amended by Law no. 101/99, of 26 July, and by Decree-Laws no. 323/2001, of 17 December, 10/2003, of 18 January, and 38/2003, of 8 January March, now reads as follows:

«Article 89.º

[...]

1 - ...

a) The insolvency process if the debtor is a commercial company or the insolvent estate is part of a company;

B) ...

w) ...

d) ...

It is) ...

f) ...

g) ...

H) ...

two - ...

3 - ...»

Article 9

Amendment to the Fees Regulations for Registries and Notaries

Article 28 of the Regulation of Fees for Registries and Notaries, approved by Decree-Law No. 322-A/2001, of 14 December December, amended by Decree-Law no. 194/2003, of 23 August, now reads as follows:

«Article 28.

[...]

1 ...

two - ...

3 - ...

4 - ...

5 - ...

6 - ...

7 - ...

8 - ...

9 - ...

10 - ...

11 - ...

12 - ...

13 - ...

14 - ...

15 - Notary and registration acts required for the execution of integrative measures or resulting from a judicially approved insolvency plan aimed at reorganizing the company, through the recovery of its owner or its transfer, in whole or in part, to other entity(ies)."

Article 10

Repealing rule 1 -

The Code of Special Processes for Company Recovery and Bankruptcy, approved by Decree-Law no. 132/93, of 23 April, and amended by Decree-Laws no. 157/97, of 24 June, 315/98, 20 October, 323/2001, 17 December, and 38/2003, 8 March. 2 - Article 82 of the Code of Civil Procedure, approved by Decree, is revoked -Law No. 44129, of December 28, 1961.

Article 11

Remission for revoked precepts

- 1 - Whenever, in legal provisions, contractual clauses or approved recovery measures, a reference is made to legal precepts revoked by this diploma, it is understood that the reference applies to the corresponding provisions of the Insolvency and Business Recovery Code.
- 2 - Without prejudice to the provisions of the following paragraph, whenever legal provisions establish the expiry of any authorizations to carry out an economic activity as a result of the bankruptcy of the respective holder, it must be understood that the authorization expires with the closure of the insolvency process due to insufficient insolvent assets or after the final apportionment has been carried out.
- 3 - The provisions of the previous paragraph do not apply whenever the purpose of the legal provision in question requires that the forfeiture occur with the mere declaration of insolvency, namely when the provision provides that the forfeiture also occurs as a result of an order to continue the process of company recovery.

Article 12

Transitional regime

- 1 - The Code of Special Business Recovery and Bankruptcy Procedures continues to apply to company recovery and bankruptcy processes pending on the date of entry into force of the Insolvency and Business Recovery Code.
- 2 - The provisions of article 7 do not prejudice the application of the regime in force to date with regard to the registration of decisions given or facts occurring within the scope of company recovery or bankruptcy processes pending on the date of entry into force of the this diploma.
- 3 - The provisions of paragraph c) of paragraph 1 of article 97 of the Insolvency and Business Recovery Code only apply to legal accessory mortgages of credits due after the entry into force of this diploma.
- 4 - Until the insolvency administrator statute comes into force and publication of the respective official lists, managers and judicial liquidators exercise the functions of insolvency administrator, with all appointments being made from among those registered on the lists of managers and judicial liquidators provided for in Decree-Law no. 254/93, of 15 July, focusing on judicial managers the appointments for processes in which the need for special management knowledge is foreseeable, particularly when the insolvent estate is part of an operating establishment.

Article 13
Implementation

This diploma comes into force 180 days after the date of its publication.

Attachment

CODE ON INSOLVENCY AND COMPANY RECOVERY

Title I
Introductory provisions

Chapter I
General provisions

Changes

Added by Article 4 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 1
Goal

1 - The insolvency process is a universal execution process whose purpose is to satisfy creditors in the manner provided for in an insolvency plan, based, in particular, on the recovery of the company included in the insolvent estate, or, when this does not appear possible, in the liquidation of the insolvent debtor's assets and the distribution of the proceeds obtained among creditors.

2 - If the company is in a difficult economic situation, or in a situation of merely imminent insolvency, it may request the court to initiate a special revitalization process, in accordance with the provisions of articles 17-A to 17-I.

3 - In the case of a debtor of any other nature in a difficult economic situation or in a situation of merely imminent insolvency, he or she may request a special process from the court for a payment agreement, provided for in articles 222-A to 222-I.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 2
Taxable persons in the declaration of insolvency

1 - The following may be subject to insolvency

proceedings: a) Any natural or legal person;

b) The existing

inheritance; c) Associations without legal personality and special
committees; d) Civil

societies; e) Commercial companies and civil companies in commercial form until the date of definitive registration of the contract
by which they are constituted;

- f) Cooperatives, before registering their constitution;
g) The individual establishment with limited liability; h) Any other autonomous assets.

2 - The following are excluded from the provisions

of the previous paragraph: a) Public legal entities and public business

entities; b) Insurance companies, credit institutions, financial companies, investment companies that provide services that involve the holding of third-party funds or securities and collective investment undertakings, to the extent that the subject to legal proceedings insolvency is incompatible with the special regimes provided for such entities.

Article 3

Insolvency situation 1

- A debtor who is unable to fulfill his obligations is considered insolvent.
won.

2 - Legal persons and autonomous assets for whose debts no natural person is personally and unlimitedly liable, directly or indirectly, are also considered insolvent when their liabilities are clearly greater than their assets, assessed in accordance with the applicable accounting standards.

3 - The provisions of the previous paragraph cease when the assets are greater than the liabilities, assessed in accordance with the following rules:

a) Identifiable elements are considered in assets and liabilities, even if not included in the balance sheet, at their fair value; b)

When the debtor owns a company, the valuation is based on a perspective of continuity or liquidation, depending on which appears more likely, but in any case excluding the goodwill item; c) Debts that only have to be paid at the expense of distributable funds or remaining assets after the rights of the debtor's other creditors have been satisfied or safeguarded are not included in liabilities.

4 - The situation of current insolvency is equivalent to one that is merely imminent, in the case of the debtor filing for insolvency.

Changes

Amended by Article 1 of [Decree-Law no. 200/2004 - Official Gazette no. 194/2004, Series IA of 2004-08-18](#), effective from 2004-09-15

Article 4

Date of declaration of insolvency and start of the process

1 - Whenever precision may be relevant, references in this Code to the date of the declaration of insolvency must be interpreted as referring to the time at which the respective sentence was handed down.

2 - All deadlines in this Code that have as their final end the beginning of the insolvency process also cover the period between this date and the date of the declaration of insolvency.

3 - If insolvency is declared in a process whose processing should have been suspended, in accordance with paragraph 2 of article 8, due to the pendency of another previously initiated against the same debtor, the starting date of this will be the relevant one. for the purposes of the deadlines referred to in the previous paragraph, the same applies in the event of suspension of the oldest process due to the application of the provisions of paragraph b) of paragraph 3 of article 264.

Article 5

Concept of company

For the purposes of this Code, any organization of capital and work intended for the exercise of any economic activity is considered a company.

Article 6***Understanding administrators and legal guardians***

1 - For the purposes of this Code, the following are considered as

administrators: a) If the debtor is not a natural person, those who are responsible for the administration or liquidation of the entity or assets in question, namely the heads of the corporate body that is competent for this purpose; b) If the debtor is a natural person, his legal representatives and agents with general powers of administration.

2 - For the purposes of this Code, people who, under the terms of the law, are personally and unlimitedly liable for most of the insolvent's debts, even if in a subsidiary capacity, are considered legally responsible.

Article 7.º***Competent court 1 -***

The court at the seat or domicile of the debtor or the author of the inheritance at the date of death is competent for insolvency proceedings, depending on the

case. 2 - The court of the place where the debtor has the center of his main interests is equally competent, meaning the one in which he manages them, in a habitual manner and knowable by third parties.

3 - The investigation and decision of all terms of the insolvency process, as well as its incidents and appendices, is always the responsibility of the single judge.

4 - If the opening of insolvency proceedings is refused by a court of a Member State of the European Union because the jurisdiction lies with the Portuguese courts, in accordance with paragraph 1 of article 3 of Regulation (EU) no. 2015/848 of the European Parliament and the Council, of May 20, 2015, they cannot consider themselves internationally incompetent based on the fact that the jurisdiction belongs to the courts of that other State.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Article 8***Suspension of the instance and prejudice***

1 - The insolvency proceedings are not subject to suspension, except in the cases expressly provided for in this Code.

2 - Without prejudice to the provisions of paragraph b) of paragraph 3 of article 264, the court orders the suspension of proceedings if insolvency proceedings are initiated against the same debtor initiated by another applicant whose initial petition was first filed in court .

3 - The pendency of the other case is no longer considered prejudicial if the request is rejected, regardless of the final and unappealable decision.

4 - Once insolvency is declared within the scope of a certain proceeding, the proceedings must be suspended in any other insolvency proceedings taking place against the same debtor and considered extinguished with the final judgment of the sentence, regardless of the temporal priority of the proceedings in court. initial petitions.

Article 9

Urgent nature of the insolvency process and mandatory publications

- 1 - The insolvency process, including all its incidents, attachments and appeals, is urgent in nature and takes precedence over the court's ordinary service.
- 2 - Unless otherwise provided, notifications of procedural acts carried out in the insolvency process, their incidents and attachments, with the exception of acts of the parties, may be made in any of the ways provided for in paragraph 5 of article 172 of the Code of Civil Procedure.
- 3 - All mandatory publications of orders and sentences may be promoted on the initiative of any interested party who justifies it and requests it from the judge.
- 4 - With the publication, in the appropriate location, of the announcements required in this Code, accompanied by the posting of notices, if required, relating to any acts, all creditors are considered to have been served or notified, including those for whom the law requires different forms of communication and which should not have already been cited or notified at a previous time, without prejudice to the provisions regarding public credits.
- 5 - Records of sentences and orders issued in the insolvency process, as well as those of any acts of seizure of assets of the insolvent estate or carried out within the scope of the administration and liquidation of that estate or provided for in an insolvency or payment plan, are urgent.
- 6 - Requests for the release of deposits or guarantees provided within the scope of insolvency proceedings, special revitalization proceedings and special proceedings for payment agreements take priority over other requests presented within the scope of these proceedings.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 1 of [Decree-Law no. 282/2007 - Official Gazette no. 151/2007, Series I of 2007-08-07](#), effective from 2007-08-08

Amended by Article 1 of [Decree-Law no. 200/2004 - Official Gazette no. 194/2004, Series IA of 2004-08-18](#), effective from 2004-09-15

Article 10

Death of the debtor

- 1 - In the event of the debtor's death, the process: a)
Starts running against the inheritance opened upon the debtor's death, which will remain undivided until its closure; b) It is suspended for a non-extendable period of five days, counting from the date on which the death occurred.
- 2 - The acts carried out during the period of suspension referred to in paragraph b) of the previous paragraph by those who should not or cannot be aware of the suspension may be subsequently confirmed or ratified by the interested parties, through a simple communication to the process in which they express their consent .

Changes

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 11

Principle of the inquisitorial

In insolvency proceedings, embargoes and insolvency qualification incidents, the judge's decision may be based on facts that have not been alleged by the parties.

Article 12

Debtor Hearing Waiver

- 1 - The debtor's hearing provided for in any of the rules of this Code, including summons, may be waived when it entails excessive delay due to the fact that the debtor, being a natural person, resides abroad, or because his whereabouts are unknown.
- 2 - In the cases referred to in the previous paragraph, whenever possible, a representative of the debtor must be consulted, or, failing that, his or her spouse or a relative, or a person who lives with him or her in a de facto union.
- 3 - The provisions of the previous paragraphs apply, with the necessary adaptations, in relation to the debtor's administrators, when the latter is not a natural person.

Article 13

Representation of public entities

- 1 - Public entities holding credits may at any time entrust special representatives, designated in legal or statutory terms, with their representation in the insolvency process, replacing the Public Prosecutor's Office.
- 2 - The representation of creditor public entities may be attributed to a common representative, if this is determined by joint order of the member of the Government responsible for the economic sector to which the debtor's company belongs and the member of the Government who supervises the creditor entity.

Article 14

Resources

- 1 - In insolvency proceedings, and in embargoes against the declaration of insolvency, an appeal against judgments handed down by the court of the relationship is not permitted, unless the appellant demonstrates that the judgment he intends to appeal is in opposition to another, handed down by any of the relationships, or by the Supreme Court of Justice, in the field of the same legislation and which has decided in a divergent manner the same fundamental question of law and has not been fixed by the Supreme Court, in accordance with articles 686 and 687 of the Code of Civil Procedure, jurisprudence in accordance with it.
- 2 - In all appeals lodged in the process or in any of its attachments, the deadline for allegations is one for all applicants, followed by another for all respondents.
- 3 - For consultation by interested parties, a single copy will be extracted from the allegations and counter-allegations, which will be available to them at the judicial secretariat.
- 4 - During the period for allegations, the process is kept at the judicial secretariat for examination and consultation by interested parties.
- 5 - Resources are raised immediately, separately and with return effect.
- 6 - However, the following are included in the files themselves: a) Appeals against the decision to close the insolvency process and those issued after that decision; b) Appeals against decisions that put an end to the action or incident processed by attachment, whether handed down after these decisions, suspending the proceedings or not admitting the incident.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017](#) - [Official Gazette No. 125/2017](#), [Series I of 2017-06-30](#), effective from 2017-07-01

Article 15

Share value

For procedural purposes, the value of the case is determined based on the value of the debtor's assets indicated in the petition, which is corrected as soon as the real value is found to be different.

Article 16

Special procedures

1 - The provisions of this Code apply without prejudice to the provisions of special consumer legislation regarding liability restructuring procedures and the Extrajudicial Business Recovery Regime.

2 - (Revoked).

3 - The provisions of this Code do not prejudice the constant regime of special legislation relating to financial guarantee contracts.

Changes

Amended by Article 36 of [Law No. 8/2018 - Official Gazette No. 44/2018, Series I of 2018-03-02](#), effective from 2018-03-03

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 234 of [Law No. 66-B/2012 - Official Gazette No. 252/2012, 1st Supplement, Series I of 2012-12-31](#), effective from 2013-01-01

Article 17

Subsidiary application of the Civil Procedure Code

1 - The processes regulated in this diploma are governed by the Civil Procedure Code, in everything that does not contradict the provisions of this Code.

2 - The electronic processing of processes covers acts carried out by judicial administrators or those carried out before them, under terms to be defined by order of the member of the Government responsible for the area of justice.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Chapter II

Special revitalization process

Changes

Added by Article 4 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 17.^oA

Purpose and nature of the special revitalization process

1 - The special revitalization process is intended to allow the company that is proven to be in a difficult economic situation or in a situation of merely imminent insolvency, but which is still susceptible to recovery, to enter into negotiations with its respective creditors in order to conclude with these agreements leading to its revitalization.

2 - The process referred to in the previous number can be used by any company that, through a written and signed declaration, certifies that it meets the necessary conditions for its recovery and presents a declaration signed, no more than 30 days ago, by a certified accountant or by a reviewer accountant, whenever the audit of accounts is legally required, certifying that it is not currently in a situation of insolvency, in light of the criteria set out in article 3.

3 - The special revitalization process is urgent in nature, applying all the rules provided for in this code that are not incompatible with its nature.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Added by Article 3 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 17.º-B

Concept of difficult economic situation

For the purposes of this Code, a company that faces serious difficulty in complying with its obligations on time, particularly because it has a lack of liquidity or is unable to obtain credit, is in a difficult economic situation.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Added by Article 3 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 17.º-C

Application and formalities

1 - The special revitalization process begins with the expression of will from the company and creditors who, although not particularly related to the company, hold at least 10% of non-subordinated credits, related under paragraph b) of paragraph 3, by means of a written declaration, to enter into negotiations leading to the revitalization of that area, through the approval of a recovery plan.

2 - The declaration referred to in the previous paragraph must be signed by all declarants, stating the date of signature.

3 - The company presents to the court competent to declare its insolvency a request communicating the expression of will referred to in paragraph 1, accompanied by the following elements: a) The written

declaration referred to in the previous paragraphs; b) Copy

of the documents listed in paragraph 1 of article 24, which are displayed at the secretariat for consultation by creditors throughout the process; c) Proposal for a

recovery plan accompanied, at least, by a description of the asset, financial and editorial situation of the company company.

d) Proposal for classifying creditors affected by the recovery plan into different categories, according to the nature of their respective credits, into secured, privileged, common and subordinated creditors and wanting, among these, to reflect the universe of creditors of the company depending on the existence of sufficient common interests, namely in the following terms:

i) Workers, without distinction of the type of contract; ii) Partners;
iii)

Banking entities that have financed the company; iv) Suppliers
of goods and service providers; v) Public creditors.

4 - Micro, small and medium-sized companies, within the meaning of the annex to Decree-Law no. 372/2007, of 6 November, are exempt from the obligation to present the document indicated in paragraph d) of the previous paragraph, although they may, do it, if so they understand.

5 - Upon receipt of the request referred to in paragraph 3, the judge immediately appoints, by order, a provisional judicial administrator, applying the provisions of paragraph 1 of article 32 and articles 33 and 34.º, with the necessary adaptations.

6 - The remuneration of the provisional judicial administrator is set by the judge, in the appointment decision itself or subsequently, and constitutes, together with the expenses incurred in carrying out his duties, a charge included in the costs of the process, borne by the company. The body responsible for the financial and patrimonial management of the Ministry of Justice is responsible for its payment only if the company benefits from legal protection in the form of exemption from paying the court fee and other process charges.

7 - If the company is declared insolvent following the non-approval of a recovery plan, the remuneration of the provisional judicial administrator and the expenses he has incurred, which are not paid, constitute insolvency claims.

8 - The appointment order referred to in paragraph 5 is not subject to appeal and is immediately notified to the company, applying the provisions of articles 37 and 38 with the necessary adaptations.

9 - At the request of the company and creditors who, satisfying the provisions of paragraph 1, hold at least credits worth 5% of the related credits, or upon a reasoned request from the company, the judge may reduce the limit of 10 % referred to in paragraph 1, taking into account when assessing the request the absolute amount of related credits and the composition of the universe of creditors.

10 - On its own initiative or at the request of the provisional judicial administrator, special revitalization processes initiated by commercial companies with which the company is in a controlling or group relationship are added to the case file, in accordance with the Commercial Companies Code, and the same may be requested to be formulated by all companies in those circumstances that have initiated a special revitalization process.

11 - The joining referred to in the previous paragraph can only be requested until the beginning of the negotiation period provided for in paragraph 7 of the following article, in the process to which the others must be joined, applying, with the necessary adaptations, the provisions in paragraph 4 of article 86.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Added by Article 3 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 17-D

Subsequent processing

1 - As soon as it is notified of the order referred to in paragraph 5 of the previous article, the company immediately communicates, by registered letter, to all its creditors who have not signed the declaration mentioned in paragraph 1 of the same article, which initiated negotiations with a view to its revitalization, inviting them to participate, if they so wish, in the ongoing negotiations and informing that the documentation referred to in paragraph 1 of article 24, the plan proposal and, if applicable, the credit classification proposal are available at the court secretariat for consultation.

2 - Creditors have 20 days from the publication on the Citius portal of the order referred to in paragraph 5 of the previous article to claim credits, and complaints must be sent to the provisional judicial administrator, indicating: a) Their origin, maturity date, amount of capital and interest; b) The conditions to which they are subject, both suspensive and resolute; c) Their common, subordinate, privileged or guaranteed nature, and, in the latter case, the assets or rights subject to the guarantee and respective registration identification data, if applicable; d) The existence of any personal guarantees, with identification of the guarantors; e) The applicable default interest rate.

3 - The provisional judicial administrator prepares, within five days, a provisional list of credits, indicating, where applicable, the classification of credits in accordance with the company's proposal, in accordance with paragraph d) of paragraph 3 of the article previous.

4 - The provisional list of credits is immediately presented at the court secretariat and published on the Citius portal, and may be challenged, within five working days, based on the improper inclusion or exclusion of credits or the incorrectness of the

amount, qualification or classification of related credits, namely due to the lack of sufficient common interests, and the challenge, in cases of incorrect classification of related credits, must be accompanied by an alternative proposal for classifying the credits.

5 - The judge then has five working days to decide on the objections presented and, if applicable, decide on the conformity of the formation of the categories of credits in accordance with paragraph d) of paragraph 3 of the previous article, and may determine their change if they do not reflect the universe of the company's creditors or the existence of sufficient common interests between them.

6 - If not challenged, the provisional list of credits immediately becomes definitive, and the judge must, within five working days from the end of the period set out in paragraph 4, decide on the conformity of the formation of the categories of credits in accordance with subparagraph d) of paragraph 3 of the previous article, if applicable, and may determine their change if they do not reflect the universe of creditors of the company or the existence of sufficient common interests between them.

7 - Once the deadline for objections has expired, the declarants have a period of two months to conclude the negotiations that have been initiated, which may be extended, once and for one month, upon prior written agreement between the appointed provisional judicial administrator and the company, and such agreement must be included in the records and published on the Citius portal.

8 - During negotiations, the company provides all relevant information to its creditors and to the provisional judicial administrator that has been appointed so that they can be carried out in a transparent and equitable manner, and must always keep the information provided to the provisional judicial administrator up to date and complete and creditors.

9 - Creditors who decide to participate in the ongoing negotiations declare this to the company by registered letter, and may do so throughout the duration of the negotiations, with such declarations being added to the process.

10 - Negotiations initiated between the company and its creditors are governed by the terms agreed between all parties involved or, in the absence of agreement, by the rules defined by the appointed provisional judicial administrator, with the experts that each party deems appropriate being able to participate in them. , each party being responsible for bearing the costs of the experts they have hired, if the contrary does not expressly result from the recovery plan that will be approved.

11 - The provisional judicial administrator participates in the negotiations, guiding and supervising the course of work and its regularity, and must ensure that the parties do not adopt measures that are dilatory, useless or, in general, harmful to the smooth running of the parties.

12 - During negotiations, participants must act in accordance with the guiding principles approved by Resolution of the Council of Ministers no. 43/2011, of October 25th.

13 - The company, as well as its administrators in law or in fact, if it is a legal person, are jointly and civilly liable for losses caused to its creditors due to the lack or inaccuracy of communications or information provided to them, The action brought to determine the aforementioned responsibilities runs autonomously from this process.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Added by Article 3 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 17-E

Suspension of implementing measures

1 - The decision referred to in paragraph 5 of article 17-C prevents the initiation of any executive actions against the company to collect credits for a maximum period of four months, and suspends the company, during the same period, ongoing actions with the same purpose.

2 - At the reasoned request of the company, a creditor or the provisional judicial administrator, as long as it is deducted within the negotiation period, the judge may immediately extend the validity period of the suspension provided for in the previous paragraph, for one month, if necessary. check one of the following situations:

a) Significant progress has been made in the restructuring plan negotiations; b) The extension proves to be essential to guarantee the recovery of the company's activity; or c) The continued suspension of enforcement measures does not unfairly prejudice the rights or interests of the affected parties.

3 - During the additional period of suspension, determined under the terms of the previous paragraph, the judge may order its lifting in the following cases: a) The suspension no longer fulfills the objective of supporting negotiations on the recovery plan; or b) At the request of the company or the provisional judicial administrator.

4 - The provisions of the previous paragraphs are not applicable to executive actions to collect credits arising from an employment contract, or its violation or termination.

5 - If the judge appoints a provisional judicial administrator under the terms of paragraph 5 of article 17-C, the company is prevented from carrying out acts of special importance, as defined in article 161, without first obtaining authorization from the provisional judicial administrator to carry out the intended operation.

6 - The authorization referred to in the previous paragraph must be requested in writing by the company from the provisional judicial administrator and granted in the same way.

7 - There cannot be more than five days between the company's communication to the provisional judicial administrator and the receipt of the response to the petitioner provided for in the previous paragraph, and electronic communications must be used whenever possible.

8 - The lack of response from the provisional judicial administrator to the request made by the company corresponds to a declaration of refusal of authorization to carry out the intended business.

9 - During the period of suspension of enforcement measures, in accordance with paragraphs 1 and 2, the following are also suspended: a) Insolvency proceedings in which the insolvency of the company has previously been requested, as long as it has not been declaratory judgment of insolvency issued; b)

Insolvency proceedings in which the company's insolvency is requested; c) All prescription and expiry periods enforceable by the company.

10 - Following the decision referred to in paragraph 5 of article 17-C and during the period of suspension of the enforcement measures referred to in paragraphs 1 and 2, creditors may not refuse to comply, unilaterally resolve, anticipate or amend essential executory contracts to the detriment of the company, in relation to debts incurred before the suspension, when the only reason is non-payment of the same.

11 - Essential executory contracts are understood to be contracts of continuous execution necessary for the continuation of the current exercise of the company's activity, including any contracts for the supply of goods or services whose suspension would lead to the interruption of the company's activity.

12 - The price of goods or services essential to the company's activity provided during the period referred to in paragraph 10 that are not subject to payment is considered a debt of the insolvent estate, in the event of insolvency of the same company, which will be decreed within two years subsequent to the end of the period of suspension provided for in paragraphs 1 and 2, without prejudice to the provisions of article 10 of Law no. 23/96, of 26 July, regarding essential public services.

13 - Any contractual clause that attributes to the request for the opening of a special revitalization process, the opening of a special revitalization process, the request for extension of the suspension of enforcement measures or its granting the value of a resolving condition of the business or, in this case, confers on the opposing party a right to compensation, termination or termination of the contract.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Added by Article 3 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 17-F

Conclusion of negotiations with the approval of a recovery plan leading to the revitalization of the company

1 - By the last day of the negotiation period, the company deposits the final version of the recovery plan with the court, containing at least the following information, and the indication of the deposit is immediately published on the Citius portal: a) Identification of the company, indicating its name or business name, headquarters, tax identification number or legal person identification number, and of the appointed provisional judicial administrator; b) A description of the company's asset, financial and financial situation at the time of presentation of the recovery plan proposal, indicating, in particular, the value of the assets, and providing a description of the company's economic situation; c) In the case provided for in paragraph 4 of article 17-C, the parties affected by the content of the plan, designated individually and divided into classes of credits in accordance with article 47, and the respective credits or interests covered by the recovery plan; d) The parties affected by the content of the plan, designated individually and, if applicable, divided into the categories in which they have been grouped for the purposes of approving the recovery plan in accordance with paragraph d) of paragraph 3 of article 17. °-C, and the respective values of the credits and interests of each category covered by the recovery plan; e) The parts, designated individually, divided, depending on the case, by classes in general terms or by categories in terms of paragraph d) of paragraph 3 of article 17-C, which are not affected by the plan of recovery, together with a description of the reasons why the proposed plan does not affect them; f) The conditions of the restructuring plan, including, in particular, the proposed restructuring measures and their duration; g) The forms of information and consultation of worker representatives, the position of workers in the company and, where applicable, the general consequences regarding employment, namely dismissals, temporary reduction of normal working periods or suspension of employment contracts; h) The company's expected financial flows, including, in particular, the investment plan, forecast operating account and forecast statement of cash flows for the period in which those payments occurred, specifying, with justification, the main assumptions underlying these forecasts and the pro-forma balance sheet, in which the assets and liabilities, as resulting from the approval of the recovery plan, are recorded at their respective values; i) Any new financing provided for under the recovery plan and the reasons why such new financing is necessary to implement the plan; j) A statement of reasons containing a description of the causes and extent of the company's difficulties and explaining the reasons why there is a reasonable prospect of the recovery plan avoiding the company's insolvency and ensuring its viability, including the preconditions necessary for the success of the plan.

2 - Within a period of five days following publication, any creditor may allege in the file whatever he considers appropriate regarding the plan deposited by the company, namely circumstances likely to lead to its non-approval, with the company having five days after the end of the first deadline to, if desired, change the plan accordingly, and, in this case, deposit the new version under the terms set out in the previous paragraph.

3 - After the deadline set out in the previous paragraph, an announcement is published on the Citius portal warning of the addition or non-completion of a new version of the plan, with the voting period of 10 days running from the aforementioned publication, during which any interested party may request not to approval of the plan, under the terms and for the purposes set out in articles 215 and 216, with the necessary adaptations.

4 - When the vote concludes with the unanimous approval of a recovery plan leading to the revitalization of the company, in which all its creditors intervene, it is immediately sent to the process, for approval or rejection by the judge under the terms of no. 7, accompanied by the documentation proving its approval, attested by the appointed provisional judicial administrator, and its reasoned opinion on whether the plan presents reasonable prospects of avoiding the company's insolvency or guaranteeing its viability, producing such a recovery plan, in the event of approval, its effects will be immediately known.

5 - Without prejudice to the judge being able to include in the calculation of majorities the credits that have been contested, if he understands that there is a serious probability of these being recognized, the recovery plan is considered approved which: a)

In the case of classification of creditors into distinct categories, in accordance with paragraph d) of paragraph 3 of article 17-C, is voted in favor in each of the categories by more than two thirds of the total votes cast, not being considered

as such, abstentions, thus obtaining: i) The favorable vote of all formed categories; ii) The favorable vote of the majority of the categories formed, provided that at least one of these categories is a category of secured creditors; iii) If there are no categories of secured creditors, the favorable vote of a majority of the categories formed, provided that at least one of the categories is non-subordinated creditors; iv) In case of a tie, the favorable vote of at least one category of non-subordinated creditors;

b) In other cases, being voted by creditors whose credits represent at least one third of the total credits related to voting rights, contained in the list of credits referred to in paragraphs 3 to 6 of article 17. -D, not considering abstentions, cumulatively collect: i) The favorable vote of more than two thirds of the total votes cast; ii) The favorable vote of more than 50% of the votes cast corresponding to non-subordinated credits related to voting rights, contained in the list of credits referred to in paragraphs 3 to 6 of article 17-D; or c) Cumulative collection, not considering abstentions: i) The favorable vote of creditors whose credits represent more than 50% of the total credits related to voting rights, contained in the list of credits referred to in paragraphs 3 paragraph 6 of article 17-D;

ii) The favorable vote of more than 50% of the votes cast corresponding to non-subordinated credits related to voting rights, contained in the list of credits referred to in paragraphs 3 to 6 of article 17-D.

6 - Voting is carried out in writing, applying the provisions of article 211, with the necessary adaptations, and the votes are sent to the provisional judicial administrator, who opens them together with the company and prepares a document with the result of the vote, which is immediately sent to the court, accompanied by its reasoned opinion on whether the plan presents reasonable prospects for avoiding the company's insolvency or ensuring its viability.

7 - Within 10 days following receipt of the documentation mentioned in the previous paragraphs, the judge decides whether to approve the recovery plan or refuse its approval, applying, with the necessary adaptations, the rules set out in title ix, in particular the provisions of articles 194 to 197, in paragraph 1 of article 198 and in articles 200 to 202, 215 and 216, and assessing: a) Whether the plan was approved under the terms from no. 5; b) If, in the case of classification of creditors into different categories, under the terms of paragraph d) of paragraph 3 of article 17-C, creditors included in the same category are treated equally and proportionally to their credits; c) If, in the case of classification of creditors into distinct categories, pursuant to paragraph d) of paragraph 3 of article 17-C, the discordant voting categories of affected creditors receive treatment at least as favorable as that of any other category of the same grade, and more favorable than that of any category of lower grade; d) That no category of creditors, referred to in paragraph d) of paragraph 3 of article 17-C, may, within the scope of the recovery plan, receive or keep more than the amount corresponding to the totality of their credits; e) Whether the situation of creditors under the plan is more favorable than it would be in a scenario of liquidation of the company, if there are requests for non-approval from creditors on this basis; f) If applicable, that any new financing required to implement the restructuring plan does not unfairly harm the interests of creditors;

g) Whether the recovery plan presents reasonable prospects of avoiding the company's insolvency or ensuring the viability of the company same.

8 - The judge may determine the valuation of the company, by an expert, if a non-approval of the recovery plan is requested by a disagreeing creditor, on any of the following grounds: a) The situation of the creditors under the plan is less favorable than which would be in a scenario of liquidation of the company; or b) Failure to comply with the approval rules provided for in subparagraphs iii) and iv) of paragraph a) of paragraph 5.

9 - If the judge does not approve the agreement, the provisions of paragraphs 3 to 9 of article 17-G apply.

10 - If a decision of non-approval is issued, the provisions of paragraph 3 of article 40 shall apply to the appeal that may be lodged against that decision, with the necessary adaptations, if the administrator's opinion is that the company is in a situation of insolvency.

11 - The approval decision binds the company and the creditors, even if they have not claimed their credits or participated in the negotiations, in relation to the credits constituted on the date on which the decision provided for in paragraph 5 of article 17 was made - C, and is notified, publicized and registered by the court secretariat.

12 - The company is responsible for bearing the costs of the approval process.

13 - The provisions of no. 1 of article 218 apply to the recovery plan. 14 - The provisions of no. 8 of the following article apply, counting the two-year period from the decision provided for in no. 7, unless the company demonstrates, in its initial application, that it has fully implemented the plan or that the request for a new special revitalization process is motivated by factors outside the plan itself and the subsequent change is outside the scope of the plan. company.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 4 of [Decree-Law no. 26/2015 - Official Gazette no. 26/2015, Series I of 2015-02-06](#), effective from 2015-03-02

Added by Article 3 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 17.º-G

Conclusion of the negotiation process without the approval of a recovery plan

1 - If the company or any of the majority of creditors referred to in subparagraphs a) to c) of paragraph 5 of the previous article conclude in advance that it is not possible to reach an agreement, or if the deadline set out in paragraph 7 of article 17 is exceeded. º-D, the negotiation process is closed, and the provisional judicial administrator must communicate this fact to the process, if possible by electronic means, and publish it on the Citius portal.

2 - The company may terminate negotiations at any time, regardless of any cause, and must, for this purpose, communicate this intention to the provisional judicial administrator, all its creditors and the court, by registered letter.

3 - It is the responsibility of the provisional judicial administrator, in the communication referred to in paragraph 1 or after becoming aware of the communication from the company referred to in paragraph 2, using the information at his disposal and after hearing the company and the creditors, issue their opinion on whether the company is insolvent.

4 - When the provisional judicial administrator concludes that the company is not yet in a situation of insolvency, the termination of the special revitalization process entails the extinction of all its effects.

5 - When the provisional judicial administrator concludes that the company is insolvent, the court secretariat notifies the company to object within five days, by mere request.

6 - If the company objects, the judge orders the closure and archiving of the process, which results in the extinction of all its effects.

7 - If the company does not object, insolvency must be declared by the judge within three working days, with the special revitalization process being attached to the insolvency process.

8 - The end of the special revitalization process carried out in accordance with the previous paragraphs prevents the company from using it for a period of two years.

9 - If there is a definitive list of claimed credits, and the company is declared insolvent by application of the provisions of paragraph 7, the creditors included in that list do not need to claim the credits listed there under the terms of paragraph j) of paragraph 1 of article 36

Grades:

[Ruling of the Constitutional Court no. 675/2018 - Official Gazette no. 16/2019, Series I of 2019-01-23](#) Declared the unconstitutionality, with general mandatory force, of the norm of no. 4 of article 17.º-G of the Insolvency and Business Recovery Code, approved by Decree-Law no. 53/2004, of March 18, when interpreted in the sense that the opinion of the provisional judicial administrator concluding that the situation is insolvency is equivalent, by virtue of the provisions of article 28 - even with the

necessary adaptations -, the presentation of insolvency by the debtor, when he disagrees with his insolvency situation, due to violation of article 20, paragraphs 1 and 4, in conjunction with article 18, no. 2, of the Constitution of the Portuguese Republic.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Added by Article 3 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 17-H***Guarantees***

1 - The guarantees agreed between the company and its creditors during the special revitalization process, with the purpose of providing the company with the necessary financial means to develop its activity, remain in place even if, at the end of the process, it is declared , within two years, its insolvency.

2 - Creditors who, during the process or during the execution of the recovery plan, finance the company's activity, providing it with capital for its revitalization, enjoy a credit on the insolvent estate, up to an amount corresponding to 25% of the non-subordinated liabilities of the company on the date of the declaration of insolvency, if the company is declared insolvent within two years of the final and unappealable decision to approve the recovery plan.

3 - Credits made available to companies under the conditions of the previous paragraph, above the value referred to therein, enjoy a general movable credit privilege, ranked before the general movable credit privilege granted to workers.

4 - Credits arising from financing made available to the company by creditors, partners, shareholders and any other people especially related to the company executing the recovery plan enjoy the privilege referred to in the previous paragraph.

5 - The financing acts referred to in the previous paragraphs cannot be subject to Paulian challenge.

6 - New financing and interim financing cannot be declared null, voidable or incapable of execution.

7 - The grantors of new financing and interim financing cannot incur, as a result of this financing, civil, administrative or criminal liability, on the grounds that such financing is harmful to all creditors, except in cases expressly provided for by law .

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Added by Article 3 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 17.^º-I***Approval of extrajudicial company recovery agreements***

1 - The process provided for in this chapter may also begin with the presentation by the company of an extrajudicial recovery agreement, signed by the company and by creditors representing at least the majority votes provided for in subparagraphs b) and c) of paragraph 5 of the article 17-F, accompanied by the documents provided for in paragraph 2 of article 17-A and paragraph 1 of article 24.

2 - Once the documents mentioned in the previous paragraph have been received, the judge appoints a provisional judicial administrator, applying the provisions of articles 32 to 34 with the necessary adaptations, and the

secretariat must: a) Notify the creditors who did not intervene in the same and which are included in the list of credits related by the company to the existence of the agreement, which are displayed at the court secretariat for consultation;

b) Publish the provisional list of credits on the Citius portal.

3 - The provisions of paragraphs 2 to 6 of article 17-D apply, with the necessary adaptations, to the provisions of the previous paragraph.

4 - Once the list of credits becomes definitive, the judge proceeds, within 10 days, to analyze the extrajudicial agreement, and must approve it if it respects the majorities provided for in paragraphs b) or c) of paragraph 5 of the article 17-F, applying, with the necessary adaptations, the rules provided for in paragraph 7 and in paragraphs 9 to 14 of article 17-F and in title ix, in particular the provisions of articles 194.º to 197.º, in paragraph 1 of article 198.º and in articles 200.º to 202.º, 215.º and 216.º

5 - The provisions of articles 17.º-E and 17.º-H apply with the necessary adaptations, and, if the judge does not approve the agreement, the provisions of paragraphs 3 apply with the necessary adaptations. paragraph 9 of article 17-G.

6 - With the presentation referred to in paragraph 1, the company may request the addition of a special revitalization process, in accordance with paragraph 11 of article 17-C, when this, also being in the preliminary phase, has been established under this article.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Added by Article 3 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 17-J

Closing of the special revitalization process and termination of functions of the provisional judicial administrator

1 - The special revitalization process is considered closed: a) After the decision to approve the recovery plan has become final; b) After compliance with the provisions of paragraphs 1 to 7 of article 17-G in cases where a recovery plan has not been approved or approved.

2 - The provisional judicial administrator will remain in office, without prejudice to his replacement or removal: a) Until a decision is made to approve the recovery plan; b) Until the process is closed under the terms set out in paragraph b) of the previous paragraph in other cases.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Added by Article 4 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Title II

Declaration of insolvency status

Chapter I

Request for declaration of insolvency

Section I

Legitimacy to present the request and withdrawal

Article 18***Duty to file for insolvency***

- 1 - The debtor must request a declaration of insolvency within 30 days following the date of knowledge of the insolvency situation, as described in paragraph 1 of article 3, or the date on which it should have been known.
- 2 - The following are excluded from the obligation to submit to insolvency: a) Companies that have submitted themselves to a special revitalization process during the period of suspension of the enforcement measures provided for in paragraphs 1 and 2 of article 17-E; b) Natural persons who are not owners of a company on the date they become insolvent.
- 3 - When the debtor is the owner of a company, knowledge of the insolvency situation after at least three months has elapsed after the generalized non-compliance with obligations of any of the types referred to in subparagraph g) of paragraph 1 of the article is assumed. 20th

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 19***Who is responsible for the request?***

As the debtor is not a capable natural person, the initiative to file for insolvency lies with the corporate body responsible for its administration, or, if this is not the case, with any of its administrators.

Article 20***Others legitimized***

- 1 - The declaration of insolvency of a debtor may be requested by anyone who is legally responsible for their debts, by any creditor, even if conditional and whatever the nature of their credit, or by the Public Prosecutor's Office, representing the entities whose interests are legally entrusted to it, if any of the following facts occur: a) General suspension of payment of overdue obligations; b) Failure to comply with one or more obligations which, due to their amount or the circumstances of the non-compliance, reveal the impossibility of the debtor punctually meeting most of his obligations; c) Escape by the owner of the company or the debtor's directors or abandonment of the place where the company has its headquarters or carries out its main activity, related to the debtor's lack of solvency and without designation of a suitable replacement; d) Dissipation, abandonment, hasty or ruinous liquidation of assets and fictitious constitution of credits; e) Insufficiency of seizable assets to pay the creditor's credit verified in an executive proceeding filed against the debtor; f) Failure to comply with obligations set out in an insolvency plan or payment plan, under the conditions set out in paragraph a) of paragraph 1 and paragraph 2 of article 218; g) General default, in the last six months, of debts of any of the following types: i) Tax; ii) Social security contributions and contributions; iii) Debts arising from an employment contract, or from the breach or termination of this contract; iv) Income from any type of lease, including finance, installments of the purchase price or loan guaranteed by the respective mortgage, in relation to the place where the debtor carries out his activity or has his headquarters or residence; h) If the debtor is one of the entities referred to in paragraph 2 of article 3, it manifests superiority of liabilities over assets according to the last approved balance sheet, or a delay of more than nine months in approving and depositing the accounts, if that is the case.

legally obligated.

2 - The provisions of the previous paragraph do not prejudice the possibility of representation of public entities under the terms of the article 13th

Changes

Amended by Article 1 of [Decree-Law no. 200/2004](#) - [Official Gazette no. 194/2004](#), [Series IA of 2004-08-18](#), effective from 2004-09-15

Article 21

Withdrawal of the request or instance in the insolvency process

Except in cases of filing for insolvency, the applicant for the declaration of insolvency may withdraw from the request or proceedings until a sentence is rendered, without prejudice to the criminal proceedings applicable to the case.

Article 22

Unfounded claim deduction

The filing of an unfounded request for declaration of insolvency, or improper presentation by the debtor, generates civil liability for losses caused to the debtor or creditors, but only in the case of intent.

Section II

Initial petition requirements

Article 23.º

Form and content of the petition

1 - The presentation to insolvency or the request for a declaration thereof is made by means of a written petition, in which the facts that form part of the prerequisites for the requested declaration are set out and the corresponding request is concluded by formulating it.

2 - In the petition, the applicant:

a) Being the debtor himself, indicates whether the insolvency situation is current or just imminent, and, when he is a natural person, whether he seeks exemption from the remaining liabilities, in accordance with the provisions of chapter I of the title XII; b)

Identifies the administrators, in law and in fact, of the debtor and his five largest creditors, excluding the applicant himself; c) If the debtor is married,

identify the respective spouse and indicate the marital property regime; d) Attach a certificate from the civil registry, commercial registry or other public registry to which the debtor may be subject.

3 - If it is not possible for the applicant to make the indications and additions referred to in the previous paragraph, he requests that they be provided by the debtor himself.

Changes

Amended by Article 2 of [Law No. 16/2012](#) - [Official Gazette No. 79/2012](#), [Series I of 2012-04-20](#), effective from 2012-05-20

Article 24

Collection of documents by the debtor

1 - With the petition, the debtor, when the applicant, also attaches the following documents:

a) List in alphabetical order of all creditors, indicating their respective domiciles, the amounts of their credits, due dates, nature and guarantees from which they benefit, and the possible existence of special relationships, in accordance with article 49; b) List and identification of all actions and executions pending against you; c) Document which explains the activity or activities to which you have dedicated yourself in the last three years and the establishments you own, as well as what you believe to be the causes of the situation in which you find yourself; d) Document identifying the author of the succession, in the case of a pre-existing inheritance, the partners, associates or known members of the legal person, if applicable, and, in other cases where the insolvency does not concern the natural person, those who are legally responsible for insolvency claims; e) List of assets that the debtor holds under lease, rental or financial leasing or sale with retention of title, and of all other assets and rights held by him, indicating their nature, location in which they are located, registration identification data, if applicable, acquisition value and estimate of its current value; f) The debtor has organized accounting, the annual accounts for the last three financial years, as well as the respective management, inspection and audit reports, opinions of the supervisory body and legal certification documents, if they are mandatory or exist, and information on the most significant changes to assets occurring after the date to which the last accounts relate and on operations that, due to their nature, object or dimension, go beyond the debtor's current activity; g) In the case of a company comprising consolidation of accounts, consolidated management reports, consolidated annual accounts and other reporting documents relating to the last three financial years, as well as the respective inspection and audit reports, opinions of the supervisory body, legal certification documents and report on intra-group operations carried out during the same period; h) Special reports and accounts and quarterly and semi-annual information, on an individual and consolidated basis, reported on dates subsequent to the end of the last financial year, to which the debtor company is obliged to prepare under the terms of the Securities Code and the regulations of the Market Commission Securities; i) Document identifying the commercial companies with which the debtor is in a controlling or group relationship under the terms of the Commercial Companies Code or that are considered associated companies under the provisions of the annex to Decree-Law no. 372/2007, of November 6, and, if applicable, identifying the processes in which its insolvency is requested or has been declared; j) Map of personnel that the debtor has at work.

2 - The debtor must also:

- a) Attach a document proving the powers of the administrators who represent it and a copy of the minutes documenting the deliberation of the initiative of the request by the respective corporate management body, if applicable;
- b) Justify the non-presentation or non-compliance of any of the documents required in paragraph 1;
- c) (Revoked).

3 - Without prejudice to subsequent presentation, in accordance with the provisions of articles 223 et seq., the petition presented by the debtor may be accompanied by an insolvency plan.

Changes

Amended by Article 2 of [Law No. 9/2022](#) - Official Gazette No. 7/2022, Series I of 2022-01-11, effective from 2022-04-11

Amended by Article 1 of [Decree-Law no. 200/2004](#) - Official Gazette no. 194/2004, Series IA of 2004-08-18, effective from 2004-09-15

Article 25

Request by another legitimate

1 - When the request does not come from the debtor himself, the applicant for the declaration of insolvency must justify in the petition the origin, nature and amount of his credit, or his responsibility for the insolvency credits, as the case may be, and offer with it the elements it possesses regarding the debtor's assets and liabilities.

2 - The applicant must also offer all the means of proof available to him, being obliged to present the witnesses listed, within the limits of article 511 of the Code of Civil Procedure.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 1 of [Decree-Law no. 200/2004 - Official Gazette no. 194/2004, Series IA of 2004-08-18](#), effective from 2004-09-15

Article 26

Duplicates and copies of documents

1 - Only the duplicates of the petition necessary for delivery to the five largest known creditors, and, when applicable, to the workers' committee and the debtor, are only offered by the applicant or, in the case of presentation in digital format, extracted by the secretariat. of that destined for the court archive.

2 - The documents attached to the petition will be accompanied by two copies, one of which is intended for the court archive, the other remaining in the judicial secretariat for consultation by interested parties.

3 - The process continues despite the failure to deliver the required copies and duplicates, which are extracted ex officio, upon payment and a fine of up to 2 UC.

4 - The necessary copies of the petition are always extracted ex officio for delivery to the debtor's administrators, if this is the case.

Chapter II

Subsequent processing

Article 27.º

Preliminary assessment

1 - On the day of distribution, or, if this is not feasible, until the 3rd subsequent business day, the judge: a)

Outright rejects the request for declaration of insolvency when it is manifestly unfounded, or exceptions clearly occur unnecessary delays that you must know about unofficially; b) Grants the applicant, under penalty of rejection, a maximum period of five days to correct the defects that can be remedied in the petition, particularly when it lacks legal requirements or is not accompanied by the documents required to inform it, in cases where such absence is not duly justified.

2 - In cases of insolvency, the order of preliminary rejection that is not based, in whole or in part, on the lack of joining of documents required by subparagraph a) of paragraph 2 of article 24 is subject to publication on the portal Citius, within the period set out in paragraph 8 of article 38, and must contain the elements referred to in paragraph 8 of article 37.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 1 of [Decree-Law no. 282/2007 - Official Gazette no. 151/2007, Series I of 2007-08-07](#), effective from 2007-08-08

Article 28

Immediate declaration of insolvency situation

The presentation of insolvency by the debtor implies the recognition by him of his insolvency situation, which is declared until the 3rd business day following the distribution of the initial petition or, if there are correctable defects, the respective supply.

Article 29

Debtor's quote

- 1 - Without prejudice to the provisions of paragraph 3 of article 31, if the petition has not been presented by the debtor himself and there is no reason for preliminary rejection, the judge will order the debtor to be summoned personally, within the period referred to in the previous article.
- 2 - At the time of service, the debtor is warned of the penalty provided for in paragraph 5 of the following article and that the documents referred to in paragraph 1 of article 24 must be ready for immediate delivery to the insolvency administrator in the event of insolvency is declared.

Article 30

Debtor's opposition

- 1 - The debtor may, within 10 days, file an opposition, to which the provisions of paragraph 2 of article 25 apply.
- 2 - Without prejudice to the provisions of the following paragraph, the debtor attaches with the opposition, under penalty of non-receipt, a list of his five largest creditors, excluding the applicant, indicating their respective domicile.
- 3 - The debtor's opposition to the intended declaration of insolvency may be based on the non-existence of the fact on which the request made is based or on the non-existence of the insolvency situation.
- 4 - It is up to the debtor to prove his solvency, based on legally mandatory bookkeeping, if applicable, duly organized and tidy, without prejudice to the provisions of paragraph 3 of article 3.
- 5 - If the debtor's hearing has not been waived under the terms of article 12 and the debtor does not file an opposition, the facts alleged in the initial petition are considered to have been admitted, and insolvency is declared on the business day following the end of the aforementioned period. in paragraph 1, if such facts fulfill the hypothesis of any of the paragraphs of paragraph 1 of article 20.

Changes

Amended by Article 1 of [Decree-Law no. 200/2004](#) - [Official Gazette no. 194/2004](#), [Series IA of 2004-08-18](#), effective from 2004-09-15

Article 31

Precautionary measures

- 1 - If there is a justified fear of acts of mismanagement, the judge, ex officio or at the request of the applicant, orders precautionary measures that are necessary or convenient to prevent the worsening of the debtor's financial situation, until a sentence is handed down.
- 2 - Precautionary measures may, in particular, consist of the appointment of a provisional judicial administrator with exclusive powers to administer the debtor's assets, or to assist the debtor in this administration.
- 3 - The adoption of precautionary measures may take place prior to summons on the debtor, in the event that anticipation is deemed essential so as not to jeopardize its useful effect, but without the summons being able under any circumstances to be delayed for more than 10 days in relation to the deadline that would otherwise intervene.
- 4 - (Revoked).

Changes

Amended by Article 2 of [Law No. 16/2012](#) - [Official Gazette No. 79/2012](#), [Series I of 2012-04-20](#), effective from 2012-05-20

Article 32

Choice and remuneration of the provisional judicial administrator

1 - The choice of the provisional judicial administrator falls to an entity registered on the official list of insolvency administrators, and the judge may take into account any proposal made in the initial petition in the case of processes in which it is foreseeable that there will be management acts that require special knowledge or when the debtor is a commercial company in a controlling or group relationship with other companies whose insolvency has been requested and the same administrator is intended to be appointed in the different processes.

2 - The provisional judicial administrator will remain in office until the sentence is handed down, without prejudice to the possibility of his replacement or removal at an earlier time, or his reappointment as insolvency administrator.

3 - The remuneration of the provisional judicial administrator is set by the judge, in the appointment decision itself or subsequently, and constitutes, together with the expenses he incurs in carrying out his functions, a charge included in the costs of the process, which is borne by the body responsible for the financial and patrimonial management of the Ministry of Justice to the extent that, as the costs are the responsibility of the mass, it cannot be satisfied by the latter's forces.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 1 of [Decree-Law no. 282/2007 - Official Gazette no. 151/2007, Series I of 2007-08-07](#), effective from 2007-08-08

Article 33

Powers of the provisional judicial administrator

1 - The provisional judicial administrator who is granted exclusive powers of administration of the debtor's assets must ensure the maintenance and preservation of that assets, and the continued operation of the company, unless he considers that the suspension of the activity is more advantageous for the interests of the debtors. creditors and such measure is authorized by the judge.

2 - The judge determines the duties and powers of the provisional judicial administrator responsible only for assisting the debtor in the administration of his assets, and must:

a) Specify the acts that cannot be carried out by the debtor without the approval of the provisional judicial administrator; or b)

Indicate that they are generically all those that involve the sale or encumbrance of any assets or the assumption of new responsibilities that are not essential to the day-to-day management of the company.

3 - In any of the cases provided for in the previous paragraphs, the provisional judicial administrator has the right to access the debtor's headquarters and business facilities and to carry out any inspections and examinations, particularly of the elements of his accounting, and the debtor is obliged to provide him with all the information necessary to carry out his functions, applying, with the necessary adaptations, article 83.

Article 34

Remission

The provisions of articles 37, 38, 58 and 59 and paragraph 6 of article 81 apply, respectively and with the necessary adaptations, to advertising and registration of the appointment of the administrator provisional judicial system and the powers attributed to it, monitoring the exercise of the position and responsibility it may incur and also the effectiveness of legal acts concluded without its intervention, when required.

Changes

Amended by Article 1 of [Decree-Law no. 282/2007 - Official Gazette no. 151/2007, Series I of 2007-08-07](#), effective from 2007-08-08

Amended by Article 1 of [Decree-Law no. 200/2004 - Official Gazette no. 194/2004, Series IA of 2004-08-18](#), effective from 2004-09-15

Article 35***Discussion and trial hearing***

1 - If there is opposition from the debtor, or the hearing has been waived, a discussion and trial hearing is immediately scheduled for one of the five subsequent days, notifying the applicant, the debtor and all legal or de facto administrators identified in the initial petition to appear in person or to be represented by someone who has the power to compromise.

2 - If the debtor or his representative does not appear, the facts alleged in the initial petition are deemed to be admitted, if the debtor's hearing has not been waived under the terms of article 12.

3 - If the situation foreseen in the previous paragraph does not occur, the applicant's failure to appear, either by himself or through a representative, constitutes withdrawal of the application.

4 - The judge immediately dictates to the minutes, depending on the case, a sentence declaring insolvency, if the facts alleged in the initial petition are subsumable in paragraph 1 of article 20, or a sentence ratifying the withdrawal of the request.

5 - If both parties appear, or only the applicant or his representative, but the debtor's hearing has been waived, the judge issues an order designed to identify the subject of the dispute and set out the topics of evidence.

6 - The complaints presented are immediately decided, followed immediately by the production of evidence.

7 - After the production of evidence, oral arguments take place and the court then delivers the sentence.

8 - If the sentence cannot be handed down immediately, it will be handed down within five days.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Amended by Article 1 of [Decree-Law no. 200/2004 - Official Gazette no. 194/2004, Series IA of 2004-08-18](#), effective from 2004-09-15

Chapter III***Judgment declaring insolvency and its challenge*****Section I*****Content, notification and publicity of the sentence*****Article 36*****Insolvency declaration sentence***

1 - In the sentence declaring insolvency, the judge:

- a) Indicates the date and time of the respective delivery, considering that it took place at noon in the absence of another indication; b) Identifies the insolvent debtor, indicating its headquarters or residence; c) Identifies and establishes residence for the administrators, in law and in fact, of the debtor, as well as the debtor himself, if he is a natural person; d) Appoints the insolvency administrator, indicating his professional address; e) Determines that the administration of the insolvent estate will be ensured by the debtor, when the assumptions required by paragraph 2 of article 224 are met; f) Determines that the debtor immediately delivers to the insolvency administrator the documents referred to in paragraph 1 of article 24 that are not yet included in the file;

g) Orders the seizure, for immediate delivery to the insolvency administrator, of the debtor's accounting details and all of his assets, even if seized, seized or otherwise seized or detained and without prejudice to the provisions of paragraph 1 of article 150; h) Orders the delivery to the Public Prosecutor's Office, for due purposes, of elements that indicate the commission of a criminal offense; i) If there are elements that justify the opening of the insolvency qualification incident, declare the qualification incident open, whether full or limited, without prejudice to the provisions of article 187; j) Designates a deadline of up to 30 days for claiming credits; l) Warns creditors that they must promptly communicate to the insolvency administrator the real guarantees they benefit from; m) Warns the insolvent's debtors that the payments to which they are obliged must be made to the insolvency administrator and not to the insolvent himself; n) Designates the day and time, between 45 and 60 subsequent days, for the holding of the meeting of the creditors' meeting referred to in article 156, known as the report assessment meeting, or declares, with reasons, to waive the aforementioned meeting assembly.

2 - The provisions of the final part of paragraph n) of the previous paragraph do not apply in cases where the presentation of an insolvency plan is expected or where it is determined that the administration of the insolvency will be carried out by the debtor.

3 - In cases where no day is designated for the meeting to review the report, in accordance with subparagraph n) of paragraph 1, and any interested party, within the deadline for submitting credit complaints, requests the court to convene it, the judge designates a day and time, between 45 and 60 days following the sentence declaring insolvency, for it to be carried out.

4 - In cases where no day is designated for the meeting to review the report in accordance with paragraph n) of paragraph 1, the deadlines set out in this Code, counted by reference to the date of its holding, are counted with reference on the 45th day following the date of delivery of the decision declaring insolvency.

5 - The judge who has decided not to hold the meeting to assess the report must, in the sentence, adapt the procedural course to such facts, taking into account the specific case.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Amended by Article 1 of [Decree-Law no. 200/2004 - Official Gazette no. 194/2004, Series IA of 2004-08-18](#), effective from 2004-09-15

Article 37

Notification of judgment and citation

1 - The administrators of the debtor who has established residence are notified personally of the judgment, under the terms and in the forms prescribed in the procedural law for service, and copies of the initial petition are also sent to them.

2 - Without prejudice to notifications that prove necessary under labor legislation, namely to the Salary Guarantee Fund, the sentence is also notified to the Public Prosecutor's Office, the Social Security Institute, the applicant for the declaration of insolvency, the debtor, under the terms provided for the summons, if he has not already been summoned personally for the terms of the process and, if he is the owner of a company, to the works council.

3 - The five largest known creditors, excluding those who have applied, are summoned under the terms of paragraph 1 or by registered letter, depending on whether or not they have their habitual residence, headquarters or domicile in Portugal.

4 - Known creditors who have their habitual residence, domicile or registered office in a Member State other than the one in which the case was opened, including the tax authorities and social security bodies of those Member States, are served by registered letter, without delay, in accordance with Article 54 of Regulation (EU) No. 2015/848 of the European Parliament and of the Council of 20 May 2015.

5 - If there are credits from the State, from public institutes without the nature of public companies or from social security institutions, the summons to these entities is made by registered letter.

6 - The provisions of the previous paragraphs do not affect the possibility of notification and service by electronic means, under the terms set out in a decree from the Minister of Justice.

7 - Other creditors and other interested parties are summoned by notice, with an extension period of five days, posted at the debtor's headquarters or residence, in their establishments and in the court itself and by advertisement published on the Citius portal.

8 - The notices and announcements referred to in the previous paragraph must indicate the process number, the delay and the possibility of appeal or deduction of embargoes and contain the elements and information provided for in subparagraphs a) to e) and i) an) of the previous article, warning It should be noted that the deadline for appeals, embargoes and claims for credits only begins to run after the delay has ended and this period starts from the publication of the announcement referred to in the previous paragraph.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Amended by Article 1 of [Decree-Law no. 282/2007 - Official Gazette no. 151/2007, Series I of 2007-08-07](#), effective from 2007-08-08

Article 38

Advertising and registration

1 - (Revoked).

2 - The declaration of insolvency and the appointment of an insolvency administrator are registered ex officio, based on the respective certificate, sent for this purpose by the secretariat: a) At the civil registry office, if the debtor is a natural person; b) At the commercial registry office, if there are any facts relating to the insolvent debtor subject to that registration; c) In the entity responsible for another public registry to which the debtor may be subject.

3 - The declaration of insolvency is also registered in the land, commercial and automobile register in relation to the assets or rights that make up the insolvent estate, based on a judicial certificate of the final and unappealable declaration of insolvency, if the registration service is unable to access the information necessary by electronic means, and in a statement from the insolvency administrator that identifies the assets or rights.

4 - The registration provided for in the previous paragraph, when carried out provisionally in nature, is made based on the information included on the court's computer page, in accordance with paragraph b) of paragraph 6, and on the insolvency administrator's statement identifying the assets.

5 - If in the register there is any registration on the assets that make up the insolvent estate of acquisition or recognition of the right to property or mere possession in favor of a person other than the insolvent, the insolvency administrator must attach a certificate of the respective registrations to the process.

6 - The secretariat:

a) Officially records the declaration of insolvency and the appointment of the insolvency administrator in the computerized register of executions established by the Code of Civil Procedure; b) Promotes the inclusion of this information, as well as the deadline for complaints, on the court's website; c) Communicate the declaration of insolvency to the Bank of Portugal so that it can register it with the credit risk center.

7 - The records of the appointment of the insolvency administrator must include his professional domicile.

8 - All steps aimed at publicizing and recording the sentence must be carried out within five days.

9 - Publicity and registration in the public register of the decision to open foreign insolvency proceedings and, where applicable, of the decision appointing the insolvency administrator, as referred to in articles 28 and 29 of the Regulation (EU) no. 2015/848 of the European Parliament and of the Council, of May 20, 2015, must be requested at the Portuguese court in the area where the debtor is established, or, if this is not the case, at the 1st Section of the Lisbon Commercial Court, and the court may require a translation certified by a person who is competent for that purpose under the law of a Member State of the European Union.

10 - Without prejudice to the provisions of the previous paragraph, if the law of the State of insolvency proceedings provides for the implementation of a registration unknown under Portuguese law, the registration that presents the greatest similarities with that is determined.

11 - Without prejudice to the provisions of paragraph 9, the publication regulated in paragraph 1 of article 28 of Regulation (EU) no. 2015/848 of the European Parliament and of the Council, of 20 May 2015, is determined ex officio by the competent registration services if the debtor has an establishment located in Portugal.

12 - The register provided for in paragraph 2 must also contain the facts referred to in paragraph 2 of article 24 of Regulation (EU) 2015/848, of the European Parliament and of the Council, of May 20, 2015.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 169 of [Decree-Law no. 84/2019 - Official Gazette no. 122/2019, Series I of 2019-06-28](#), effective from 2019-06-29

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 9 of [Decree-Law no. 185/2009 - Official Gazette no. 155/2009, Series I of 2009-08-12](#), effective from 2009-08-17

Amended by Article 11 of [Decree-Law no. 116/2008 - Official Gazette no. 128/2008, Series I of 2008-07-04](#)

Amended by Article 4 of [Decree-Law no. 282/2007 - Official Gazette no. 151/2007, Series I of 2007-08-07](#), effective from 2007-08-08

Article 39

Insufficiency of insolvent assets

1 - The judge concluding that the debtor's assets are not presumably sufficient to satisfy the costs of the proceedings and the foreseeable debts of the insolvent estate and this satisfaction is not otherwise guaranteed, he makes mention of this fact in the decision declaring insolvency, giving it only complies with the provisions of paragraphs a) ad) and h) of no. 1 of article 36, and, if it has elements that justify the opening of the insolvency qualification incident, it declares the qualification incident open with a limited nature, applying, with the necessary adaptations, the provisions of paragraph i) of paragraph 1 of article 36.

2 - In the case referred to in the previous paragraph:

a) Any interested party may request, within five days, that the sentence be supplemented with the remaining mentions of paragraph 1 of article 36; b) The provisions

of the previous articles apply to service, notification, publicity and registration of the sentence, with the required modifications, and in all communications additional reference must be made to the possibility conferred by the previous paragraph.

3 - The applicant for the complement of the sentence deposits to the order of the court the amount that the judge specifies in accordance with what he reasonably deems necessary to guarantee the payment of the said costs and debts, or guarantees this payment by means of a bank guarantee, with the deposit being transferred or the guarantee activated only after the effective insufficiency of the mass has been proven, and to the extent of that insufficiency.

4 - Once a supplement to the sentence is requested under the terms of paragraphs 2 and 3, the judge must fully comply with article 36, then observing the provisions of article 37 and the previous article, and proceeding with character the insolvency qualification incident is complete, whenever there is one.

5 - Whoever requests a supplement to the sentence may demand reimbursement of the amounts spent from people who, in violation of their duties as administrators, have refrained from requesting the debtor's declaration of insolvency, or have done so with delay.

6 - The right established in the previous paragraph expires after five years.

7 - If a supplement to the sentence is not required: a) The

debtor is not deprived of the powers of administration and disposal of his assets, nor are any of the effects that normally correspond to the declaration of insolvency, under the rules of this Code, produced; b) The insolvency process is declared over as soon as the sentence becomes final, without prejudice to the processing until the end of the limited insolvency qualification incident;

c) The insolvency administrator limits his activity to preparing the opinion referred to in paragraph 6 of article 188; d) After the respective final and unappealable decision, any legal entity may initiate new insolvency proceedings at any time, but the continuation of the case depends on the amount that the judge reasonably deems necessary to guarantee the payment of the costs being deposited in the order of the court. and the foreseeable debts of the insolvent estate, applying the provisions

in paragraphs 4 and 5.

8 - The provisions of this article are not applicable when the debtor, being a natural person, has requested, prior to the declaration of insolvency, the exemption of the remaining liabilities.

9 - For the purposes set out in paragraph 1, the asset is presumed to be insufficient when the debtor's assets are less than (euro) 5000.

10 - As the debtor is a commercial company, the provisions of paragraph 4 of article apply to it, with the necessary adaptations.
234th

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Amended by Article 1 of [Decree-Law no. 282/2007 - Official Gazette no. 151/2007, Series I of 2007-08-07](#), effective from 2007-08-08

Section II

Challenge of the sentence

Article 40

Opposing embargoes

1 - The following may file an embargo on the declaratory judgment of insolvency: a) The debtor in a situation of absolute default, if he has not been personally summoned; b) The spouse, ascendants or descendants and relatives in the 1st degree of the direct line of the natural person considered insolvent, in the event that the declaration of insolvency is based on the debtor's flight related to his lack of liquidity; c) The spouse, heir, legatee or representative of the debtor, when the death occurred before the deadline for opposition by embargoes that the debtor was permitted to deduct, under the terms of subparagraph a); d) Any creditor who is legitimated as such; e) Those legally responsible for the insolvent's debts; f) The debtor's partners, associates or members.

2 - Embargoes must be filed within 5 days following notification of the judgment to the appellant or at the end of the applicable delay, and are only admissible provided that the appellant alleges facts or requires evidence that has not been taken into account by the court and that may rule out the grounds for the declaration of insolvency.

3 - The opposition of embargoes against the insolvency declaration declaration, as well as the appeal against the decision maintaining the declaration, suspends the liquidation and sharing of assets, without prejudice to the provisions of paragraph 2 of article 158.

Article 41

Processing and judging embargoes

1 - The motion for embargo is immediately filed as an attachment, with the process being submitted to the judge, for the preliminary order, on the day following the end of the period referred to in paragraph 2 of the previous article; The embargoes filed by several entities correspond to a single process.

- 2 - If there is no reason for preliminary rejection, the insolvency administrator and the opposing party are to be notified to contest, if they wish, within five days.
- 3 - The provisions of paragraph 2 of article 25 apply to the petition and objections.
- 4 - After the objection and after having produced, within a maximum period of 10 days, the evidence that must be carried out in advance, the trial hearing will proceed, within the immediate 5 days, in accordance with the provisions of paragraph 1 of this article and in paragraphs 5 to 8 of article 35.

Changes

Amended by Article 1 of [Decree-Law no. 200/2004](#) - [Official Gazette no. 194/2004](#), [Series IA of 2004-08-18](#), effective from 2004-09-15

Article 42

Resource

- 1 - It is permissible for the people referred to in paragraph 1 of article 40, alternatively to deducting the embargoes or cumulatively with them, to lodge an appeal against the decision declaring insolvency, when they understand that, in view of the elements established, it should not have been delivered.
- 2 - The debtor is entitled to lodge an appeal even when opposition to embargoes is prohibited. 3 - The provisions of paragraph 3 of article 40 are applicable to the filing of the appeal, with the necessary adaptations.

Article 43

Effects of repeal

The revocation of the insolvency declaration sentence does not affect the effects of the acts legally carried out by the insolvency bodies.

Chapter IV

Judgment rejecting the request for declaration of insolvency

Article 44

Notification of the decision rejecting the request

- 1 - The sentence rejecting the request for declaration of insolvency is notified only to the applicant and the debtor.
- 2 - If a provisional judicial administrator has been appointed, the sentence is subject to publication and registration, under the terms set out in articles 37 and 38, with the necessary adaptations.

Changes

Amended by Article 1 of [Decree-Law no. 282/2007](#) - [Official Gazette no. 151/2007](#), [Series I of 2007-08-07](#), effective from 2007-08-08

Article 45

Appeal against the rejection sentence

Only the applicant himself can react against the sentence that rejects the request for declaration of insolvency, and only through an appeal.

Title III***Insolvent estate and participants in the process*****Chapter I*****Insolvent assets and credit classifications*****Article 46*****Insolvent estate concept***

- 1 - The insolvency estate is intended to satisfy insolvency creditors, after paying their own debts, and, unless otherwise provided, covers all of the debtor's assets at the date of the declaration of insolvency, as well as the assets and rights that he acquires during the pendency of the process.
- 2 - Assets exempt from seizure are only included in the insolvent estate if the debtor voluntarily presents them and the unseizability is not absolute.

Article 47***Concept of insolvency creditors and classes of insolvency claims***

- 1 - Once insolvency is declared, all holders of credits of a patrimonial nature against the insolvent party, or secured by assets forming part of the insolvent estate, the basis of which is prior to the date of such declaration, are considered insolvency creditors, whatever their nationality and domicile. .
- 2 - The credits referred to in the previous paragraph, as well as those equivalent to them, and the debts that correspond to them, are referred to in this Code, respectively, as insolvency credits and insolvency debts.
- 3 - Holders of insolvency claims on the date of declaration of insolvency are those who show that they have acquired them during the process.
- 4 - For the purposes of this Code, insolvency claims are: a)
«Guaranteed» and «privileged» claims that benefit, respectively, from real guarantees, including special credit privileges, and from general credit privileges over assets forming part of the estate insolvent, up to the amount corresponding to the value of the assets subject to guarantees or general privileges, taking into account any prevailing encumbrances; b)
«Subordinated»
the credits listed in the following article, except when they benefit from credit privileges, general or special, or legal mortgages, which are not extinguished as a result of the declaration of insolvency; c) Other
credits are "common".

Article 47-A***Compensatory credits***

Compensation claims resulting from the termination of an employment contract by the insolvency practitioner following the declaration of insolvency of the debtor constitute insolvency claims.

Changes

Added by Article 8 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Article 48

Subordinated credits

Credits that meet the following requirements are considered subordinate, being ranked after the remaining insolvency claims: a) Claims held by persons specially related to the debtor, provided that the special relationship already existed at the time of their creation, and for those to whom they have been transmitted in the two years prior to the start of insolvency proceedings; b) Interest on non-subordinated credits created after the declaration of insolvency, with the exception of those covered by real guarantees and general credit privileges, up to the value of the respective assets; c) Credits whose subordination has been agreed by the parties; d) Credits that have as their object free payments from the debtor; e) Insolvency claims that, as a consequence of the resolution for the benefit of the insolvent estate, result in bad faith for the third party; f) Interest on subordinated credits constituted after the declaration of insolvency; g) Credits for supplies.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Article 49

Persons especially related to the debtor

- 1 - The following are exclusively considered to be particularly related to the natural person debtor:
 - a) His or her spouse and the people from whom he or she has been divorced in the two years prior to the start of the insolvency process;
 - b) The ancestors, descendants or siblings of the debtor or any of the people referred to in the previous paragraph;
 - c) The spouses of the debtor's ancestors, descendants or siblings;
 - d) People who have habitually lived with the debtor in a common household within the two years prior to the start of the insolvency process.
- 2 - The following are exclusively considered to be particularly related to the legal entity debtor:
 - a) Partners, associates or members who are legally responsible for their debts, and people who have had this status in the two years prior to the start of the insolvency process;
 - b) Persons who, if applicable, have been with the insolvent company in a controlling or group relationship, in accordance with article 21 of the Securities Code, in a period within the two years prior to the beginning of the process of insolvency;
 - c) The administrators, de jure or de facto, of the debtor and those who have been administrators at some point in the two years prior to the beginning of the insolvency process;
 - d) People related to any of those mentioned in the previous paragraphs in any of the ways referred to in paragraph 1.
- 3 - In cases where insolvency concerns only an autonomous asset, the respective owners and administrators are considered to be specially related persons, as well as those linked to them in any of the ways provided for in the previous paragraphs, and also, in the case of inheritance existing, those linked to the author of the succession in any of the ways provided for in paragraph 1, on the date of opening of the succession or in the two previous years.
- 4 - For the purposes of this article, a privileged or secured creditor who nominates a natural person for the administration of the debtor is not considered a de facto administrator, provided that this person does not have special powers to dispose, on their own, of elements of the assets of the debtor.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Article 50***Credits under condition***

1 - For the purposes of this Code, credits under suspensive and resolutive conditions are considered, respectively, those whose constitution or subsistence are subject to the verification or non-verification of a future and uncertain event, by virtue of law, judicial decision or business legal.

2 - There are, in particular, credits under suspensive conditions: a) Those resulting from the refusal to execute or early termination, by the insolvency administrator, of bilateral contracts in progress at the date of the declaration of insolvency, or the resolution of acts in benefit of the insolvent estate, until such denunciation, refusal or resolution takes place; b) Credits that cannot be exercised against the insolvent party without prior excussion of another's assets, until such excussion occurs; c) Insolvency claims for which the insolvent person is not personally liable, while the debt is not payable.

Changes

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 51***Debts of the insolvent estate***

1 - Unless expressly provided otherwise, the debts of the insolvent estate, in addition to others qualified as such in this Code, are: a) The costs of the insolvency

process; b) The remuneration of the insolvency administrator and the expenses of the administrator and the members of the creditors committee; c) Debts arising from acts of administration, liquidation and sharing of the insolvent estate; d) Debts resulting from the actions of the insolvency administrator in

the performance of his duties; e) Any debt resulting from a bilateral contract whose fulfillment cannot be refused by the insolvency administrator, except to the extent that it relates to a period prior to the declaration

of insolvency; f) Any debt resulting from a bilateral contract whose fulfillment is not refused by the insolvency administrator, except to the extent corresponding to the consideration already made by the other party prior to the declaration of insolvency or in which it relates to a period prior to that declaration; g)

Any debt resulting from a contract whose object is a lasting performance, to the extent corresponding to the consideration already made by the other party and whose fulfillment has been required by the provisional judicial administrator; h) Debts arising

from acts carried out by the provisional judicial administrator in the exercise of his powers; i) Debts that have as their source the unjust enrichment of the insolvent estate; j) The obligation to provide

maintenance for a period subsequent to the date of the declaration of insolvency, under the conditions of article 93.

2 - Credits corresponding to debts of the insolvent estate and the holders of these credits are referred to in this Code, respectively, as claims on the estate and creditors of the estate.

Chapter II***Insolvency bodies*****Section I**

Insolvency administrator**Article 52*****Appointment by judge and statute***

1 - The appointment of the insolvency administrator is the responsibility of the judge.

2 - The provisions of paragraph 1 of article 32 apply to the appointment of the insolvency administrator, and the judge may take into account the indications made by the debtor himself or by the creditors' committee, if any, or by the creditors, also in the case where the insolvent estate comprises a company with an active establishment or establishments or when the insolvency process is highly complex, with preference, in the first designation, being given to the provisional judicial administrator in office at the date of the declaration of insolvency.

3 - The recruitment process for the official lists, as well as the status of the insolvency administrator, are set out in a separate legal document, without prejudice to the provisions of this Code.

4 - If the insolvency process is highly complex, or if special knowledge is required from the insolvency administrator, the judge may, ex officio or at the request of any interested party, appoint more than one insolvency administrator, and, in the event of a request, the judge may. The applicant is responsible for proposing, with reasons, the insolvency administrator to be appointed, as well as remunerating the proposed insolvency administrator, if he is appointed and the insolvency estate is not sufficient to provide for his remuneration.

5 - If there is a divergence between the insolvency administrator appointed by the judge under paragraph 1 and the insolvency administrators appointed at the request of any interested party, the will of the latter shall prevail, in the event of a tie.

6 - If the debtor is a commercial company which, under the terms of the Commercial Companies Code, is in a controlling or group relationship with other companies in relation to which insolvency proceedings have been proposed, the judge, ex officio or upon indication made by the debtor or by creditors, may proceed with the appointment of the same insolvency administrator for all companies, in which case it must proceed with the appointment, under general terms, of another insolvency administrator with functions restricted to the assessment of claims claimed between debtors of the same group, as soon as it verifies their existence, namely upon indication of the original administrator.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Amended by Article 1 of [Decree-Law no. 282/2007 - Official Gazette no. 151/2007, Series I of 2007-08-07](#), effective from 2007-08-08

Article 53***Choice of another administrator by creditors***

1 - Under the condition that prior to the vote the acceptance of the proposal is included in the records, the creditors, gathered in a creditors' meeting, may, after the appointment of the insolvency administrator, elect another person to hold the position, whether or not registered on the list officer, and provide for the respective remuneration, by deliberation that obtains the approval of the majority of voters and votes cast, abstentions not being considered.

2 - The election of a person not included in the official list can only occur in cases duly justified by the special size of the company included in the insolvent estate, the specific nature of the company's field of activity or the complexity of the process.

3 - The judge may only fail to appoint as insolvency administrator the person elected by the creditors, replacing the administrator in office, if he considers that the person is not suitable or suitable to perform the position, that the remuneration approved by the creditors is manifestly excessive. creditors or, in the case of a person not registered on the official list, that none of the circumstances set out in the previous paragraph exists.

Changes

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Amended by Article 1 of [Decree-Law no. 200/2004 - Official Gazette no. 194/2004, Series IA of 2004-08-18](#), effective from 2004-09-15

Article 54***Start of functions***

The insolvency administrator, once notified of the appointment, immediately assumes his role.

Article 55***Functions and their exercise***

1 - In addition to the other tasks assigned to him, the insolvency administrator is responsible, with the cooperation and under the supervision of the creditors' committee, if any: a) Prepare

the payment of the insolvent's debts at the expense of the amounts of money existing in the estate insolvent, namely those that constitute the product of the alienation, which it is responsible for promoting, of the assets that comprise it; b) Provide, in the meantime, for the preservation and fruition of the insolvent's rights and for the continued operation of the company, if applicable, avoiding as much as possible the worsening of its economic situation.

2 - Without prejudice to cases where the prior agreement of the creditors' committee is required, the insolvency administrator personally exercises the powers of his position and may substitute, in writing, the practice of specific acts by an insolvency administrator with current registration on the official lists .

3 - The insolvency administrator, in the exercise of his respective functions, may be assisted under his responsibility by lawyers, technicians or other assistants, whether paid or not, including the debtor himself, subject to the prior agreement of the creditors committee or the judge, in the absence of this commission.

4 - The insolvency administrator may hire for a fixed or uncertain term the workers necessary for the liquidation of the insolvent estate or for the continued operation of the company, but the new contracts expire at the moment of definitive closure of the establishment where the workers provide services, or, unless convention to the contrary, in its transmission.

5 - The insolvency administrator is also responsible for providing the creditors committee and the court with all necessary information on the administration and liquidation of the insolvent estate in a timely manner.

6 - At the request of the insolvency administrator and whenever he does not have direct access to the desired information, the judge shall order any public entities and credit institutions to, based on their respective records, provide information considered necessary or useful for the purposes of the process, namely on the existence of assets forming part of the insolvent estate.

7 - The remuneration of the insolvency administrator referred to in the final part of paragraph 2 is the responsibility of the insolvency administrator who has been sub-established, with the latter being responsible for all acts carried out by him under the sub-establishment mentioned in the same number.

8 - The insolvency administrator has the power to withdraw, confess or compromise, with the agreement of the creditors' committee, in any judicial process in which the insolvent party, or the insolvent estate, are parties.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 12 of [Law No. 99-A/2021 - Official Gazette No. 253/2021, 1st Supplement, Series I of 2021-12-31](#), effective from 2022-01-30

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Amended by Article 1 of [Decree-Law no. 282/2007 - Official Gazette no. 151/2007, Series I of 2007-08-07](#), effective from 2007-08-08

Article 56

Dismissal

- 1 - The judge may, at any time, dismiss the insolvency administrator and replace him with another, if, having heard the committee of creditors, when there is one, the debtor and the insolvency administrator himself, reasonably consider that there is a just cause.
- 2 - Except as provided for in paragraph 3 of article 53, the person who may have been appointed for this purpose by the meeting of creditors, through a resolution approved in accordance with paragraph 1 of the same article, must be designated as a substitute.

Article 57

Registration and advertising

The termination of duties of the insolvency administrator and the appointment of another person to perform the role are subject to the records and publicity provided for in articles 37 and 38, with the necessary adaptations.

Changes

Amended by Article 1 of [Decree-Law no. 282/2007](#) - [Official Gazette no. 151/2007](#), [Series I of 2007-08-07](#), effective from 2007-08-08

Article 58

Supervision by the judge

The insolvency administrator carries out his activity under the supervision of the judge, who may, at any time, require him to provide information on any matter or to present a report on the activity carried out and the status of the administration and liquidation.

Article 59

Responsibility

- 1 - The insolvency administrator is liable for damages caused to the debtor and to the insolvency creditors and the insolvent estate due to the culpable failure to comply with the duties incumbent upon him; guilt is assessed by the diligence of a judicious and orderly insolvency administrator.
- 2 - The insolvency administrator is also liable for damages caused to creditors of the insolvency estate if it is insufficient to fully satisfy their rights and these result from the administrator's act, except in the case of unpredictability of the insufficiency of the estate, taking into account the known circumstances of the administrator and those that he should not ignore.
- 3 - The insolvency administrator is jointly and severally liable with his assistants for damages caused by their acts and omissions, unless he proves that there was no fault on his part or that, even with due diligence, the damages would not have been avoided.
- 4 - The liability of the insolvency administrator provided for in the previous paragraphs is limited to harmful conduct or omissions occurring after his appointment.
- 5 - The liability of the insolvency administrator expires within a period of two years from the date on which the injured party became aware of the right that belongs to him, but never after an equal period has elapsed since the date of termination of functions.

Changes

Amended by Article 2 of [Law No. 16/2012](#) - [Official Gazette No. 79/2012](#), [Series I of 2012-04-20](#), effective from 2012-05-20

Article 60***Remuneration***

- 1 - The insolvency administrator appointed by the judge has the right to the remuneration provided for in his statute and to reimbursement of expenses that he reasonably considered useful or indispensable.
- 2 - When elected by the meeting of creditors, the remuneration of the insolvency administrator is that set out in the respective resolution.
- 3 - The insolvency administrator who has not previously given his or her agreement to the remuneration set by the meeting of creditors for the activity of drawing up an insolvency plan, managing the company after the report assessment meeting or monitoring the approved insolvency plan, may resign from the position, as long as he does so at the same meeting where the decision is taken.

Article 61***Quarterly information and document archive***

- 1 - At the end of each three-month period following the date of the report assessment meeting, the insolvency administrator must present a document with succinct information on the status of administration and liquidation, endorsed by the creditors committee, if any, and intended to be involved in the process.
- 2 - The insolvency administrator promotes the archiving of all elements relating to each liquidation step, indicating in the files the location where the respective documents are located.

Article 62***Presentation of accounts by the insolvency administrator***

- 1 - The insolvency administrator presents accounts within 10 days following notification of the costs bill by the court or the termination of his/her duties, whatever the reason that determined it, the deadline may be extended by court order.
- 2 - The insolvency administrator is also obliged to render accounts at any point in the process, whenever the judge determines to do so, either on his own initiative or at the request of the committee or the meeting of creditors, the judge setting the deadline for the presentation of the accounts, which cannot be less than 15 days.
- 3 - The accounts are prepared in the form of a current account, with a summary of all income and expenses, including payments made in partial apportionments made in accordance with article 178, intended to succinctly portray the situation of the insolvent estate, and they must be accompanied by all supporting documents, duly numbered, indicating the numbers of the documents that correspond to them in the different amounts.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 1 of [Decree-Law no. 200/2004 - Official Gazette no. 194/2004, Series IA of 2004-08-18](#), effective from 2004-09-15

Article 63***Third-party accountability***

If the insolvency administrator does not provide the accounts to which he is obliged within the applicable period, it is up to the judge to order the steps he deems appropriate, and may instruct a suitable person to present the accounts, so that, after hearing the committee of creditors, he can decide according to criteria of equity, without prejudice to civil liability and criminal proceedings against the insolvency administrator.

Article 64***Judgment of accounts***

1 - Once the accounts presented by the insolvency administrator have been appended, the creditors' committee, if any, must issue an opinion on them, within the period set by the judge for that purpose, after which the creditors and the insolvent debtor are notified by edicts of 10 days posted on the court's door and by notice published on the Citius portal, so that they can make a decision within five days.

2 - For the same purpose, the Public Prosecutor's Office has a view of the case, which is then submitted to the judge for decision, with the production of any evidence that becomes necessary.

Changes

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 65***Debtor's annual accounts***

1 - The provisions of the previous articles do not affect the duty to prepare and deposit annual accounts, under the terms that are legally mandatory for the debtor.

2 - The declaratory obligations referred to in the previous paragraph remain within the scope of the insolvent party and their legal representatives, who remain obliged to comply with tax obligations, being liable for non-compliance.

3 - With the decision to close the establishment's activity, in accordance with paragraph 2 of article 156, all declarative and tax obligations are necessarily extinguished, which must be communicated ex officio by the court to the tax administration for the purposes of cessation of activity.

4 - In the absence of the deliberation referred to in the previous paragraph, tax obligations become the responsibility of the person to whom the administration of the insolvent has been committed and for as long as this lasts.

5 - Any tax liabilities that may arise between the declaration of insolvency and the deliberation referred to in paragraph 3 are the responsibility of the person to whom the administration of insolvency has been granted, in accordance with the previous paragraphs.

Changes

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Section II***Creditors Committee*****Article 66*****Appointment of the creditors committee by the judge***

1 - Prior to the first meeting of creditors, namely in the insolvency declaration itself, the judge appoints a committee of creditors made up of three or five members and two alternates, with the role of presidency falling preferably on the company's largest creditor and the choice of the remaining ones ensures adequate representation of the various classes of creditors, with the exception of subordinated creditors.

2 - The judge may not proceed with the appointment provided for in the previous paragraph when he considers it justified, taking into account the small size of the insolvency estate, the simplicity of liquidation or the small number of insolvency creditors.

3 - For the purposes of the provisions of paragraph 1, one of the members of the committee represents the workers who hold credits over the company, and their choice must comply with the designation made by the workers themselves or by the workers' committee, when this exists .

4 - The members of the creditors' committee may be natural or legal persons; When the choice falls to a legal entity, it is up to the latter to designate its representative, through a power of attorney or credential signed by the person obliging it.

5 - The State and social security institutions can only be appointed to the presidency of the creditors' committee as long as there is an order in the case file, from the member of the Government with supervision over the entities in question, authorizing the exercise of the function and indicating the representative.

Article 67

Intervention by the meeting of creditors

1 - The creditors' meeting may dispense with the existence of the creditors' committee, replace any of the members or substitutes of the committee appointed by the judge, elect two additional members, and, if the judge has not appointed it, create a committee itself, composed of three, five or seven members and two alternates, designate the president and change, at any time, the respective composition, regardless of the existence of just cause.

2 - The members of the committee of creditors elected by the assembly do not have to be creditors, and, in their choice, as in the appointment of the president, the assembly is not bound to compliance with the criteria set out in paragraph 1 of the previous article, and must just respect the criterion imposed by paragraph 3 of the same article.

3 - The deliberations of the meeting of creditors mentioned in paragraph 1 must be taken by the majority required in paragraph 1 of article 53, except in the case of the dismissal of a member for just cause.

Article 68

Functions and powers of the creditors'

committee 1 - The committee is responsible, in addition to other tasks that are specifically assigned to it, to supervise the activity of the insolvency administrator and provide him with collaboration.

2 - In carrying out its functions, the committee may freely examine the debtor's accounting elements and request the insolvency administrator to provide the information and presentation of the elements it deems necessary.

Article 69

Creditors committee deliberations

1 - The creditors committee meets whenever called by the president or two other members.

2 - The commission cannot deliberate without the presence of the majority of its members, with deliberations being taken by a majority vote of the members present, and the president, in the event of a tie, having the casting vote.

3 - Written votes are permitted in deliberations if, previously, all members have agreed to this form of deliberation.

4 - The deliberations of the creditors' committee are communicated to the judge by the respective president.

5 - The deliberations of the creditors committee cannot be filed with the court.

Article 70

Responsibility of committee members

The members of the committee are liable to the insolvency creditors for losses resulting from the negligent failure to comply with their duties, with the provisions of paragraph 4 of article 59 being applicable.

Article 71

Expenses refund

The members of the creditors' committee are not remunerated and are only entitled to reimbursement for expenses strictly necessary to carry out their duties.

Section III

Creditors' meeting

Article 72

Participation in the creditors' meeting

- 1 - All insolvency creditors, as well as the holders of the rights referred to in paragraph 2 of article 95, which, under the terms of that provision, cannot be exercised in the process, have the right to participate in the creditors' meeting.
- 2 - The provisions of paragraphs 1 and 4 of the following article apply to the right to participate in the meeting of holders of subordinated credits, with the necessary adaptations.
- 3 - Creditors may be represented by an agent with special powers for that purpose.
- 4 - If necessary for the proper progress of the work, the judge may limit participation in the meeting to holders of credits reaching a certain amount, which cannot be set at more than (euro) 10000, and the affected creditors may be represented by another whose credit is at least equal to the fixed limit, or group together in order to complete the required amount, participating through a common representative.
- 5 - The insolvency administrator, the members of the creditors committee and the debtor and its administrators have the right and duty to participate.
- 6 - Up to three representatives from the workers' committee or, failing that, up to three representatives of workers designated by them, as well as from the Public Prosecutor's Office, can also participate in the assembly.

Changes

Amended by Article 1 of [Decree-Law no. 200/2004](#) - [Official Gazette no. 194/2004](#), [Series IA of 2004-08-18](#), effective from 2004-09-15

Article 73

Voting rights

- 1 - Credits confer one vote for each euro or fraction if they are already recognized by a definitive decision issued in the credit verification and grading appendix or in a subsequent verification action, or if, cumulatively: a) The creditor has already claimed them in the process, or, if the deadline set in the sentence for claims of credits has not already expired, claim them at the meeting itself, for the sole purpose of participating in the meeting; b) They are not subject to challenge at the meeting by the insolvency administrator or any creditor with voting rights.
- 2 - The number of votes conferred by credit under a suspensive condition is always set by the judge, taking into account the probability of the condition being verified.

3 - Subordinated credits do not confer voting rights, except when the deliberation of the creditors' meeting concerns the approval of an insolvency plan.

4 - At the request of the interested party, the judge may grant votes to contested credits, establishing the respective amount, taking into account all relevant circumstances, namely the probability of the existence, amount and subordinate nature of the credit, and also, in the case of credits under a suspensive condition, the probability of the condition being verified.

5 - The judge's decision provided for in the previous paragraph cannot be appealed.

6 - Under no circumstances will the deliberations taken by the assembly be invalidated by subsequent proof that the creditors were actually entitled to a different number of votes than those granted to them.

7 - Without prejudice to what is otherwise set out in the previous paragraphs, credits with real guarantees for which the debtor is not personally responsible confer one vote for each euro of their amount, or the value of the asset given as guarantee, if this is lower.

Changes

Amended by Article 1 of [Decree-Law no. 200/2004 - Official Gazette no. 194/2004, Series IA of 2004-08-18](#), effective from 2004-09-15

Article 74

Presidency

The meeting of creditors is chaired by the judge.

Article 75

Convening the meeting of creditors

1 - The meeting of creditors is convened by the judge, on his own initiative or at the request of the insolvency administrator, the committee of creditors, or a creditor or group of creditors whose claims represent, in the judge's estimate, at least one fifth of the total of unsubordinated credits.

2 - The date, time, place and agenda of the creditors' meeting are immediately communicated to interested parties, at least 10 days in advance, by notice published on the Citius portal and by notices posted on the door of the head office or residence of the debtor and its establishments.

3 - The five largest creditors, as well as the debtor, its administrators and the workers' committee, are also notified of the day, time and place of the meeting, by circulars issued under registration, with the same advance notice.

4 - The announcement, notices and circulars provided for in the previous paragraphs must also contain: a) The identification of the process; b) The name and headquarters or residence of the debtor, if known; c) A warning to holders of credits who have not complained about the need to do so, if the deadline set in the judgment for claims of credits is still running, informing them that the complaint for the mere purpose of participating in the meeting may be carried out at the meeting itself, if this period has not already expired on the date thereof; d) Indication of any limits to participation established under the terms of paragraph 4 of article 72, with information on the possibility of grouping or representation.

Changes

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Amended by Article 1 of [Decree-Law no. 282/2007 - Official Gazette no. 151/2007, Series I of 2007-08-07](#), effective from 2007-08-08

Article 76

Suspension of the assembly

The judge may decide to suspend the assembly's work, determining that it be resumed on one of the following 15 working days.

Changes

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 77***Majority***

Except in cases where this Code requires a superior majority or other requirements for this purpose, the deliberations of the meeting of creditors are taken by the majority of votes cast, abstentions are not considered as such, regardless of the number of creditors present or represented, or the percentage of the credits they hold.

Article 78***Complaint to the judge and appeal***

- 1 - The insolvency administrator or any creditor with the right to vote may complain to the judge, orally or in writing, about the deliberations of the meeting that are contrary to the common interest of creditors, as long as they do so at the meeting itself.
- 2 - Any of the creditors who voted in favor of the decision may lodge an appeal against the decision granting the complaint, and only the complainant can appeal against the decision rejecting it.

Article 79***Information***

The insolvency administrator provides the assembly, at its request, with information on any matters falling within the scope of its functions.

Article 80***Prevalence of the creditors' meeting***

All deliberations of the creditors' committee are subject to revocation by the assembly and the existence of a favorable deliberation of the assembly alone authorizes the practice of any act for which the approval of the creditors' committee is required in this Code.

Title IV***Effects of declaring insolvency*****Chapter I*****Effects on the debtor and other people***

Article 81***Transfer of administration and disposal powers***

1 - Without prejudice to the provisions of title

2 - The debtor is prohibited from transferring income or selling future assets subject to seizure, whatever their nature, even in the case of income he obtains or assets he acquires after the closure of the process.

3 - Limitations on the debtor's power to dispose of the debtor established by judicial or administrative decision, or imposed by law only in favor of specific persons, are not applicable to the insolvency administrator.

4 - The insolvency administrator assumes representation of the debtor for all property purposes that are relevant to insolvency.

5 - Representation does not extend to the debtor's intervention within the scope of the insolvency process itself, its incidents and attachments, unless expressly provided otherwise.

6 - Acts carried out by the insolvent party in violation of the provisions of the previous paragraphs are ineffective, with the insolvent estate being liable for the restitution of what has been provided to it only in accordance with the rules of unjust enrichment, unless these acts, cumulatively: a) Are

concluded at onerous title with third parties in good faith prior to the registration of the judgment of the declaration of insolvency carried out in accordance with paragraphs 2 or 3 of article 38, depending on the

case; b) They are not of any of the types referred to in paragraph 1 of article 121.

7 - Payments of debts to the estate made to the insolvent party after the declaration of insolvency will only be released if they are made in good faith on a date prior to the registration of the judgment, or if it is demonstrated that the respective amount was effectively contributed to the insolvency estate.

8 - The following regime applies to acts carried out by the insolvent person after the declaration of insolvency that do not contradict the provisions of

paragraph 1: a) Only his assets that are not part of the insolvent estate are liable for the debts of the insolvent

person; b) The provision made to the insolvent extinguishes the counterparty's

obligation; c) The counterparty may oppose to the estate all means of defense that it is lawful to invoke against the insolvent party.

Changes

Amended by Article 11 of [Decree-Law no. 116/2008](#) - [Official Gazette no. 128/2008](#), [Series I of 2008-07-04](#)

Article 82***Effects on administrators and others***

1 - The debtor's corporate bodies remain in operation after the declaration of insolvency, with their members not being remunerated, except in the case provided for in article 227.

2 - Heads of corporate bodies may resign from their positions as soon as they deposit annual accounts with reference to the date of the liquidation decision in insolvency proceedings.

3 - During the pendency of the insolvency process, the insolvency administrator has exclusive legitimacy to propose and pursue: a)

Liability actions that are legally applicable, in favor of the debtor himself, against the founders, administrators in law and in fact, members of the debtor's supervisory body and partners, associates or members, regardless of the agreement of the debtor or its corporate bodies, partners, associates or members; b) Actions intended to

compensate for losses caused to most insolvency creditors due to the reduction of the assets forming part of the insolvent estate, both before and after the declaration of insolvency; c) Actions against those legally responsible for the insolvent's debts.

4 - The insolvency administrator is solely responsible for demanding from the debtor's partners, associates or members, as soon as he sees fit, deferred capital contributions and outstanding additional payments, regardless of the due dates that have been stipulated, seeking to the effect of the actions that prove necessary.

5 - Any action directed against the insolvency administrator for the purpose set out in subparagraph b) of paragraph 3 may only be initiated by the administrator who succeeds him.

6 - The actions referred to in paragraphs 3 to 5 are attached to the insolvency process.

Changes

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Amended by Article 1 of [Decree-Law no. 200/2004 - Official Gazette no. 194/2004, Series IA of 2004-08-18](#), effective from 2004-09-15

Article 83

Duty of presentation and collaboration

1 - The insolvent debtor is obliged to: a)

Provide all information relevant to the process that is requested by the insolvency administrator, the creditors' meeting, the creditors' committee or the court; b) Appear in person in court, whenever the appearance is determined by the judge or insolvency administrator, except in the event of a legitimate impediment or express permission to be represented by an agent; c) Provide any collaboration requested by the insolvency administrator for the purpose of carrying out his or her duties.

2 - The judge orders the debtor who was absent without justification to appear in custody, without prejudice to the applicable fine.

3 - The refusal to provide information or collaboration is freely assessed by the judge, particularly for the purpose of classifying the insolvency as culpable.

4 - The provisions of the previous paragraphs are applicable to the debtor's administrators and members of its supervisory body, if applicable, as well as to people who have held these positions within the two years prior to the start of the insolvency process.

5 - The provisions of paragraphs a) and b) of paragraph 1 and paragraph 2 are also applicable to the debtor's employees and service providers, as well as to people who have been employees within the two years prior to the start of the process of insolvency.

Article 84

Alimony to the insolvent, workers and other alimony creditors of the insolvent

1 - If the debtor absolutely lacks the means of subsistence and cannot earn them through his work, the insolvency administrator may, with the agreement of the committee of creditors, or the assembly of creditors, if that does not exist, arbitrate a subsidy at the expense of the income of the insolvent estate, by way of maintenance.

2 - If there is just reason, the granting of maintenance may cease at any stage of the process, by decision of the insolvency administrator.

3 - The provisions of the previous paragraphs are applicable to anyone who, being in the situation provided for in paragraph 1, is the holder of insolvency claims arising from an employment contract, or from the breach or termination of this contract, up to the limit of the respective amount, but, in the end, subsidies will be deducted from the value of these credits.

4 - If the insolvent person is obliged to provide maintenance to third parties in accordance with the provisions of article 93, the insolvency administrator must take this fact into account when setting the subsidy referred to in paragraph 1.

Changes

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Chapter II

Procedural effects

Article 85

Effects on pending actions

- 1 - Once insolvency is declared, all actions in which issues relating to assets included in the insolvent estate are assessed, brought against the debtor, or even against third parties, but whose result may influence the value of the estate, and all actions of an exclusively patrimonial nature brought by the debtor are attached to the insolvency process, provided that the attachment is requested by the insolvency administrator, based on convenience for the purposes of the process.
- 2 - The judge requests the competent court or entity to send, for the purposes of attaching to the insolvency records, all processes in which any act of seizure or detention of assets included in the insolvency estate has been carried out.
- 3 - The insolvency administrator replaces the insolvent party in all actions referred to in the previous paragraphs, regardless of joining the insolvency process and the agreement of the opposing party.

Changes

Amended by Article 1 of [Decree-Law no. 200/2004](#) - [Official Gazette no. 194/2004](#), [Series IA of 2004-08-18](#), effective from 2004-09-15

Article 86

Joining of insolvency proceedings

- 1 - At the request of the insolvency administrator, cases in which the insolvency of persons who are legally responsible for the debts of the insolvent person or, in the case of a married natural person, of their spouse, have been declared insolvency, if the property regime does not is separation.
- 2 - The same applies, if the debtor is a commercial company, in relation to processes in which the insolvency of companies that, under the terms of the Commercial Companies Code, it controls or are in a group relationship with, have been declared.
- 3 - The joining provided for in paragraph 2 may be determined ex officio by the judge of the case to which the others are joined or requested by all debtors declared insolvent in the cases to be joined.
- 4 - When proceedings are carried out in courts with different jurisdictions depending on the matter, joinder is only determined if it is requested by the insolvency administrator of the proceedings initiated in a court of specialized jurisdiction or if it is decided by the judge in the same case.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017](#) - [Official Gazette No. 125/2017](#), [Series I of 2017-06-30](#), effective from 2017-07-01

Article 87

Arbitration conventions

- 1 - The effectiveness of arbitration agreements to which the insolvent party is a party, relating to disputes whose outcome may influence the value of the estate, is suspended, without prejudice to the provisions of applicable international treaties.
- 2 - The proceedings pending at the date of the declaration of insolvency will, however, continue their terms, without prejudice, if applicable, to the provisions of paragraph 3 of article 85 and paragraph 5 of article 128.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017](#) - [Official Gazette No. 125/2017](#), [Series I of 2017-06-30](#), effective from 2017-07-01

Article 88

Executive actions

- 1 - The declaration of insolvency determines the suspension of any executive measures or measures requested by the insolvency creditors that affect the assets forming part of the insolvency estate and prevents the initiation or continuation of any executive action brought by the insolvency creditors; however, if there are others executed, the execution continues against these.
- 2 - In the case of executions that continue against other defendants, and in which assets included in the insolvent estate have been seized, the transfer of the defendant relating to the insolvent party is only extracted and sent for attachment.
- 3 - Executive actions suspended under the terms of paragraph 1 shall be extinguished, as regards the insolvent debtor, as soon as the insolvency process is closed in accordance with the terms set out in paragraphs a) and d) of paragraph 1 of article 230, except for the purposes of exercising the legally provided right of reversal.
- 4 - It is the responsibility of the insolvency administrator to communicate in writing and, preferably, by electronic means, to the enforcement agents designated in the executions affected by the declaration of insolvency, which are within their knowledge, or to the court, when the execution measures are carried out by an official of justice, the occurrence of the facts described in the previous paragraph.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 89

Actions relating to debts of the insolvent estate

- 1 - During the three months following the date of the declaration of insolvency, executions may not be proposed to pay the debts of the insolvent estate.
- 2 - Actions, including executive actions, relating to the debts of the insolvent estate are attached to the insolvency process, with the exception of executions for debts of a tax nature.

Chapter III

Effects on credits

Article 90

Exercise of insolvency claims

Insolvency creditors may only exercise their rights in accordance with the precepts of this Code, during the pendency of the insolvency process.

Article 91

Immediate payment of debts

- 1 - The declaration of insolvency determines the maturity of all obligations of the insolvent not subject to a suspensive condition.

2 - Any obligation not yet due at the date of the declaration of insolvency for which remunerative interest was not due, or for which interest was due lower than the legal interest rate, is considered reduced to the amount that, if added with interest calculated on this same amount, respectively, at the legal rate, or at a rate equal to the difference between the legal rate and the agreed rate, for the period of anticipation of maturity, would correspond to the value of the obligation in question.

3 - In the case of a divided obligation, the provisions of the previous paragraph are applicable to each of the installments not yet due.

4 - When calculating the period of anticipation of maturity, it is considered that this would occur on the date on which the obligations become due, or on which this would probably occur, this date being undetermined.

5 - The reduction in the amount of debt, provided for in the previous paragraphs, is also applicable even if the benefit of the term has been lost, resulting from the insolvency situation not yet judicially declared, provided for in paragraph 1 of article 780 of the Civil Code.

6 - Subrogation of the creditor's rights arising from the insolvent party's compliance with a third party's obligation will take place in proportion to the amount paid in relation to the amount of that third party's debt, updated in accordance with paragraph 2.

7 - The provisions of the previous paragraph apply to the right of return against other debtors.

Article 92

Regularization plans

The immediate maturity, under the terms of paragraph 1 of the previous article, of debts covered by a tax regularization plan and social security contributions has the effects that the respective legal diplomas attribute to non-compliance with the plan, with the amounts required being calculated in accordance with the relevant standards of these diplomas.

Article 93

Food credits

The right to demand maintenance from the insolvent person for the period after the declaration of insolvency can only be exercised against the estate if none of the people referred to in article 2009 of the Civil Code are in a position to provide it, in which case the judge must determine the respective amount.

Changes

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 94

Credits under resolute condition

In the insolvency process, insolvency claims subject to a resolute condition are treated as unconditioned until the moment the condition is fulfilled, without prejudice to the duty to refund payments received, once the condition is verified.

Article 95

Jointly responsible and guarantors

1 - The creditor may compete for the entirety of his credit from each of the different insolvent masses of joint and several debtors and guarantors, without however the sum of the amounts he receives from all of them cannot exceed the amount of the credit.

2 - The right against the insolvent debtor arising from the possible future payment of the debt by a joint debtor or by a guarantor can only be exercised in the insolvency process, as credit under a suspensive condition, if the creditor of the said debt does not claim it.

Article 96

Credit conversion

1 - For the purposes of the respective holder's participation in the process: a) Non-pecuniary claims are met at the value in euros estimated at the date of the declaration of insolvency; b) Monetary claims whose amount is not determined are covered by the value in euros estimated at the date of the declaration of insolvency; c) Credits expressed in foreign currency or indices are met at the value in euros at the exchange rate in force on the date of the declaration of insolvency at the place of the respective payment.

2 - The credits referred to in paragraphs a) and c) of the previous paragraph are considered definitively converted into euros, once recognized.

Article 97.^o

Extinction of credit privileges and real guarantees

1 - The following are extinguished with the declaration of insolvency: a) General credit privileges that are ancillary to insolvency claims held by the State, local authorities and social security institutions established more than 12 months before the date the beginning of the insolvency process; b) Special credit privileges that are ancillary to insolvency claims held by the State, local authorities and social security institutions that expired more than 12 months before the date on which the insolvency process began; c) Legal mortgages whose registration was requested within the two months prior to the date on which the insolvency process began, and which are ancillary to claims on the insolvency of the State, local authorities and social security institutions; d) If they are not independent of registration, real guarantees on real estate or movable property subject to registration that are part of the insolvent estate, ancillary to insolvency claims and already constituted, but not yet registered or subject to a request for registration; e) Real guarantees on assets forming part of the insolvent estate, ancillary to the credits held as subordinated.

2 - Once insolvency has been declared, the registration of legal mortgages that guarantee insolvency claims is not admissible, including after the closure of the process, unless the respective request was presented at a time prior to the said declaration, or, in the case of mortgages referred to in paragraph c) of the previous paragraph, two months in advance of the same date.

Article 98

Granting of privilege to the requesting creditor

1 - The unsubordinated credits of the creditor at the request of whom the insolvency situation has been declared now benefit from a general credit privilege, ranked last, over all movable assets forming part of the insolvent estate, in relation to a quarter of their amount, with a maximum corresponding to 500 UC.

2 - If the continuation of a process initiated by a creditor is hampered by the declaration of insolvency of the debtor in a process subsequently initiated, the privilege referred to in the previous paragraph is attributed to the applicant in the oldest process; in the case provided for in subparagraph b) of paragraph 3 of article 264, the general privilege over the presenting spouse's own movable assets and over their sharing in the common movable assets belongs to the applicant in the process initiated first, without embargo suspension of its terms.

Article 99

Compensation

1 - Without prejudice to what is established in other provisions of this Code, upon declaration of insolvency, holders of insolvency claims may only offset them with mass debts provided that at least one of the following requirements is met: a) The legal assumptions for

compensation prior to the date of declaration of insolvency; b) The insolvency credit must have met the requirements established in article 847 of the Civil Code before the counter-credit of the estate.

2 - For the purposes of paragraphs a) and b) of the previous paragraph, the following are not relevant: a) The loss of benefit provided for in paragraph 1 of article 780 of the Civil Code; b) Early maturity and conversion into cash resulting from the provisions of paragraph 1 of article 91 and article 96.

3 - Compensation is not prejudiced by the fact that the obligations have as their object different currencies or calculation units, if their reciprocal conversion is free at the place of payment of the counter-credit, with the conversion taking place at the exchange rate in force in that place on the date in which the compensation takes effect.

4 - Compensation is not admissible: a)

If the debt to the estate was created after the date of the declaration of insolvency, namely as a result of the resolution of acts for the benefit of the insolvent estate; b) If the insolvency creditor has acquired his credit from another, after the date of the declaration of insolvency; c) With debts of the insolvent for which the estate is not responsible; d) Between mass debts and subordinated credits on insolvency.

Article 100

Suspension of prescription and expiry

The declaration of insolvency determines the suspension of all prescription and expiry periods enforceable by the debtor during the course of the process.

Grades:

[Ruling of the Constitutional Court no. 557/2018 - Official Gazette no. 219/2018, Series I of 2018-11-14](#) Unconstitutionality declared, with general mandatory force, of the rule of article 100 of the Insolvency and Business Recovery Code, approved by Decree-Law no. 53/2004, of March 18, interpreted as meaning that the declaration of insolvency provided for therein suspends the statute of limitations for tax debts attributable to the subsidiary responsible within the scope of the tax process, for violation of article 165, no. 1, subparagraph i), of the Constitution of the Portuguese Republic.

Article 101

Settlement systems

The rules contained in this chapter are applicable without prejudice to anything to the contrary established in articles 283 et seq. of the Securities Code.

Chapter IV

Effects on ongoing business

Article 102.º

General principle regarding business not yet fulfilled

- 1 - Without prejudice to the provisions of the following articles, in any bilateral contract in which, at the date of the declaration of insolvency, there has not yet been full compliance either by the insolvent party or the other party, compliance is suspended until the insolvency administrator declares that he opts for execution or refuse to comply.
- 2 - The other party may, however, set a reasonable period of time for the insolvency administrator to exercise his option, after which he is deemed to refuse compliance.
- 3 - If compliance is refused by the insolvency administrator, and without prejudice to the right to separate the thing, if applicable: a) Neither party is entitled to a refund of what they provided; b) The insolvent estate has the right to demand the value of the consideration corresponding to the provision already made by the debtor, to the extent that it has not yet been made by the other party; c) The other party has the right to demand, as a credit on insolvency, the value of the debtor's payment, in the unfulfilled part, deducted from the value of the corresponding consideration that has not yet been made; d) The right to compensation for losses caused to the other party by non-compliance: i) Only exists up to the value of the obligation eventually imposed under subparagraph b); ii) It is deducted from the amount to which the other party is entitled, pursuant to paragraph c); iii) Constitutes insolvency credit; e) Either party may declare the offsetting of the obligations referred to in subparagraphs c) and d) with that referred to in subparagraph b), up to the respective amounts.
- 4 - The option for execution is abusive if the punctual fulfillment of contractual obligations by the insolvent estate is manifestly unlikely.

Changes

Amended by Article 1 of [Decree-Law no. 200/2004](#) - [Official Gazette no. 194/2004](#), [Series IA of 2004-08-18](#), effective from 2004-09-15

Article 103

Indivisible installments

- 1 - If the contract requires the other party to perform a service that is non-fungible in nature, or that can be divided into the delivery of several things, not easily replaceable, between which there is a functional connection, and the insolvency administrator refuses to comply:) The right referred to in paragraph b) of paragraph 3 of the previous article is replaced by the right to demand from the other party the restitution of what has been provided to them, to the extent of their enrichment at the date of the declaration of insolvency; b) The right provided for in paragraph c) of paragraph 3 of the previous article has as its object the difference, if favorable to the other party, between the values of the total contractual benefits; c) The other party is entitled, as an insolvency creditor, to reimbursement of the cost or to a refund of the value of the part of the provision made prior to the declaration of insolvency, depending on whether or not such provision is non-fungible.

- 2 - The other party has the right, however, to complete its performance and to demand, as a credit on insolvency, the part of the outstanding consideration, in which case the provisions of paragraph 1 and the previous article cease.
- 3 - If the insolvency administrator does not refuse compliance, the other party's right to consideration only constitutes a credit on the estate that exceeds the value of what would be determined by applying the provisions of paragraph c) of paragraph 1, if the insolvency administrator had chosen to refuse compliance.
- 4 - If the fulfillment of a performance of the type referred to in paragraph 1 is imposed by the contract on the insolvent, and the administrator refuses such fulfillment: a) The right referred to in paragraph b) of paragraph 3 of the previous article ceases or is replaced by the right to reimbursement of the value of the part of the payment already made prior to the declaration of insolvency, depending on whether or not that payment is non-fungible in nature; b) The provisions of paragraph b) of paragraph 1 apply, with the other party additionally having the right to reimbursement of what has already been provided, also as a credit on insolvency.
- 5 - If the fulfillment of a payment of the type referred to in paragraph 1 is imposed by contract on the insolvent party and the administrator does not refuse such fulfillment, the other party's right to the debt consideration constitutes, in its entirety, a credit on the estate.
- 6 - If the provision of a non-fungible nature is divided into autonomous installments and one or more of these have already been made, the provisions of the previous paragraphs only apply to the others, with the consideration being distributed among all of them, in the appropriate manner.

Article 104

Sale with retention of title and similar operations

- 1 - In the purchase and sale contract with retention of title in which the seller is the insolvent party, the other party may demand compliance with the contract if the thing has already been delivered to him on the date of declaration of insolvency.
- 2 - The provisions of the previous paragraph apply, in the event of the lessor's insolvency, to the financial leasing contract and to the rental contract with the clause that the leased thing will become the property of the lessee after all agreed rents have been satisfied.
- 3 - If the buyer or lessee is insolvent, and is in possession of the thing, the period set for the insolvency administrator, in accordance with paragraph 2 of article 102, cannot be exhausted before it has elapsed. five days from the date of the meeting to review the report, unless the asset is subject to considerable devaluation during that period and the other party expressly warns the insolvency administrator of this circumstance.
- 4 - The retention of title clause, in contracts for the sale of a specific thing in which the buyer is the insolvent, is only enforceable against the estate if it has been stipulated in writing, up to the moment of delivery of the thing.
- 5 - The effects of refusal of compliance by the administrator, when admissible, are those set out in paragraph 3 of article 102, it being understood that the right set out in the respective paragraph c) has as its object the payment, as a credit on the insolvency, the difference, if positive, between the amount of benefits or rents expected until the end of the contract, updated to the date of the declaration of insolvency by application of the provisions of paragraph 2 of article 91, and the value of the thing in date of refusal, if the other party is the seller or lessor, or the difference, if positive, between this last value and that amount, if the other party is the buyer or lessee.

Article 105

Sale without delivery

- 1 - Without prejudice to the provisions of article 107, if the delivery obligation on the part of the seller has not yet been fulfilled, but the property has already been transferred: a) The insolvency administrator cannot refuse to fulfill the contract, in case of insolvency of the seller;

b) The refusal of compliance by the insolvency administrator, in the event of the buyer's insolvency, has the effects set out in paragraph 5 of the previous article, applicable with the necessary adaptations.

2 - The provisions of the previous paragraph are also applicable, with the necessary adaptations, to contracts translating other real rights of enjoyment.

Article 106

Contract promise

1 - In the case of insolvency of the promisor-seller, the insolvency administrator cannot refuse to fulfill a promissory contract with real effectiveness, if the thing has already been handed over in favor of the promisor-buyer. 2 - The provisions of paragraph 5 of article 104 apply to the refusal to comply with a purchase and sale promissory contract by the insolvency administrator, with the necessary adaptations, whether the insolvency concerns the promisor-buyer or the promisor-seller.

3 - (Revoked).

Changes

Amended by Article 1 of [Decree-Law no. 200/2004](#) - [Official Gazette no. 194/2004](#), [Series IA of 2004-08-18](#), effective from 2004-09-15

Article 107.º

Term operations

1 - If the delivery of goods, or the provision of financial services, which have a market price, has to take place on a certain date or within a certain period, and the date occurs or the period expires after the insolvency has been declared, execution cannot be demanded by either party, and the buyer or seller, as the case may be, is only entitled to payment of the difference between the adjusted price and the market price of the good or financial provision on the 2nd day following the date of execution. declaration of insolvency, in relation to contracts with the same date or deadline for fulfillment, which, if required by the insolvent party, constitutes a credit on insolvency.

2 - In any case, the seller will refund the amounts already paid, being able to offset this obligation with the credit granted to him by the previous number, up to the respective amounts; Since the seller is insolvent, the right to refund constitutes a credit on insolvency for the other party.

3 - For the purposes of the provisions of the previous paragraph, financial benefits are considered, namely:

a) The delivery of securities, except if they are shares representing at least 10% of the company's capital, and are not of a purely financial nature the contractually foreseen settlement; b) The delivery of precious

metals; c) Cash payments whose

amount is directly or indirectly determined by the exchange rate of a foreign currency, the legal interest rate, a calculation unit or the price of other goods or services; d) Options or other rights to the sale or delivery of goods referred to in subparagraphs a) and b) or to payments referred to in subparagraph c).

4 - By integrating several deals on financial benefits into a framework contract that can only be terminated individually in the event of non-compliance, the set of such deals is considered a bilateral contract, for the purposes of this article and article 102. 5 - For forward transactions not covered

by paragraph 1, the provisions of paragraph 5 of article 104 apply, with the necessary adaptations.

Changes

Amended by Article 1 of [Decree-Law no. 200/2004](#) - [Official Gazette no. 194/2004](#), [Series IA of 2004-08-18](#), effective from 2004-09-15

Article 108

Lease in which the lessee is the insolvent

1 - The declaration of insolvency does not suspend the lease contract in which the insolvent party is a tenant, but the insolvency administrator can always terminate it with 60 days' notice, if under the terms of the law or the contract a lower notice.

2 - An exception to the previous paragraph is the case where the leased property is intended for the insolvent's housing, in which case the insolvency administrator may only declare that the right to payment of rents due after 60 days have elapsed since such declaration will not be exercisable in the insolvency proceedings, with the landlord, in this case, having the right to demand, as a credit on insolvency, compensation for losses suffered in the event of eviction due to non-payment of one or more of the aforementioned rents, up to the amount corresponding to a quarter.

3 - Termination of the contract by the insolvency administrator provided for by paragraph 1 requires the payment, as a credit on insolvency, of the remuneration corresponding to the interim period between the date of production of its effects and the end of the stipulated contractual period, or the date by which it would otherwise have been possible for the insolvent party to terminate the contract, deducting the costs inherent to the lessor's provision for that period, as well as the gains obtained through an alternative application of the leased property, provided they are attributable to the early end of the contract, with updating of all amounts, in accordance with paragraph 2 of article 91, for the date on which the denunciation took effect.

4 - The lessor cannot request the termination of the contract after the lessee's declaration of insolvency on any of the following grounds: a) Lack of payment of rent or rentals relating to the period prior to the date of the declaration of insolvency; b) Deterioration of the tenant's financial situation.

5 - If the leased property has not yet been delivered to the lessee on the date of the latter's declaration of insolvency, both the insolvency administrator and the lessor may terminate the contract, with either of them being permitted to set the other a reasonable period of time for this purpose, at the end of which terminates the right of withdrawal.

Article 109

Lease in which the insolvent is the lessor

1 - The declaration of insolvency does not suspend the execution of a lease contract in which the insolvent party is the lessor, and its termination by either party is only possible at the end of the current term, without prejudice to cases of mandatory renewal.

2 - If, however, the thing has not yet been delivered to the lessee on the date of the declaration of insolvency, the provisions of paragraph 5 of the previous article apply, with the necessary adaptations.

3 - The sale of the leased thing in the insolvency process does not deprive the lessee of the rights recognized by civil law in such circumstances.

Article 110.º

Mandate and management contracts

1 - Mandate contracts, including commission contracts, which are not shown to be foreign to the insolvent estate, expire with the declaration of insolvency of the principal, even if the mandate was also granted in the interest of the agent or third party, without the agent is entitled to compensation for the damage suffered.

2 - However, the mandate contract is considered to be maintained: a) If it is necessary for the agent to perform acts to avoid foreseeable losses for the insolvency estate, until the insolvency administrator takes the necessary measures;

b) For the period in which the agent performed functions without knowing, without fault, the declaration of insolvency of the principal.

3 - The agent's remuneration and reimbursement of expenses constitute debt of the insolvent estate, in the case of subparagraph a) of the previous paragraph, and debt of insolvency, in the case of subparagraph b).

4 - The provisions of the previous paragraphs are applicable, with the necessary adaptations, to any other contracts through which the insolvent has entrusted the management of property matters to another, with a minimum of autonomy, namely portfolio management and asset management contracts. patrimony.

Article 111.º

Long-term service provision contract

1 - Contracts that require the performance of a lasting provision of a service in the interest of the insolvent party, and which do not expire as a result of the provisions of the previous article, are not suspended with the declaration of insolvency and may be terminated by any of the parties in accordance with the terms of the paragraph 1 of article 108, applicable with the necessary adaptations.

2 - Early termination of the contract only requires compensation for the damage caused if it is carried out by the insolvency administrator, with the compensation in this case being calculated, with the necessary adaptations, in accordance with paragraph 3 of article 108, and constituting credit for the other party on insolvency.

Article 112.º

Powers of attorney

1 - Except in cases covered by paragraph a) of paragraph 2 of article 110, with the declaration of insolvency of the represented party, powers of attorney relating to the assets forming part of the insolvent estate expire, even if they are also granted in the interest of the attorney-in-fact or third party.

2 - The provisions of paragraphs 6 and 7 of article 81 apply to acts carried out by the attorney after the expiry of the power of attorney, with the necessary adaptations.

3 - The attorney who, through no fault of his own, is unaware of the declared insolvency of the represented party is not responsible to third parties for the ineffectiveness of the transaction resulting from the lack of powers of representation.

Article 113.º

Worker insolvency

1 - The worker's declaration of insolvency does not suspend the employment contract.

2 - Compensation for losses resulting from a possible breach of contractual duties can only be claimed from the insolvent party.

Article 114

Provision of service by the debtor

1 - The provisions of the previous article apply to contracts whereby the insolvent party, being a natural person, is obliged to provide a service, unless this service is part of the activity of the company he owns and is not non-fungible in nature.

2 - Without prejudice to the provisions of the previous paragraph, the provisions of article 111 apply to contracts whose object is the long-term provision of a service by the debtor, with the necessary adaptations, but the duty to compensate only exists if it is the another part the initiative of the complaint.

Changes

Amended by Article 1 of [Decree-Law no. 200/2004](#) - [Official Gazette no. 194/2004](#), [Series IA of 2004-08-18](#), effective from 2004-09-15

Article 115

Assignment and pledge of future credits

1 - If the debtor is a natural person and has assigned or pledged, prior to the declaration of insolvency, future claims arising from an employment or service contract, or the right to future substitute benefits, namely unemployment benefits and pensions of retirement, the effectiveness of the business will be limited to income relating to the period prior to the date of declaration of insolvency, the rest of the current month on that date and the subsequent 24 months.

2 - The effectiveness of the assignment carried out or of the pledge created by the debtor prior to the declaration of insolvency that has as its object rents or rentals due under a lease contract that the insolvency administrator cannot terminate or resolve, under the terms, respectively, of no. 2 of article 104 and paragraph 1 of article 109, is limited, whether or not the debtor is a natural person, to those relating to the period prior to the date of declaration of insolvency, to the remainder of the current month in this date and the following month.

3 - The debtor for credits referred to in the previous paragraphs may offset them with mass debts, without prejudice to the provisions of paragraph b) of paragraph 1 and paragraphs b) to d) of paragraph 4 of article 99 .º

Changes

Amended by Article 1 of [Decree-Law no. 200/2004](#) - [Official Gazette no. 194/2004](#), [Series IA of 2004-08-18](#), effective from 2004-09-15

Article 116.º

Current accounts

The declaration of insolvency implies the termination of current account contracts to which the insolvent party is a party, with the closure of the respective accounts.

Article 117.º

Association in participation

1 - The participating association is terminated by the insolvency of the associating contracting party.

2 - The associated contracting party is obliged to deliver to the partner's insolvent estate his share, not yet satisfied, of the losses in which he must participate, retaining, however, the right to claim, as credit against the insolvency, the payments he has made and should not be included in your share of losses.

Article 118

Complementary group of companies and European economic interest group

1 - Without prejudice to any other provision in the contract, the complementary grouping of companies and the European economic interest grouping shall not be dissolved as a result of the insolvency of one or more members of the grouping.

2 - The member declared insolvent may resign from the complementary group of companies. 3 - Any clause in the contract that obliges the member declared insolvent to compensate for damages caused to the other members or the group is null and void.

Article 119.º***Mandatory rules 1 -***

Any agreement between the parties that excludes or limits the application of the previous rules of this chapter is null and void. 2 - In particular, a clause that attributes to the declaration of insolvency of one of the parties the value of a resolute condition of the business or, in this case, confers on the opposing party a right to compensation, resolution or termination in different terms is void. those provided for in this chapter. 3 - It is permissible for the parties to attribute to any situations prior to the declaration of insolvency the effects provided for in paragraph previous.

Changes

Amended by Article 2 of [Law No. 9/2022](#) - [Official Gazette No. 7/2022](#), [Series I of 2022-01-11](#), effective from 2022-04-11

Chapter V***Resolution for the benefit of the insolvent estate*****Article 120*****General principles***

- 1 - Acts harmful to the estate carried out within the two years prior to the start of the insolvency process may be resolved for the benefit of the insolvency estate.
- 2 - Acts that reduce, frustrate, hinder, endanger or delay the satisfaction of insolvency creditors are considered harmful to the public.
- 3 - Acts of any of the types referred to in the following article are presumed to be harmful to the public, without admitting evidence to the contrary, even if carried out or omitted outside the time limits set out therein.
- 4 - Except in the cases referred to in the following article, the resolution presupposes the bad faith of the third party, which is presumed in relation to acts whose practice or omission occurred within the two years prior to the beginning of the insolvency process and in which they participated or that a person specially related to the insolvent person took advantage of, even if the special relationship did not exist at that date.
- 5 - Bad faith is understood as knowledge, at the date of the act, of any of the following circumstances:
 - a) That the debtor was in a situation of insolvency; b) The harmful nature of the act and the fact that the debtor was at the time in a situation of imminent insolvency; c) The beginning of the insolvency process.
- 6 - Legal transactions concluded within the scope of a special revitalization process or a special process for payment agreements regulated in this diploma, recovery or sanitation measures, or adoption of measures are not subject to resolution by application of the rules set out in this chapter. of resolution provided for in title VIII of the General Regime of Credit Institutions and Financial Companies, approved by Decree-Law no. 298/92, of December 31, as well as those carried out within the scope of the Extrajudicial Regime for Company Recovery or other equivalent procedure provided for in special legislation, the purpose of which is to provide the debtor with sufficient financing to enable recovery.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017](#) - [Official Gazette No. 125/2017](#), [Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 2 of [Law No. 16/2012](#) - [Official Gazette No. 79/2012](#), [Series I of 2012-04-20](#), effective from 2012-05-20

Article 121***Unconditional resolution***

1 - The following acts may be resolved for the benefit of the insolvent estate, without any other requirements: a) Partition concluded less than one year before the date on which the insolvency proceedings began in which the insolvent's share was essentially filled with assets easy to evade, with co-interested parties being responsible for most of the properties and nominal values; b) Acts executed by the debtor free of charge within the two years prior to the date on which the insolvency process began, including the repudiation of an inheritance or legacy, with the exception of donations in accordance with social customs; c) Creation by the debtor of real guarantees relating to pre-existing obligations or others that replace them, in the six months prior to the start date of the insolvency process; d) Guarantee, sub-guarantee, endorsement and credit mandates, which the insolvent has granted in the period referred to in the previous paragraph and which do not relate to business operations of real interest to him; e) Creation by the debtor of real guarantees simultaneously with the creation of the guaranteed obligations, within 60 days prior to the date on which the insolvency process begins; f) Payment or other acts of extinguishment of obligations whose due date was after the date on which the insolvency process began, occurring in the six months prior to the date on which the insolvency process began, or after this date but before the due date; g) Payment or other form of termination of obligations made within the six months prior to the date of initiation of insolvency proceedings under terms that are unusual in legal commerce and that the creditor could not demand; h) Acts for consideration carried out by the insolvent within the year prior to the date on which the insolvency proceedings began, in which the obligations assumed by him clearly exceed those of the counterparty; i) Reimbursement of supplies, when it takes place within the same period referred to in the previous paragraph.

2 - The provisions of the previous paragraph give way to legal norms that exceptionally always require bad faith or the verification of other requirements.

Changes

Amended by Article 1 of [Decree-Law no. 200/2004 - Official Gazette no. 194/2004, Series IA of 2004-08-18](#), effective from 2004-09-15

Article 122.º***Payment systems***

Acts within the scope of a payment system as defined by paragraph a) of article 2 of Directive no. [98/26/EC](#) cannot be subject to resolution. of the European Parliament and the Council, of 19 May, or equivalent.

Article 123.º***Method of resolution and prescription of the right***

- 1 - Resolution may be carried out by the insolvency administrator by registered letter with acknowledgment of receipt within six months following knowledge of the act, but never more than two years after the date of the declaration of insolvency.
- 2 - However, as long as the deal is not completed, the resolution can be declared, without depending on the deadline, by way of exception.

Article 124

Opposability to transmitters

- 1 - The enforceability of the resolution of the act against subsequent transferees presupposes their bad faith, except in the case of universal successors or if the new transmission took place free of charge.
- 2 - The provisions of the previous paragraph are applicable, with the necessary adaptations, to the constitution of rights over assets transferred for the benefit of third parties.

Article 125

Challenge of the resolution

The right to challenge the resolution expires within three months, with the corresponding action being filed against the insolvent estate, as a condition of the insolvency process.

Changes

Amended by Article 2 of [Law No. 16/2012](#) - [Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 126

Effects of resolution

- 1 - The resolution has retroactive effects, and the situation that would have existed if the act had not been carried out or omitted, depending on the case, must be reconstituted.
- 2 - The action brought by the insolvency administrator for the purpose set out in the previous paragraph is dependent on the insolvency process.
- 3 - The sanctions provided for in the law of procedure for the depositary of seized goods who fail to timely deliver them are applied to the third party who does not present the goods or values that must be returned to the estate within the period set in the sentence.
- 4 - The return of the object provided by the third party only takes place if it can be identified and separated from those that belong to the remaining part of the estate.
- 5 - If the circumstance set out in the previous paragraph does not occur, the obligation to repay the corresponding amount constitutes a debt of the insolvent estate to the extent of its enrichment on the date of the declaration of insolvency, and a debt of the insolvency in terms of any remaining amount.
- 6 - The obligation to reimburse the purchaser free of charge only exists to the extent of his or her own enrichment, except in the case of bad faith, real or presumed.

Article 127.º

Paulian objection

- 1 - Insolvency creditors are prohibited from initiating new actions to challenge acts carried out by the debtor whose resolution has been declared by the insolvency administrator.
- 2 - Paulian challenge actions pending at the date of declaration of insolvency or proposed subsequently will not be attached to the insolvency process, and, in the event of resolution of the act by the insolvency administrator, their terms will only continue if such resolution is declared ineffective by a definitive decision, which will have binding force in the context of those actions regarding the issues it has assessed, as long as it does not offend a case res judicata of previous formation.
- 3 - Once the objection action is judged to be valid, the interest of the creditor who initiated it is assessed, for the purposes of article 616 of the Civil Code, without taking into account the modifications introduced to its credit by a possible insolvency or payment plan.

Title V

Credit verification. Restitution and separation of assets

Chapter I

Credit check

Article 128

Claiming credits

- 1 - Within the period set for this purpose in the insolvency declaratory judgment, insolvency creditors, including the Public Prosecutor's Office in defending the interests of the entities it represents, must request verification of their credits by means of an application, accompanied by all documents evidence available to them, which indicates: a) Its origin, maturity date, amount of capital and interest; b) The conditions to which they are subject, both suspensive and resolute; c) Their common, subordinate, privileged or guaranteed nature, and, in the latter case, the assets or rights subject to the guarantee and respective registration identification data, if applicable; d) The existence of any personal guarantees, with identification of the guarantors; e) The applicable default interest rate. f) The bank identification number or other equivalent.
- 2 - The application is addressed to the insolvency administrator and presented by electronic data transmission, under the terms defined in the ordinance provided for in paragraph 2 of article 17.
- 3 - Whenever the insolvency creditors are not sponsored, the application for claiming credits is presented at the professional address of the insolvency administrator or sent there by email or registered post, and the administrator must, respectively, sign at the time of delivery, or send to the creditor within three days of receipt, proof of receipt, with the sending being made in the form used in the complaint.
- 4 - The claim for credits provided for in paragraph 1 may be made using the form made available for this purpose on the portal to be defined by order of the member of the government responsible for the area of justice or through the standard form for claiming claims provided for in articles 54 and 55 of Regulation (EU) no. 2015/848 of the European Parliament and of the Council, of 20 May 2015, in cases where that regulation is applicable.
- 5 - The purpose of verification is all insolvency claims, whatever their nature and basis, and even a creditor who has his claim recognized by a definitive decision is not exempt from claiming it in the insolvency process, if he wishes to do so. get payment.

Changes

Amended by Article 2 of [Law No. 9/2022](#) - [Official Gazette No. 7/2022](#), [Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 3 of [Decree-Law No. 79/2017](#) - [Official Gazette No. 125/2017](#), [Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 2 of [Law No. 16/2012](#) - [Official Gazette No. 79/2012](#), [Series I of 2012-04-20](#), effective from 2012-05-20

Article 129

List of recognized and unrecognized credits

(effective from: 2022-08-25)

1 - Within 15 days following the end of the deadline for complaints, the insolvency administrator presents to the secretariat a list of all creditors recognized by him and a list of those not recognized, both in alphabetical order, in relation not only to those who have filed a complaint but also to those whose rights are included in the debtor's accounts or are otherwise known to them, as well as a proposal for the classification of recognized creditors, which takes as a reference the predictable composition of the insolvent estate and respects the provisions of paragraph 2 of the article 140 and in paragraph d) of paragraph 1 of article 241.

2 - The list of recognized creditors includes the identification of each creditor, the nature of the credit, the amount of capital and interest at the date of the expiry of the claims period, the personal and real guarantees, the privileges, the applicable default interest rate, any suspensive or resolute conditions and the value of the assets forming part of the insolvent estate on which real guarantees apply for credits for which the debtor is not personally liable.

3 - The list of unrecognized creditors indicates the reasons justifying non-recognition.

4 - All unrecognized creditors, as well as those whose credits are recognized without having claimed them, or in terms different from those of the respective claim, must be notified of this by the insolvency administrator, by registered letter or by one of the means provided for in paragraphs 2 and 3 of article 128 and in the case of known creditors who have their habitual residence, domicile or registered office in a Member State other than the one in which the case was opened, including tax authorities and security bodies of these Member States, the notice is also made in accordance with article 54 of Regulation (EU) no. 2015/848 of the European Parliament and of the Council, of May 20, 2015.

5 - The communication referred to in the previous paragraph may be made by email in cases where the claim for credits has been made by this means and is considered to have been made on the date of its sending, and the insolvency administrator must add proof of the same to the file. .

Changes

Amended by Article 2 of [Decree-Law No. 57/2022 - Official Gazette No. 164/2022, Series I of 2022-08-25](#), effective from 2022-08-26

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 130

Challenge to the list of recognized creditors

(effective from: 2022-08-25)

1 - Within 10 days following the end of the period set out in paragraph 1 of the previous article, any interested party may challenge the list of recognized creditors by means of a request addressed to the judge, based on the undue inclusion or exclusion of credits, or the incorrectness of the amount or qualification of recognized credits.

2 - For creditors notified by registered letter, the 10-day period starts from the 3rd business day following the date of the respective dispatch.

3 - If there are no objections, a judgment is immediately issued to verify and graduate the credits, in which, except in the case of a manifest error, the list of recognized creditors drawn up by the insolvency administrator is approved and the credits are graduated taking into account what appears on this list, and the judge, if he agrees with the graduation proposal prepared by the insolvency administrator, may approve the aforementioned proposal.

Changes

Amended by Article 2 of [Decree-Law No. 57/2022 - Official Gazette No. 164/2022, Series I of 2022-08-25](#), effective from 2022-08-26

Article 131.º

Response to the objection

- 1 - The insolvency administrator and any interested party who takes a contrary position, including the debtor, may respond to any of the objections.
- 2 - If, however, the objection is based on the undue inclusion of a certain credit in the list of recognized creditors, the failure to indicate the conditions to which it is subject or the fact that it has been allocated an excessive amount or a higher grade qualification to the correct answer, only the owner himself can respond.
- 3 - The response must be presented within 10 days following the end of the period referred to in the previous article or notification to the holder of the credit subject to the challenge, as the case may be, under penalty of the challenge being judged valid.

Changes

Amended by Article 1 of [Decree-Law no. 200/2004](#) - [Official Gazette no. 194/2004, Series IA of 2004-08-18](#), effective from 2004-09-15

Article 132.º***Filing of objections and responses***

The lists of credits recognized and not recognized by the insolvency administrator, the challenges and responses are recorded in a single attachment.

Article 133.º***Examination of the insolvent's complaints and registration documents***

During the period set for objections and responses, and so that they can be examined by any interested party and by the committee of creditors, the insolvency administrator must patent the claims of credit, the documents supporting them and the insolvent's bookkeeping documents in the most appropriate place, which is indicated at the end of the lists of recognized and unrecognized creditors.

Changes

Amended by Article 1 of [Decree-Law no. 200/2004](#) - [Official Gazette no. 194/2004, Series IA of 2004-08-18](#), effective from 2004-09-15

Article 134***Evidence, copies and exemption from notification***

- 1 - The provisions of paragraph 2 of article 25 apply to objections and responses.
- 2 - Only two duplicates of the pleadings and documents accompanying them are offered by the applicant or, in the case of presentation in digital format, extracted by the secretariat, one of which is intended for the court archive, the other remaining at the judicial secretariat, for consultation of interested parties.
- 3 - The exception is the case where the objection has as its object recognized claims and is not presented by the holder himself, in which an additional copy will be attached or extracted, for delivery to the respective holder.
- 4 - Challenges will only be notified to the holders of the credits to which they relate, if they are not the challengers themselves.
- 5 - During the period for objections and responses, the process is kept at the judicial secretariat for examination and consultation by interested parties.

Changes

Amended by Article 1 of [Decree-Law no. 200/2004](#) - [Official Gazette no. 194/2004, Series IA of 2004-08-18](#), effective from 2004-09-15

Article 135***Opinion of the creditors committee***

Within 10 days after the deadline for responding to objections, the creditors' committee must add its opinion on the objections to the file.

Article 136***Process sanitation***

1 - Along with the opinion of the committee of creditors or after the period set out in the previous article has elapsed without such joining occurring, the judge declares the credits included in the respective list and not contested to be verified with the value of a sentence, except in the case of a manifest error, and may designate a day and time for an attempt at conciliation to be carried out within the following 10 days, for which all those who have submitted objections and responses are notified, in order to appear in person or to be represented by attorneys with special powers to compromise. , the creditors committee and the insolvency administrator.

2 - In the attempt at conciliation, credits that deserve the approval of all those present and in the precise terms in which they are recognized are considered to be recognized.

3 - Once the conciliation attempt is concluded, the process is immediately concluded before the judge, so that an order can be issued, in accordance with the terms set out in articles 595 and 596 of the Code of Civil Procedure.

4 - (Revoked.)

5 - Other credits that may be recognized in the light of the evidence contained in the file are also considered recognized.

6 - The sanitary order has, with regard to recognized credits, the form and value of a sentence, which declares them verified and grades them in harmony with the legal provisions.

7 - Credits whose verification or graduation requires the production of proof are provisionally verified and graduated in accordance with the terms of the previous number, observing the provisions of paragraph 1 of article 180.

8 - If the judge understands that it is not appropriate to attempt conciliation, he or she will immediately issue the expected order in no. 3.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 137.º***Instructive measures***

If there are evidentiary measures to be carried out before the discussion and trial hearing, the judge orders the necessary measures so that they are completed within 20 days from the order that determined them, making use of the evidence produced by any of them to all interested parties.

Article 138***Designation of the day for the hearing***

Once the evidence has been produced or the deadline indicated in the letters has expired, the discussion and trial hearing is scheduled for one of the 10 subsequent days.

Article 139.º***Court hearing***

At the trial hearing, the terms established for the common process are observed, with the following specialties: a) Whenever necessary, either the insolvency administrator or the creditors committee will be heard, at the time the court determines; b) Evidence is produced in the order in which the objections were presented; c) In the discussion, first the lawyers of the challengers and then those of the respondents may speak, with no place for a reply.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Article 140***Verdict***

- 1 - At the end of the trial hearing, the judge delivers a sentence verifying and grading the credits, within the following 10 days.
- 2 - Graduation is general for the assets of the insolvent estate and is special for assets to which real guarantee rights and credit privileges respect.
- 3 - In the grading of credits, the preference resulting from judicial mortgage is not met, nor that arising from seizure, but the costs paid by the author or judgment creditor constitute debts of the insolvent estate.

Chapter II***Restitution and separation of assets*****Article 141*****Applicability of provisions relating to complaints and verification of credits***

- 1 - The provisions relating to complaints and verification of credits are equally applicable: a) The complaint is not subject to notification, and complies with the provisions of paragraphs 1 and 5 of article 134; b) Complaining and verifying the right of the spouse to separate their own assets and their share in the common assets from the insolvent estate; c) The claim aimed at separating from the estate the unduly seized third-party assets and any other assets, of which the insolvent party does not have full and exclusive ownership, or are foreign to the insolvency or not susceptible to seizure for mass.
- 2 - The applicability of the provisions relating to complaints and verification of credits takes place with the following adaptations, in addition to others that may be necessary: a) The complaint is not the subject of notifications, and complies with the provisions of paragraphs 1 and 4 of the article 134; b) Replies to complaints may be presented by the insolvency administrator or any interested party within 10 days following the end of the period for lodging claims set out in the decision declaring insolvency, and the complainant has the possibility of responding to them within 5 days subsequent; c) At the hearing, evidence is produced in the order in which the complaints were presented and, in the discussion, the complainants' lawyers speak first and only then those of the contesting parties.
- 3 - The separation of the assets referred to in paragraph 1 may also be ordered by the judge, at the request of the insolvency administrator, instructed with a favorable opinion from the creditors' committee, if any.

4 - When the complaint concerns goods or other movable things, the complainant must prove the identity of those belonging to him, unless they are fungible.

5 - If the goods sent to the insolvent party as a consignment or commission are sold on credit, the principal may claim the price owed by the buyer, in order to receive it from him.

Changes

Amended by Article 1 of [Decree-Law no. 200/2004](#) - [Official Gazette no. 194/2004](#), [Series IA of 2004-08-18](#), effective from 2004-09-15

Article 142.º

Loss of possession of goods to be returned

1 - If the things that the insolvent person must return are not in their possession on the date of the declaration of insolvency, the insolvency administrator may recover them, if this is more convenient for the insolvent estate than payment to their owner, as credit on insolvency, the value they had on that date or compensation for the expenses resulting from their recovery.

2 - If possession is lost after the things that must be returned have been seized from the insolvent estate, the holder has the right to receive their full value from the estate.

Article 143.º

Complaint of own rights, outside of insolvency

The insolvent party, as well as their spouse, is permitted, without the need for authorization from the other spouse, to claim their own rights, outside of insolvency.

Article 144

Restitution or separation of late seized assets

1 - If assets are seized for the masses, after the deadline set for complaints has expired, it is still permitted to exercise the right to return or separate these assets within five days following the seizure, by means of a request, attached to the main process .

2 - After mentioning the creditors, by 10-day edicts, the debtor and the insolvency administrator, to contest within the immediate 5 days, the terms of the credit verification process follow, with the necessary adaptations, namely those contained of paragraph 2 of article 141.º

Article 145

Provisional delivery of movable assets

1 - A claimant for the restitution of certain movable property may be granted provisional delivery, subject to a deposit provided in the process itself.

2 - If the complaint is definitively judged unfounded, the goods provisionally delivered or the value of the deposit will be returned to the estate.

Chapter III

Further verification**Article 146*****Subsequent verification of credits or other rights***

1 - After the deadline for complaints, it is possible to recognize other credits, as well as the right to separation or restitution of assets, in order to be attended to in the insolvency process, through action proposed against the insolvent estate, the creditors and the debtor, summoning creditors through an electronic notice published on the Citius portal, considering those cited to have elapsed five days after the date of its publication.

2 - The right to separation or restitution of assets may be exercised at any time, but the claim of other credits, under the terms of the previous paragraph:

a) It cannot be presented by creditors who have been notified under the terms of article 129, except in the case of credits created later; b) It can only be carried out within six months

following the final judgment of the declaration of insolvency, or within three months following the respective constitution, if it ends later.

3 - Once the action is proposed, the secretariat, ex officio, draws up a term in the main insolvency process in which it identifies the attached action and the complainant and reproduces the request, which is equivalent to a protest term.

4 - The case ends and the effects of the protest expire if the author, negligently, fails to promote the terms of the case for 30 days.

Changes

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Amended by Article 9 of [Decree-Law no. 185/2009 - Official Gazette no. 155/2009, Series I of 2009-08-12](#), effective from 2009-08-17

Article 147.º***Expiration of the effects of the protest***

If the effects of the protest expire, the following is observed: a) In

the case of an action to verify credit, the creditor only acquires the right to enter into the apportionments subsequent to the final judgment of the respective sentence for the credit that may be verified, even if it is guaranteed or privileged credit; b) In the case of an action to verify the right to restitution or separation of assets, the author can only make effective the rights that are recognized in the respective final judgment, in relation to assets that have not yet been liquidated at that time; If the assets have already been liquidated, in whole or in part, the sale is effective and the author is only pocketed the respective product, which can be determined, or, when this cannot be determined, the value that has been fixed in the inventory; c) To satisfy the credit referred to in the last part of the previous paragraph, the author can only obtain payment for amounts that have

not already been included in a previous withdrawal or apportionment, conditionally or definitively, nor are they safeguarded by third parties, due to appeal or of protest drawn up under the terms of the previous article and that, therefore, there are free assets in the insolvent estate, with respect to the preference that accrues to it, as credit over the insolvent estate.

Changes

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 148***Consolidation of shares and applicable form***

The actions referred to in this chapter are attached to the insolvency records and follow the terms of the common process, with the respective costs being borne by the author, if no defense is filed.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017](#) - [Official Gazette No. 125/2017](#), [Series I of 2017-06-30](#), effective from 2017-07-01

Title VI***Administration and liquidation of insolvent estate*****Chapter I*****Conservatory measures*****Article 149.º*****Seizure of assets***

- 1 - Once the declaratory judgment of insolvency has been issued, the accounting elements and all assets forming part of the insolvent estate will be immediately seized, even if they have been: a) Arrested, seized or otherwise seized or detained, whether in whatever process, with the exception only of those that have been apprehended due to an infraction, whether of a criminal nature or of a mere social order; b) Object of assignment to creditors, in accordance with articles 831 et seq. of the Civil Code.
- 2 - If the assets have already been sold, the purpose of the seizure is the proceeds of the sale, if this has not yet been paid to creditors or distributed among them.

Article 150.º***Delivery of seized goods***

- 1 - The power of seizure results from the declaration of insolvency, and the insolvency administrator must take steps, without prejudice to the provisions of paragraphs 1 and 2 of article 756 of the Code of Civil Procedure, so that the assets are immediately delivered to him, so that they become depositary, the deposit being governed by general rules and, in particular, by those that govern the judicial deposit of seized assets.
- 2 - The seizure is carried out by the insolvency administrator himself, assisted by the creditors' committee or by a representative thereof, if any, and, when convenient, in the presence of the creditor requesting insolvency and the insolvent person himself.
- 3 - Whenever it is not convenient for the insolvency administrator to do so personally, the seizure of assets located in a district other than that of the insolvency is carried out by means of deprecated, with these assets being entrusted to a special depositary, but at the order of the insolvency administrator.
- 4 - Seizure is made by listing, or by direct delivery through a balance sheet, in accordance with the following rules: a) If the assets are already entrusted to a judicial depositary, the respective deposit will be maintained, although they will become available and at the exclusive order of the insolvency administrator; b) If you encounter difficulties in taking care of the assets or have doubts about which assets are included in the deposit, the insolvency administrator may request that the court official go to the location where the assets are located, in order to overcome the difficulties or clarify the doubts, effective delivery will be made to you; c) When faced with opposition or resistance to the seizure, the insolvency administrator himself may request assistance from the public force, and it is then permissible to break into a door or safe and draw up a report of the incident;

d) The listing consists of the description, evaluation and deposit of the assets;
 e) Either in the listing or in the delivery by balance sheet, the insolvency administrator, or his assistant, is drawn up in a document describing the assets, in numbered sums, as in an inventory, declaring, whenever convenient, the value fixed by praise, the delivery to the insolvency administrator or special depository is highlighted and all relevant occurrences of interest to the process are mentioned; f) The report is signed by the person who witnessed the investigation and by the owner or holder of the seized values or, when he cannot or does not want to sign, by the two witnesses who can be used. 5 - The provisions of article 862 of the Civil Procedure Code apply to the vacancy of the house where the insolvent person usually resides.

6 - Sums received in cash by the insolvency administrator must be immediately deposited in a bank account held by the insolvency estate, in a credit institution chosen by the insolvency administrator.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Article 151

Joining the list and balance sheet to the files

The insolvency administrator attaches, as an annex to the insolvency process, the record and balance sheet relating to all seized assets, or a copy thereof, when carried out in a deprecated district.

Article 152.º

Advertising the composition of the insolvent estate

1 - As soon as the liquidation and sharing of the insolvent estate begins or when there is an advance sale under the terms of article 158, the insolvency administrator publicizes the composition of the estate by means of an advertisement published on the portal to be defined by order of the responsible member of the Government by the area of justice, proving this fact in the records within five days.

2 - Whenever the insolvent estate comprises a company, the announcement referred to in paragraph 1 will also contain such mention, if applicable, of the differentiation of assets by business area and also that the disposal will preferably be carried out as a whole, in accordance with the terms of the article 162.º

3 - For assets located and seized after the start of liquidation and sharing, the provisions of the previous paragraphs apply, with due adaptations.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Repealed by Article 34 of [Decree-Law no. 116/2008 - Official Gazette no. 128/2008, Series I of 2008-07-04](#)

Chapter II

Inventory, list of creditors and insolvency practitioner report

Article 153.º

Inventory

- 1 - The insolvency administrator prepares an inventory of the assets and rights included in the insolvency estate on the date prior to the report, indicating their value, nature, characteristics, location, rights that encumber them, and registration identification data, if applicable.
- 2 - If the values of the assets or rights are different depending on whether or not the company continues, the insolvency administrator records both values in the inventory.
- 3 - Being particularly difficult, the valuation of assets or rights can be entrusted to experts.
- 4 - The inventory includes a list of all disputes whose outcome may affect its content.
- 5 - The judge may waive the preparation of the inventory, upon a reasoned request from the insolvency administrator, with the favorable opinion of the creditors' committee, if any.

Article 154

Provisional list of creditors

- 1 - The insolvency administrator draws up a provisional list of creditors who appear in the debtor's accounts, have claimed their credits or are otherwise known to them, in alphabetical order, indicating their address, amount, basis, nature guaranteed, privileged, common or subordinated nature of credits, subordination to conditions, possibilities of compensation and the value of the assets included in the insolvent estate on which real guarantees of credits for which the debtor is not personally responsible apply, for the purposes set out in paragraph 7 of article 73, if applicable.
- 2 - The list also contains an assessment of the debts of the insolvent estate in the event of prompt liquidation.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017](#) - [Official Gazette No. 125/2017](#), [Series I of 2017-06-30](#), effective from 2017-07-01

Article 155

Report

- 1 - The insolvency administrator prepares a report containing:
 - a) Analysis of the elements included in the document referred to in paragraph c) of paragraph 1 of article 24;
 - b) Analysis of the state of the debtor's accounting and its opinion on the accounting and financial information documents attached to the file by the debtor;
 - c) Indication of the prospects for maintaining the debtor's company, in whole or in part, the convenience of approving an insolvency plan, and the resulting consequences for creditors in the different imaginable scenarios;
 - d) Whenever it appears convenient to approve an insolvency plan, the remuneration proposed to be received for drawing up the same;
 - e) All elements that in your opinion may be important for the subsequent processing of the process.
- 2 - The inventory and provisional list of creditors are attached to the report.
- 3 - The report and its annexes must be added to the case file at least eight days before the date of the meeting to assess the report.

Chapter III

Sale off

Section I
Applicable regime

Article 156

Deliberations of the meeting of creditors to consider the report

- 1 - At the report assessment meeting, the debtor, the creditors committee and the workers committee or workers' representatives must be given the opportunity to comment on the report.
- 2 - The meeting of creditors evaluating the report decides on the closure or maintenance of the establishment or establishments included in the insolvent estate.
- 3 - If the meeting entrusts the insolvency administrator with the responsibility of drawing up an insolvency plan, it may determine the suspension of the liquidation and sharing of the insolvency estate
- 4 - The suspension determined by the assembly ceases: a) If the plan is not presented by the insolvency administrator in the following 60 days; or b) If the plan presented is not subsequently admitted, approved or approved.
- 5 - The suspension of liquidation does not prevent the sale of the assets of the insolvent estate, in accordance with the provisions of paragraph 2 of article 158.
- 6 - The assembly may, at a subsequent meeting, modify or revoke the decisions taken.

Article 157.º

Early closing

The insolvency administrator may close the debtor's establishments, or one or more of them, prior to the meeting to review the report: a) With the favorable opinion of the creditors' committee, if any; b) As long as the debtor does not object, if there is no committee of creditors, or if, despite the debtor's opposition, the judge authorizes it on the grounds that postponing the measure until the date of the said meeting would result in a considerable reduction in the estate insolvent.

Article 158

Start of sale of goods

- 1 - Once the insolvency declaratory judgment has become final and the meeting to assess the report has taken place, the insolvency administrator promptly proceeds with the sale of all seized assets to the insolvent estate, regardless of the verification of liabilities, to the extent that both if they do not oppose the deliberations taken by the creditors at the said meeting, presenting in the records, for this purpose, within 10 days from the date of the meeting to review the report, a settlement plan for the sale of the assets, containing temporal targets defined and the enunciation of the concrete steps to be taken.
- 2 - The insolvency administrator promotes, however, the early sale of assets of the insolvent estate that cannot or should not be preserved as they are subject to deterioration or depreciation.
- 3 - If the insolvency administrator decides to promote the early sale of assets under the terms of the previous paragraph, he/she will communicate this fact to the debtor, the committee of creditors, where applicable, and the judge at least two working days in advance. of the sale and publishes it on the Citius portal.
- 4 - The judge, on his own initiative or at the request of the debtor, the committee of creditors or any of the insolvency creditors or the insolvent estate, may prevent the early sale of assets referred to in paragraph 2, with this decision being made immediately

communicated to the insolvency administrator, the debtor, the committee of creditors, as well as the creditor who requested it and is not subject to appeal.

5 - In the application referred to in the previous paragraph, the interested party must, with justification, indicate the reasons justifying the non-completion of the sale and must present, whenever possible, a viable alternative to the operation intended by the insolvency administrator.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 159

Co-ownership and indivision

Once the right to restitution or separation of undivided assets has been verified or the existence of assets owned by the insolvent party has been established, only the right that the insolvent party has over these assets is liquidated in the insolvency process.

Article 160

Controversial ownership assets

1 - If a claim, request for restitution or separation is pending in relation to assets seized for the insolvent estate, these assets will not be liquidated until there is a final and unappealable decision, except: a) With the consent of the interested party; b) In the case of advance sales carried out in

accordance with paragraph 2 of article 158; c) If the acquirer is advised of the dispute regarding ownership, and accepts that the respective area is entirely his responsibility.

2 - In the event of subparagraph c) of the previous paragraph, when the sale is communicated by the insolvency administrator to the court in question, the procedural substitution is considered to have taken place without further ado, regardless of the acquirer's authorization or the agreement of the opposing party.

Article 161

Need for consent

1 - The practice of legal acts that assume special relevance for the insolvency process depends on the consent of the committee of creditors, or, if this does not exist, of the assembly of creditors.

2 - When classifying an act as being of special importance, consideration is given to the risks involved and their repercussions on the subsequent course of the process, the prospects for satisfying insolvency creditors and the company's susceptibility to recovery.

3 - The following constitute, in particular, acts of special importance: a) The sale of the company, establishments or all stocks; b) The disposal of assets necessary for the continued operation of the company, prior to its closure; c) The sale of shares in other companies designed to guarantee the establishment of a lasting relationship with them; d) The acquisition of properties; e) The conclusion of new lasting contracts; f) The assumption of third party obligations and the creation of guarantees;

g) The sale of any asset of the company for a price equal to or greater than (euro) 10000 and which represents at least 10% of the value of the insolvent estate, as existing on the date of the declaration of insolvency, except in the case of assets of current assets or it is easy to replace them with another of the same nature.

4 - The intention to carry out sales that constitute acts of special importance through private negotiation as well as the identity of the acquirer and all other conditions of the deal must be communicated not only to the creditors committee, if any, but also to the debtor, at least in advance 15 days from the date of the transaction.

5 - The judge orders the sale to be suspended and convenes the meeting of creditors to give their consent to the transaction, if this is requested by the debtor or by a creditor or group of creditors whose credits represent, in the judge's estimate, at least one fifth of the total unsubordinated credits, and the applicant demonstrates the plausibility that the sale to another interested party would be more advantageous for the insolvent estate.

Article 162.º

Disposal of the company

1 - The company included in the insolvent estate is sold as a whole, unless there is no satisfactory proposal or an advantage is recognized in the liquidation or separate sale of certain parts.

2 - Once his duties have begun, the insolvency administrator immediately takes steps to sell the debtor's company or its establishments.

Article 163.º

Effectiveness of acts

Violation of the provisions of the two previous articles does not prejudice the effectiveness of the insolvency administrator's acts, except if the obligations assumed by him clearly exceed those of the counterparty.

Article 164

Types of alienation

1 - The insolvency administrator proceeds with the disposal of assets preferably through sale via electronic auction, and may, justifiably, opt for any of the modalities admitted in executive proceedings or any other method deemed more convenient.

2 - The creditor with a real guarantee on the asset to be sold is always consulted about the type of sale, and informed of the fixed base value or the proposed sale price to a determined entity.

3 - If, within a week, or later but in good time, the secured creditor proposes the acquisition of the asset, by itself or through a third party, at a price higher than the projected sale or the fixed base value, the insolvency administrator, If you do not accept the proposal, you are obliged to place the creditor in the situation that would result from the sale at that price, if it were to occur at a lower price.

4 - The proposal provided for in the previous paragraph is only effective if it is accompanied, as a deposit, by a check made payable to the insolvent estate, in the amount of 10% of the amount of the proposal, applying, with the necessary adaptations, the provisions of articles 824 and 825 of the Civil Procedure Code.

5 - If the asset has been given as a guarantee for a debt of a third party that is not yet due, for which the insolvent party is not personally liable, the sale may take place with this encumbrance, except if this would prejudice the satisfaction of credit, with a prevailing guarantee, already due or for which personal responsibility exists. 6 - For the sale of a property, or fraction of a property, on which an urban construction has been built, or is in the process of being built, the provisions of paragraph 6 of article 833 of the Code of Civil Procedure apply, not only when it takes place through negotiation

particularly when it takes the form of direct sales.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 1 of [Decree-Law no. 282/2007 - Official Gazette no. 151/2007, Series I of 2007-08-07](#), effective from 2007-08-08

Amended by Article 1 of [Decree-Law no. 200/2004 - Official Gazette no. 194/2004, Series IA of 2004-08-18](#), effective from 2004-09-15

Article 165

Secured and preferred creditors

For secured creditors who acquire assets included in the insolvent estate and for holders of preemptive rights, legal or conventional with real effectiveness, the provisions for the exercise of their respective rights in the sale in enforcement proceedings apply.

Article 166

Delay in the sale of property subject to real guarantee

1 - Once the insolvency declaration has become final and the report is held to review the report, the creditor with a real guarantee must be compensated for the loss caused by the delay in the sale of the asset subject to the guarantee that is not attributable to him, as well as the devaluation of the even resulting from its use for the benefit of the insolvent estate.

2 - The insolvency administrator may choose to fully satisfy a credit with a real guarantee at the expense of the insolvent estate before proceeding with the sale of the asset subject to the guarantee, provided that payment takes place after the date set out in paragraph 1 of article 158 .º for the beginning of the sale of the goods.

Article 167

Deposit of liquidation proceeds 1 -

As the settlement takes place, its proceeds are deposited into the bank account held by the insolvent estate, in accordance with the provisions of paragraph 6 of article 150.

2 - When there is a committee of creditors, the movement of the deposit made, whatever its form, can only be done with the joint signature of the insolvency administrator and at least one of the members of the committee.

3 - Whenever relatively long periods of immobilization of deposited funds are foreseen, they must be invested in methods without great risk and which receive the prior favorable opinion of the creditors' committee, if any, or the largest creditor.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Article 168

Takeover ban

1 - The insolvency administrator may not acquire, directly or through an intermediary, assets or rights included in the insolvency estate, whatever the type of sale.

2 - The insolvency administrator who violates the provisions of the previous paragraph is dismissed for just cause and returns the illicitly acquired asset or right to the estate, without the right to recover the payment made.

Article 169

Deadline for settlement

At the request of any interested party, the judge decrees the dismissal, with just cause, of the insolvency administrator: a) If the insolvency process is not closed within a period of one year counting from the date of the meeting to assess the report, or at the end of each subsequent six-month period, unless there are reasons justifying extension; b) If the insolvency administrator does not present the liquidation plan provided for in the final part of paragraph 1 of article 158 or fails to comply with it through serious negligence.

Changes

Amended by Article 2 of [Law No. 9/2022](#) - [Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Article 170

Attachment processing

The liquidation proceedings constitute an addendum to the insolvency proceedings.

Section II

Settlement exemption

Article 171.º

assumption

- 1 - If the debtor is a natural person and the insolvency estate does not include a company, the judge may waive the liquidation of the estate, in whole or in part, provided that the debtor delivers to the insolvency administrator an amount of money not less than the amount would result from this liquidation.
- 2 - Waiver of liquidation presupposes a request to this effect from the insolvency administrator, with the debtor's prior agreement, with the decision becoming null and void if the debtor does not deliver the amount set by the judge within eight days.

Title VII

Payment to creditors

Article 172.º

Payment of debts of the masses

- 1 - Before proceeding with the payment of insolvency claims, the insolvency administrator deducts from the insolvency estate the assets or rights necessary to satisfy the latter's debts, including those that will foreseeably arise until the end of the process.
- 2 - The debts of the insolvent estate are allocated to the estate's income, and, as regards the surplus, in due proportion, to the proceeds of each asset, movable or immovable; however, the imputation will not exceed 10% of the proceeds from goods subject to real guarantees,

except to the extent that is essential to the full satisfaction of the debts of the insolvent estate or that does not prejudice the full satisfaction of the guaranteed credits.

3 - Payment of the debts of the insolvent estate takes place on the respective due dates, whatever the status of the process.

4 - Action initiated to verify the right to restitution or separation of assets that have already been liquidated and the appropriate protest form has been drawn up, is kept in deposit and excluded from payments to creditors of the insolvent estate or insolvency, as long as the effects of the protest, an amount equal to the proceeds of the sale, which may be determined, or, when this cannot be determined, the value contained in the inventory; The provisions of paragraphs 2 and 3 of article 180 apply, with the necessary adaptations.

Changes

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 173.º

Start of payment of insolvency claims

The payment of insolvency claims only includes those verified by a final judgment.

Article 174

Payment to secured creditors

1 - Without prejudice to the provisions of paragraphs 1 and 2 of article 172, once the assets encumbered with real guarantee have been liquidated, and the corresponding expenses have been deducted, payment is immediately made to the secured creditors, respecting their priority; as for those that are not fully paid and to which the debtor responds with the majority of his assets, the respective balances are included among common credits, replacing the estimated balances, if there is no coincidence between them.

2 - Prior to the sale of the assets, the estimated balance recognized as common credit is met in the apportionments made between the common creditors, however, the amounts that correspond to it through the apportionments must continue to be deposited until the effective balance is confirmed, with the withdrawal authorized as determined.

3 - Payment of non-recoverable third party debt: a)

Does not take place, in the event provided for in the first part of paragraph 5 of article 164 or if the respective holder renounces the guarantee; b) It cannot exceed the amount of the debt, updated to the date of payment pursuant to paragraph 2 of article 91; c) It involves subrogation of the creditor's rights, in proportion to the amount paid in relation to the amount of the debt, updated on the same terms.

Changes

Amended by Article 1 of [Decree-Law no. 200/2004 - Official Gazette no. 194/2004, Series IA of 2004-08-18](#), effective from 2004-09-15

Article 175

Payment to privileged creditors

1 - Payment of privileged credits is made at the expense of assets not allocated to prevailing real guarantees, respecting the priority that belongs to them, and in proportion to their amounts, as to those that are equally privileged. 2 - The provisions of the second part of paragraph 1 and paragraph 2 of the previous article apply, with the necessary adaptations.

Article 176

Payment to common creditors

Payment to common creditors takes place in proportion to their credits, if the amount is insufficient to fully satisfy them.

Article 177.º

Payment to subordinated creditors

1 - Payment of subordinated credits only takes place after common credits have been paid in full, and is made in the order in which these credits are indicated in article 48, in proportion to the respective amounts, in relation to those set out in the same paragraph, if the amount is insufficient to pay in full.

2 - In the case of conventional subordination, it is permissible for the parties to attribute a different priority to the credit than that resulting from article 48.

Article 178

Partial

apportionments 1 - It is mandatory to carry out partial apportionments of the amounts deposited to the order of the insolvent estate whenever, cumulatively:

a) The insolvency declaratory judgment has become final and the process has continued to liquidate the asset under the terms set out in chapter iii of title vi; b) The deadline for challenging the list of creditors provided for in article 130 has expired without any challenge having been filed, or, having been filed, if the challenge in question has already been decided, either in accordance with the provisions of no. 3 of article 131 is by judicial decision, applying the provisions of no. 1 of article 180 if the decision is not definitive; c) The amounts deposited to the order of the insolvent estate are equal to or greater than 10,000 (euro) and the respective ownership is not disputed; d) The process is not in a position to prepare the final apportionment.

2 - In the cases provided for in the previous number, the insolvency administrator prepares the apportionment map and publishes it in the Digital Services Area of the Courts, providing the committee of creditors, if appointed, and the creditors within 15 days, counted from the date of publication, to comment on it.

3 - After the deadline referred to in the previous paragraph, the process is concluded by the judge who decides, within 10 days, on the payments he considers justified.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Article 179.º

Payment in the case of joint debtors

1 - When, in addition to the insolvent person, another debtor jointly with him is in the same situation, the creditor does not receive any amount without presenting a certificate proving the amounts received in the insolvency proceedings of the remaining debtors; the insolvency administrator acknowledges the payment in other processes.

2 - An insolvent joint debtor who only partially settles the debt cannot be paid in the debtor's insolvency proceedings without the creditor being fully satisfied.

Article 180***Prevention precautions***

1 - If there is an appeal against the judgment of verification and graduation of credits, or protest due to pending action, the credits of the authors of the protest or object of the appeal are considered conditionally verified, in the latter case for the maximum amount that can result from knowledge of the same, to the effect of being met in the apportionments that are made, although the amounts allocated to them must continue to be deposited.

2 - After the final decision on the appeal or action, the withdrawal of the amounts deposited is authorized, to the extent necessary, or their distribution is carried out among the creditors, depending on the case; If the withdrawal is partial, the apportionment will be based on the remaining amount.

3 - Anyone who, through their appeal or protest, has obstructed the withdrawal of any amount, and ends up declining, compensates the injured creditors, paying default interest at legal rates for the delayed amount, from the date of the apportionment in which it was included.

4 - If the protest is made subsequent to the implementation of any apportionment, the creditors in question must be allocated, in subsequent apportionments, the additional amount necessary to reestablish equality with the equivalent creditors, without prejudice to the maintenance of that amount in deposit if the action has not final decision yet.

Changes

Amended by Article 1 of [Decree-Law no. 200/2004 - Official Gazette no. 194/2004, Series IA of 2004-08-18](#), effective from 2004-09-15

Article 181***Credits under suspensive condition***

1 - Credits under a suspensive condition are met at their nominal value in partial apportionments, however, the amounts allocated to them must continue to be deposited pending the condition.

2 - In the final apportionment, however, if the condition is not met: a) Credit

that is devoid of any value will not be accepted due to the manifest improbability of the condition being verified, in which case the amounts deposited under the terms of the previous number will be apportioned by other creditors; b) If the situation described in the previous paragraph does not occur, the insolvency administrator will deposit in a credit institution the amount corresponding to the nominal value of the credit to be delivered to the holder, once the suspensive condition has been fulfilled, or apportioned among the other creditors, after acquired the certainty that such verification is impossible.

Article 182.º***Final apportionment***

1 - Once the liquidation of the insolvent estate has been completed, the account is drawn up by the court secretariat within 10 days, with the closure of the liquidation not being hampered by the fact that the debtor's activity generates income that would add to the
pasta.

2 - Liquidation surpluses, which do not even cover apportionment expenses, are attributed to the body responsible for the financial and asset management of the Ministry of Justice.

3 - After judging the accounts and paying the costs bill, within 10 days, the insolvency administrator presents the final distribution and apportionment proposal in the process, accompanied by the respective supporting documentation if it is different from that which already exists in the process, and proceeds with the publication of the proposal in the Digital Services Area of the Courts, giving the committee of creditors, if appointed, and the creditors 15 days, counting from the date of publication, to comment on the same.

4 - After the 15-day period provided for in the previous paragraph has elapsed, the secretariat assesses the final apportionment proposal, drawing up a statement for this purpose in the case file, and concludes the process with the judge so that, within 10 days, he can decide on the objections and validate the proposal.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 183.º

Payments

- 1 - All payments are made, without the need for an application, preferably by bank transfer to the IBAN of the respective recipient, with the amount being withdrawn from the insolvency account.
- 2 - If it is not possible to pay a credit under the terms of the previous paragraph, the insolvency administrator must use a check drawn on the insolvency account.
- 3 - If the check is not presented for payment within a period of one year from the date of notice to the creditor, the respective credit will prescribe and the amount will revert to the Institute of Financial Management and Equipment of Justice, IP
- 4 - The use of any of the payment methods referred to in paragraphs 1 and 2 does not exempt the insolvency administrator from complying with the legal or contractually defined requirements for the movement of the insolvency account, applying with the necessary adaptations, namely, paragraph 2 of article 167.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Article 184

Remaining

- 1 - If the liquidation proceeds are sufficient to pay the entire insolvency claim, the balance is delivered to the debtor by the insolvency administrator.
- 2 - If the debtor is not a natural person, the insolvency administrator delivers to the people participating in it the part of the balance that would belong to them if the liquidation were carried out outside the insolvency process, or fulfills whatever is otherwise in this legal regard or statutorily provided for.

Changes

Amended by Article 1 of [Decree-Law no. 200/2004 - Official Gazette no. 194/2004, Series IA of 2004-08-18](#), effective from 2004-09-15

Title VIII

Insolvency qualification incidents

Chapter I

General provisions

Article 185

Types of insolvency

Insolvency is classified as culpable or fortuitous, but the classification attributed is not binding for the purposes of deciding criminal cases, nor the actions referred to in paragraph 3 of article 82.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 1 of [Decree-Law no. 200/2004 - Official Gazette no. 194/2004, Series IA of 2004-08-18](#), effective from 2004-09-15

Article 186

Wrongful insolvency

1 - Insolvency is culpable when the situation has been created or worsened as a result of the action, intentional or with serious negligence, of the debtor, or its administrators, in law or in fact, in the three years prior to the beginning of the insolvency process.

2 - The insolvency of a debtor who is not a natural person is always considered culpable when its administrators, in law or in fact, have:
a) Destroyed, damaged, rendered

useless, hidden, or caused to disappear, in whole or in a considerable part, the debtor's assets; b) Artificially created or aggravated liabilities or losses, or reduced profits, causing, in particular, the execution by the debtor of ruinous deals for their benefit or that of people specially related to them; c) Purchased goods on credit, reselling them or delivering them in payment at a price significantly lower than the current price, before the obligation has been satisfied; d) Disposing of the debtor's assets for personal benefit or that of third parties; e) Carried

out, under cover of the company's legal personality, if applicable, an activity

for personal benefit or that of third parties and to the detriment of the company; f) Use of the debtor's credit or assets contrary to his interest, for personal benefit

or that of third parties, namely to favor another company in which they have a direct or indirect interest; g) Pursuing, in their personal interest or that of a third party, a loss-making operation, despite knowing or should have known that

this would lead with great probability to a situation of insolvency; h) Substantially failed to comply with the obligation to maintain organized accounting, maintained fictitious accounting or double accounting or committed an

irregularity with material damage to the understanding of the debtor's financial and asset situation; i) Repeatedly failed to comply with their presentation and collaboration duties provided for in article 83 until the date of preparation of the opinion referred to in paragraph 6 of article 188.

3 - The existence of serious negligence is only presumed when the administrators, in law or in fact, of the debtor who is not a natural person have failed to comply with: a) The duty

to request a declaration of insolvency; b) The obligation

to prepare annual accounts, within the legal deadline, to submit them to due inspection or to deposit them in the commercial registry office.

4 - The provisions of paragraphs 2 and 3 are applicable, with the necessary adaptations, to the actions of an insolvent natural person and their administrators, where the diversity of situations does not preclude this.

5 - If the insolvent natural person is not obliged to file for insolvency, the latter will not be considered culpable due to the mere omission or delay in filing, even if this determines a worsening of the insolvent's economic situation.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Article 187.º***Previous declaration of insolvency***

If the insolvent debtor has already been declared as such in a previously closed process, the insolvency qualification incident is only opened if it was not declared in that process due to the approval of a payment plan to creditors, or it is proven that the insolvency situation insolvency has not continued uninterruptedly since the date of the previous declaration.

Chapter II***Full insolvency qualification incident*****Article 188*****Processing***

1 - The insolvency administrator or any interested party may allege, substantiated, in writing, in a request attached as an attachment, whatever they consider appropriate for the purpose of classifying the insolvency as culpable and indicate the people who should be affected by such classification, within the period period of 15 days after the meeting to assess the report or, in the case of exemption from its holding, after the addition of the report referred to in article 155 to the case file, it is up to the judge to know the alleged facts and, if he considers it opportune, declare the insolvency qualification incident open within the following 10 days.

2 - The 15-day period provided for in the previous paragraph may be extended, when information is necessary that cannot be obtained within that period, upon a reasoned request from the insolvency administrator or any interested party, and which does not suspend the current period.

3 - The extension provided for in the previous paragraph may not, under any circumstances, exceed six months after the report assessment meeting or, in the case of exemption from this meeting, after the report referred to in article 155 is added to the files. .º

4 - The judge decides on the request for extension, without the possibility of appeal, within 24 hours, and the secretariat immediately notifies the applicant of the order issued, in accordance with the second part of paragraph 5 and paragraph 6 of article 172 of the Code of Civil Procedure, and publicizes the decision through publication in the Digital Services Area of the Courts.

5 - The order declaring the insolvency qualification incident open is not subject to appeal and is immediately published on the Citius portal.

6 - Once the incident has been declared open, the insolvency administrator, when he has not proposed classifying the insolvency as culpable under the terms of paragraph 1, presents, within 20 days, if a longer period is not set by the judge, an opinion, duly substantiated and documented, on the relevant facts, which ends with the formulation of a proposal, identifying, if applicable, the people who should be affected by the classification of the insolvency as culpable.

7 - The opinion and allegations referred to in the previous paragraphs are sent to the Public Prosecutor's Office, so that it can make a decision within 10 days.

8 - If both the insolvency administrator and the Public Prosecutor's Office propose classifying the insolvency as fortuitous, the judge may immediately issue a decision to that effect, which is not subject to appeal.

9 - If the judge does not exercise the power granted to him in the previous paragraph, he will notify the debtor and personally summon those who, in his opinion, should be affected by the classification of the insolvency as culpable to object, if desired, within 15 days; notification and summons are accompanied by the opinions of the insolvency administrator and the Public Prosecutor's Office and the documents supporting them.

10 - The insolvency administrator, the Public Prosecutor's Office and any interested party who takes a position contrary to that of the opposition may respond within 10 days following the end of the period referred to in the previous paragraph.

11 - The provisions of articles 132 to 139, with the necessary adaptations, apply to oppositions and responses, as well as to the subsequent processing of the insolvency qualification incident.

12 - The instance will be suspended in the event of the death of one of the candidates affected under the terms of paragraph 9.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 189.º***Qualifying sentence***

1 - The sentence qualifies the insolvency as culpable or fortuitous.

2 - In the sentence that qualifies the insolvency as culpable, the judge

must: a) Identify the people, namely administrators, de jure or de facto, official accountants and official auditors, affected by the qualification, establishing, if applicable, the respective degree of guilt; b) Decree the

inhibition of affected people from managing third party assets, for a period of 2 to 10 years; c) Declare these people disqualified from carrying out commerce for a period of 2 to 10 years, as well as from holding any position as a member of a commercial or civil society body, private association or foundation for economic activity, public company or cooperative ; d) Determine the loss of any credits on

insolvency or on the insolvent estate held by the people affected by the qualification and order them to return the assets or rights already received in payment of these credits. e) Order the affected people to compensate the creditors of the debtor declared insolvent up to the maximum amount of unsatisfied credits, considering the strength of their respective assets, with such responsibility being joint and several among all those affected.

3 - The inhibition from carrying out commerce, as well as the inhibition from the administration of other people's assets, are officially registered at the civil registry office, and also, when the affected person is an individual trader, at the commercial registry office, based on in electronic or telematic communication from the secretariat, accompanied by an extract of the sentence.

4 - When applying the provisions of paragraph e) of paragraph 2, the judge must establish the value of the compensation due or, if this is not possible due to the court not having the necessary elements to calculate the amount of the losses suffered, the criteria to be used for its quantification, to be carried out in settlement of the sentence.

Grades:

[Ruling of the Constitutional Court no. 173/2009 - Official Gazette no. 85/2009, Series I of 2009-05-04](#) Declared, with general mandatory force, the unconstitutionality of the

al. b) of paragraph 2 of art. 189 of the Insolvency and Business Recovery Code, as it requires the judge, in the sentence that qualifies insolvency as

culpable, decree the disqualification of the administrator of the commercial company declared insolvent.

Grades:

[Article 2, Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#) The present wording of paragraph b) of paragraph 2 is subsequent to the Declaration of Unconstitutionality given by Constitutional Court Ruling No. 173/2009, of May 4th.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Declared Unconstitutionality by the [Constitutional Court Ruling No. 173/2009 - Diário da República No. 85/2009, Series I of 2009-05-04](#)

Article 190.º

Disability Supply

REVOKED

Changes

Repealed by Article 5 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Chapter III

Limited insolvency qualification incident

Article 191.º

Applicable rules

1 - The limited incident of insolvency qualification applies in the cases provided for in paragraph 1 of article 39 and paragraph 5 of article 232 and is governed by the provisions of articles 188 and 189.º, with the following adaptations: a) The deadline for the insolvency administrator or any interested party to allege whatever is appropriate for the purpose of classifying the insolvency as culpable is, in the cases referred to in paragraph 1 of article 39, 45 days from the date of the insolvency declaration and, where applicable, the deadline for the insolvency administrator to present his opinion is 15 days; b) The insolvent's records documents are patented by the insolvent person so that they can be examined by any interested party; c) The sentence that qualifies the insolvency as culpable contains only the mentions referred to in subparagraphs a) to c) and e) of paragraph 2 of article 189. 2 - The provisions of article 83 are applicable to the extent necessary or convenient for the preparation of the insolvency administrator's opinion, in particular being given the opportunity to examine all elements of the debtor's accounts.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Title IX

Insolvency plan

Chapter I

General provisions

Article 192.º

General principle

- 1 - The payment of insolvency claims, the liquidation of the insolvency estate and its distribution between the holders of those claims and the debtor, as well as the liability of the debtor after the end of the insolvency process, may be regulated in a derogation insolvency plan the norms of this Code.
- 2 - The plan may only affect the legal sphere of the interested parties in a different way, or interfere with the rights of third parties, to the extent that this is expressly authorized in this title or consented to by those concerned.
- 3 - The plan intended to provide for the debtor's recovery is called a recovery plan, and such mention must appear in all documents and publications relating to it.

Changes

Amended by Article 2 of [Law No. 16/2012](#) - [Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 193.º***Legitimacy***

- 1 - The insolvency administrator, the debtor, any person legally responsible for the insolvency debts and any creditor or group of creditors whose claims represent at least one fifth of the total non-subordinated claims recognized in the judgment of insolvency may submit a proposal for an insolvency plan. verification and graduation of credits, or in the judge's estimation, if such a sentence has not yet been rendered.
- 2 - The insolvency administrator must present within a reasonable time the proposal for an insolvency plan, which he or she is responsible for drafting by the meeting of creditors.
- 3 - The administrator prepares the insolvency plan proposal in collaboration with the creditors' committee, if any, with the workers' committee or representatives and with the debtor, and must comply with the guidelines that have been approved at the creditors' meeting, when the proposal is not your initiative.

Article 194***Principle of equality***

- 1 - The insolvency plan follows the principle of equality of insolvency creditors, without prejudice to differentiations justified by objective reasons.
- 2 - The most unfavorable treatment in relation to other creditors in the same situation depends on the consent of the affected creditor, which is considered tacitly given in the case of a favorable vote.
- 3 - Any agreement in which the insolvency administrator, the debtor or another person grants advantages to a creditor not included in the insolvency plan in exchange for certain behavior within the scope of the insolvency process, particularly regarding the exercise of voting rights, is void.

Article 195***Plan content***

- 1 - The insolvency plan must clearly indicate the resulting changes to the legal positions of insolvency creditors.
- 2 - The insolvency plan must indicate its purpose, describe the measures necessary for its execution, whether already carried out or yet to be carried out, and contain all the relevant elements for the purposes of its approval by creditors and ratification by the judge, namely:
 - a) The identification of the company, indicating its name or company name, headquarters, tax identification number or legal person identification number, and the appointed insolvency administrator;
 - b) A description of the debtor's asset, financial and financial situation;

c) Indication of whether the means of satisfying creditors will be obtained through liquidation of the insolvent estate, recovery of the company owner or transfer of the company to another entity; d) If the company is expected to remain in operation, owned by the debtor or a third party, and payments to creditors at the expense of their respective income, the investment plan, the forecast operating account, the forecast cash flow statement for the period in which those payments occurred, specifically specifying the main assumptions underlying these forecasts, and the pro-forma balance sheet, in which the assets and liabilities elements, as resulting from the approval of the insolvency plan, are recorded at their respective values; e) The forms of information and consultation of worker representatives, the position of workers in the company and, where applicable, the general consequences regarding employment, namely dismissals, temporary reduction of normal working periods or suspension of employment contracts; f) The expected impact of the proposed changes, compared to the situation that would occur in the absence of any insolvency plan; g) An indication of creditors who are not affected by the insolvency plan, together with a description of the reasons why the plan does not affect them; h) Any new financing provided for under the insolvency plan and the reasons why such new financing is necessary to implement the plan; i) Indication of the legal provisions derogated from and the scope of that derogation.

Changes

Amended by Article 2 of [Law No. 9/2022](#) - [Official Gazette No. 7/2022](#), [Series I of 2022-01-11](#), effective from 2022-04-11

Article 196.º***Measures affecting liabilities***

- 1 - The insolvency plan may, in particular, contain the following measures with an impact on the debtor's liabilities: a) Forgiveness or reduction of the value of insolvency claims, whether in terms of capital or interest, with or without a clause « unless he returns with better fortune»; b) Conditioning the repayment of all or part of the credits to the debtor's availability; c) Modification of due dates or interest rates on credits; d) The constitution of guarantees; e) The assignment of assets to creditors.
- 2 - The insolvency plan cannot affect the real guarantees and the general credit privileges ancillary to credits held by the European Central Bank, by central banks of a Member State of the European Union and by participants in a payment system as defined by subparagraph a) of article 2 of Directive no. [98/26/EC](#), of the European Parliament and the Council, of 19 May, or equivalent, as a result of the functioning of that system.

Article 197.º***Lack of express regulation***

- In the absence of an express provision in a different sense contained in the insolvency plan: a) The rights arising from real guarantees and credit privileges are not affected by the plan; b) Subordinated credits are considered subject to total forgiveness; c) Compliance with the plan exempts the debtor and those legally responsible from all remaining insolvency debts.

Article 198.º

Specific provisions for commercial companies

1 - If the debtor is a commercial company, the insolvency plan may be conditioned on the adoption and execution, by the competent corporate bodies, of measures that do not constitute mere acts of disposal of corporate assets, without prejudice to paragraph 1 of article 201 .º

2 - The following may, however, be adopted by the insolvency plan

itself: a) A reduction in share capital to cover losses, including to zero or another amount lower than the minimum established by law for the respective type of company, provided that, in this case, the reduction is accompanied by an increase in capital to an amount equal to or greater than that minimum; b) An

increase in share capital, in cash or in kind, to be subscribed by third parties or creditors, namely through the conversion of credits into shareholdings, with or without respect for the partners' right of preference legally or statutorily provided for; c) Changing the company's statutes; d)

The transformation of the company into

another of a different type; e) Changes in corporate

bodies; f) The exclusion of all

partners, in the case of a general or limited partnership, accompanied by the admission of new partners; g) The exclusion of general partners

accompanied by the reduction of capital to zero in accordance with paragraph a), in the case of a limited partnership with shares.

3 - The reduction of capital to zero is only permissible if it is assumed that, upon full liquidation of the company's assets, there would be no remainder left to be distributed among the partners.

4 - The approval of a capital increase without granting preference to partners, even through contributions in kind, presupposes, alternatively, that:

a) The company's capital is previously reduced to zero; b)

The measure does not result in the devaluation of the shares that the partners retain.

5 - The adoption of the measures provided for in paragraphs c) to e) of paragraph 2, unless the capital has been reduced to zero or all partners have been excluded, depends, cumulatively, on:

a) The insolvency plan an increase in the company's capital intended, in whole or in part, for non-members is also included; b) Such

measures could, according to the law and the company's pact, be resolved at a general meeting of shareholders, and that the increase results from the majority of creditors and third parties participating for that purpose legally or statutorily established.

6 - The measures provided for in paragraphs f) and g) of paragraph 2 presuppose payment to partners excluded from the appropriate consideration, if the shares are not devoid of any value.

Changes

Amended by Article 1 of [Decree-Law no. 200/2004 - Official Gazette no. 194/2004, Series IA of 2004-08-18](#), effective from 2004-09-15

Article 199***Broadcast sanitation***

The insolvency plan that provides for the constitution of one or more companies, referred to in this Code as a new company or companies, intended for the operation of one or more establishments acquired from the insolvent estate in return for appropriate consideration, contains, as an annex, the statutes of the new company or companies and provides for the filling of corporate bodies.

Article 200

Proposal with alternative content

If the insolvency plan offers all creditors, or some or some of them, several alternative options, it must indicate which one is applicable if, within the period set for that purpose, the right to choose is not exercised.

Article 201***Acts prior to approval and conditions***

- 1 - The affixing of suspensive conditions to the insolvency plan is only lawful in the case of the provision of services or the execution of other measures that must occur before approval by the judge.
- 2 - If the insolvency plan contemplates an increase in the share capital of the debtor company or a reorganization by transfer, the subscription of shareholdings takes place prior to approval, as well as the full realization of the cash contributions, through deposit to the order of the insolvency administrator, the issuance of declarations that contributions in kind are transmitted and the verification of their value by the official auditor designated in the plan.
- 3 - Resolutive conditions cannot be added to the insolvency plan, without prejudice to the provisions of article 218.

Article 202.º***Consents***

- 1 - The proposal for an insolvency plan according to which the debtor must continue operating the company is accompanied by a declaration by the debtor of his availability for this purpose, being a natural person, or, in the case of a commercial company, by partners who maintain this quality and are personally responsible for their debts.
- 2 - The donation of assets in payment of insolvency claims, the conversion of these into capital or the transfer of the corresponding debts with release effects to the former debtor depends on the consent of the holders of the credits in question, provided in writing, applying the provided for in the final part of paragraph 2 of article 194.
- 3 - An exception to the provisions of the previous paragraph is the case in which the payment of common or subordinated credits has as its object credits on the new company or companies resulting from the acquisition of establishments by mass.

Article 203.º***Conversion and termination independent of consent***

- 1 - The conversion of common or subordinated credits into the capital of the insolvent company or a new company does not require the consent of the respective holders, as well as the extinction of these credits in return for the granting of purchase options for shares representing the respective share capital released by conversion of insolvency claims of a higher hierarchical level, valid for a minimum period of 60 days from the date of registration of the capital increase or incorporation of the new company, and freely transferable, depending on the case, provided that, in any of the situations, and even if as a result of the plan:
 - a) The issuing company changes to the form of a public limited company;
 - b) The respective statutes do not contain any restrictions on the transferability of shares;
 - c) The respective statutes state that the shares must be immediately admitted to listing on a regulated market, or as soon as the required requirements have been met;
 - d) The respective statutes state that an amendment that contradicts the provisions of paragraphs b) and c) cannot be made, except unanimously, as long as the company maintains shares admitted to trading on a regulated market.
- 2 - The exercise price of the purchase options referred to in the previous paragraph is equal to the nominal value of the credits used to release the shares to be acquired; the exercise of options by holders of credits of a certain degree causes them to expire, in

proportion as applicable, the options attributed to holders of credits of a hierarchically higher level, assuming payment to the latter of the nominal value of the extinguished credits in exchange for the attribution of the expired options.

3 - The company issuing the shares subject to the purchase options issues, within 10 days, securities representing these options at the request of the respective holders, formulated after approval of the insolvency plan.

Changes

Amended by Article 12 of [Law No. 99-A/2021 - Official Gazette No. 253/2021, 1st Supplement, Series I of 2021-12-31](#), effective from 2022-01-30

Article 204***Quality of open society*****REVOKED****Changes**

Repealed by Article 21 of [Law No. 99-A/2021 - Official Gazette No. 253/2021, 1st Supplement, Series I of 2021-12-31](#), effective from 2022-01-30

Article 205***Securities offering***

The provisions of the Securities Code and complementary legislation are not applicable: a)

To the offer of securities of the debtor company or the new company or companies, in the part addressed to creditors, and which the latter must release in full through payment in payment of credits about the insolvent debtor; b) The offer involved in the attribution of purchase options that meet the requirements set out in paragraphs 1 and 2 of article 203, as well as the offer aimed at the respective acquisition; c) Exceeding the mandatory thresholds for launching a public takeover offer resulting from the exercise of such purchase options, or the acquisition of shares in the capital increase of the insolvent company provided for in the insolvency plan.

Article 206***Suspension of liquidation and sharing***

1 - At the request of the respective proponent, the judge decrees the suspension of the liquidation of the insolvency estate and the sharing of the proceeds among the insolvency creditors if this is necessary so as not to jeopardize the execution of a proposed insolvency plan.

2 - The judge must, however, refrain from ordering suspension, or lifting a suspension already ordered, if the measure involves the danger of considerable losses for the insolvent estate, or the continuation of liquidation and sharing is requested. by the insolvency administrator, with the agreement of the creditors' committee, if any, or the creditors' meeting.

3 - The provisions of paragraph b) of paragraph 4 and paragraph 5 of article 156 apply, with the necessary adaptations.

Article 207***Non-admission of the insolvency plan proposal***

1 - The judge will not admit the proposal for an insolvency

plan: a) If there is a violation of the precepts on the legitimacy to present the proposal or on the content of the plan and the defects are insurmountable or are not remedied within the reasonable period set for that purpose ;

b) When approval of the plan by the meeting of creditors or subsequent approval by the judge are manifestly implausible; c) When the plan is manifestly unfeasible; d) When, with the proponent being the debtor, the insolvency administrator opposes the admission, with the agreement of the committee of creditors, if any, as long as a plan proposal has previously been presented by the debtor and admitted by the judge.

2 - The decision to accept the insolvency plan proposal cannot be appealed.

Article 208

Collection of opinions

Once the proposed insolvency plan is accepted, the judge notifies the workers' committee, or, failing that, the representatives designated by the workers, the creditors' committee, if any, the debtor and the insolvency administrator, to give their opinion, within the deadline of 10 days.

Chapter II

Approval and approval of the insolvency plan

Article 209.º

Convening the meeting of creditors

1 - The judge convenes the meeting of creditors to discuss and vote on the proposed insolvency plan in accordance with article 75, but at least 20 days in advance, and the announcement and circulars must additionally state that the proposed plan of insolvency is available to interested parties, for consultation, at the court secretariat, from the date of the summons, and the same will happen with the opinions eventually issued by the entities referred to in the previous article, during the 10 days prior to the date of the meeting.

2 - The meeting of creditors convened for the purposes of the previous paragraph cannot meet before the decision declaring insolvency has become final, the deadline for challenging the list of recognized creditors has passed and the report assessment meeting has been held. .

3 - The Insolvency Plan approved before the judgment on verification and graduation of credits becomes final and unappealable takes into account the effects of the possible merits of challenges to the list of recognized creditors or of appeals filed against that judgment, in order to ensure that, in this case, it is due treatment is granted to the disputed credits.

Changes

Amended by Article 1 of [Decree-Law no. 200/2004](#) - [Official Gazette no. 194/2004](#), [Series IA of 2004-08-18](#), effective from 2004-09-15

Article 210.º

Changes to the insolvency plan at the creditors' meeting

The insolvency plan can be modified in the assembly itself by the proponent, and put to vote in the same session with the changes introduced, as long as these, although substantial in terms of particular aspects of regulation, do not conflict with the very core or structure of the plan or with the purpose pursued.

Article 211

Written vote

1 - Once the discussion of the insolvency plan has ended, the judge may determine that the vote takes place in writing, within a period not exceeding 10 days; Only credit holders with voting rights present or represented at the meeting may participate in voting.

2 - The written vote must contain the approval or rejection of the insolvency plan proposal; any proposal to modify this or condition the vote implies rejection of the proposal.

Article 212.º

Quorum

1 - The insolvency plan proposal is considered approved if, with creditors whose credits constitute at least one third of the total credits with voting rights being present or represented at the meeting, they collect more than 50% of the total votes cast and , these include more than half of the votes corresponding to non-subordinated credits with voting rights, abstentions not being considered as such.

2 - The following do not confer the right to vote:

a) Credits that are not modified by the operative part of the plan; b)

Subordinated credits of a certain degree, if the plan decrees the full forgiveness of all credits of hierarchically lower degrees and does not attribute any economic value to the debtor or their respective partners, associates or members, as the case may be.

3 - The provisions of paragraph a) of the previous paragraph shall cease if, by application of this precept, in conjunction with paragraph b), all credits were deprived of the right to vote.

4 - It is considered, in particular, that the insolvency plan attributes a value to the partners of a commercial company if the company is to continue operating the company and the plan does not contemplate a reduction to zero of the respective capital.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 1 of [Decree-Law no. 200/2004 - Official Gazette no. 194/2004, Series IA of 2004-08-18](#), effective from 2004-09-15

Article 213.º

Publicity for the deliberation

The decision to approve an insolvency plan is subject to immediate publication, under the terms prescribed in article 75, applicable with the necessary adaptations.

Article 214.º

Deadline for approval

The decision approving the insolvency plan can only be handed down after at least 10 days have passed since the date of its approval, or, if the plan has been subject to changes at the meeting itself, after the date of publication of the deliberation.

Article 215

Non-official approval

The judge refuses of its own motion to approve the insolvency plan approved at a meeting of creditors in the event of a non-negligible violation of procedural rules or standards applicable to its content, whatever its nature, and even when, within the reasonable period established by it, no the suspensive conditions of the plan are met or the acts or measures that must precede approval are not carried out.

Article 216.º

Non-approval of interested parties' request

1 - The judge also refuses approval if requested by the debtor, if he is not the proponent and has expressed his opposition in the file, prior to the approval of the insolvency plan, or by any creditor or partner, associate or member of the debtor whose opposition has been communicated in the same terms, provided that the applicant demonstrates in plausible terms, alternatively, that: a) His situation under the plan is foreseeably less favorable than that which would have occurred in the absence of any plan, particularly in view of the situation resulting from an agreement already concluded in an extrajudicial debt settlement procedure; b) The plan provides any creditor with an economic value greater than the nominal amount of his insolvency claims, plus the value of any contributions he must make.

2 - If the insolvency plan has been subject to changes at the meeting itself, the expression of opposition by anyone who was not present or represented is exempt.

3 - The provisions of paragraph 1 shall cease if the opponent is the debtor, a partner, associate or member, or a common or subordinated creditor, if the insolvency plan provides, cumulatively: a) The full extinction of the secured credits and privileged by conversion into capital of the debtor company or a new company or companies, in proportion to their respective nominal values; b) The extinction of all other credits in exchange for the granting of purchase options in accordance with the provisions of paragraphs 1 and 2 of article 203 in relation to all shares thus issued; c) The granting to the debtor or, if applicable, to the respective partners, associates or members, in proportion to their respective interests, of options to purchase all of the shares issued, provided that their exercise determines the expiration of the options granted to the creditors and presupposes the payment of the nominal value of the extinguished credits in exchange for the attribution of the expired options.

4 - If, respecting as much as the provisions of the previous paragraph, the conversion of the credits into capital of the debtor company or of a new company or companies does not cover only one or some of the guaranteed and privileged credits, or is rather related to the entire of common credits and only to these, the request for non-approval presented by the debtor, its partners, associates or members, or by a common or subordinated creditor, can only be based on the circumstance that the insolvency plan provides the holders of the secured credits with or privileged ones excluded from conversion, in exchange for them, an economic value greater than the respective nominal amount.

Changes

Amended by Article 1 of [Decree-Law no. 282/2007](#) - [Official Gazette no. 151/2007](#), [Series I of 2007-08-07](#), effective from 2007-08-08

Chapter III

Execution of the insolvency plan and its effects

Article 217.º

General effects

- 1 - With the approval sentence, changes to insolvency claims introduced by the insolvency plan are made, regardless of whether or not such claims have been claimed or verified.
- 2 - The ratifying sentence gives effect to any legal acts or transactions provided for in the insolvency plan, regardless of the legally foreseen form, as long as the process contains, in writing, the necessary declarations of will from third parties and creditors who did not vote in favor. , or which, under the terms of the plan, should be issued after approval, but without the debtor's declarations of will whose consent is not mandatory under the provisions of this Code and the new company or companies to be formed.
- 3 - The ratifying sentence constitutes, in particular, sufficient title for: a) The constitution of the new company or companies and for the transfer to its benefit of the assets and rights that it must acquire, as well as for carrying out the respective registrations;
b) Capital reduction, capital increase, modification of statutes, transformation, exclusion of partners and alteration of the corporate bodies of the debtor company, as well as for carrying out the respective registrations.
- 4 - The measures provided for in the insolvency plan with an impact on the debtor's liabilities do not affect the existence or the amount of the rights of insolvency creditors, namely those who vote in favor of the plan, against co-debtors or third party guarantors of the obligation, but these subjects They can only act against the returning debtor under the terms in which the insolvency creditor could exercise his rights against him.
- 5 - The ratifying sentence immediately produces the effects referred to in paragraphs 1 to 3, even if an appeal is lodged.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Article 218***Non-compliance***

- 1 - Unless the insolvency plan expressly provides otherwise, the moratorium or forgiveness provided for in the plan shall be void:
- a) Regarding credit for which the debtor is in default, if the installment, plus late payment interest, is not fulfilled within 15 days after written notice by the creditor; b) Regarding all credits if, before the execution of the plan is completed, the debtor is declared insolvent in new process.
- 2 - The debtor's default only has the effects set out in paragraph a) of the previous paragraph if it concerns credits recognized by the credit verification sentence or by another court decision, even if they have not become final and unappealable.
- 3 - The effects foreseen in paragraph 1 may be associated by the plan with events of another type as long as they occur within a maximum period of three years counting from the date of the ratifying sentence.

Article 219.º***Debts of the insolvent estate***

Before closing the process resulting from the approval of the insolvency plan, the insolvency administrator pays the debts of the insolvent estate; Regarding disputed debts, the insolvency administrator protects any creditors' rights by means of a security deposit, provided in accordance with the Code of Civil Procedure.

Article 220.º***Oversight***

1 - The insolvency plan that involves the closure of the process may provide that its execution is supervised by the insolvency administrator and that his authorization is necessary for the performance of certain acts by the debtor or by the new company or companies; In the latter case, the provisions of paragraph 6 of article 81 apply, with the necessary adaptations.

2 - The insolvency administrator:

a) Annually inform the judge and the creditors committee, if any, of the status of execution and the prospects for compliance with the insolvency plan by the debtor; b) Provides the creditors committee and the judge with the information requested; c) Immediately inform the judge and the creditors' committee, or, if this does not exist, all holders of recognized credits, of the existence or inevitability of situations of default.

3 - The insolvency administrator represents the debtor in actions challenging the resolution of acts for the benefit of the insolvency estate during the supervision period, if the insolvency plan so expressly determines.

4 - For the purposes of the previous paragraphs, the insolvency administrator and the members of the creditors committee remain in office and supervision by the judge continues despite the closure of the insolvency process.

5 - The insolvency plan establishes the remuneration of the insolvency administrator during the supervision period, as well as the expenses to which both the administrator and the members of the creditors committee are entitled; The inspection costs are borne by the debtor or by the new company or companies, depending on the case.

6 - Supervision cannot last for more than three years and ends as soon as the insolvency claims are satisfied, in the percentages set out in the insolvency plan, or when, in a new process, the insolvency situation of the debtor or company is declared. new company or companies; the judge makes a decision confirming the end of the supervision period, at the request of the insolvency administrator, the debtor or the new company or companies.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Article 221.º

Priority for new credits

1 - In the case of supervision of its execution by the insolvency administrator, the insolvency plan may stipulate that credits that, to a certain extent global limit, are constituted during this period, provided that this priority is recognized expressly and in writing, with an indication of the amount covered and confirmation by the insolvency administrator.

2 - The priority recognized by the previous paragraph is also valid in relation to other credits from a contractual source created during the inspection period.

Article 222.º

Advertising

1 - As the execution of the insolvency plan is subject to supervision, the publication and registration of the decision to close the insolvency process will include reference to this fact, with disclosure, if applicable, of the acts whose practice depends on the consent of the administrator of the company. insolvency and the limit within which it is lawful to grant priority to new credits, in accordance with the previous article.

2 - The judge's confirmation of the end of the supervision period is published and registered, in accordance with the terms set out for the decision to close the insolvency process.

Article 222.º-A

Purpose and nature of the special process for payment agreement

- 1 - The special process for payment agreement is intended to allow the debtor who, not being a company and proven to be in a difficult economic situation or in a situation of merely imminent insolvency, to establish negotiations with their respective creditors in order to conclude with them payment agreement.
- 2 - The process referred to in the previous paragraph can be used by any debtor who, fulfilling the requirements set out therein, attests to it by means of a written and signed declaration.
- 3 - The special process for payment agreement is urgent in nature, applying all the rules provided for in this Code that are not incompatible with its nature.

Changes

Added by Article 4 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Article 222.º-B

Concept of difficult economic situation

For the purposes of this process, a debtor who faces serious difficulty in fulfilling his obligations on time, particularly because he has a lack of liquidity or is unable to obtain credit, is in a difficult economic situation.

Changes

Added by Article 4 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Article 222.º-C

Application and formalities

- 1 - The special process for a payment agreement begins with the expression of the will of the debtor and at least one of his creditors, by means of a written statement, to enter into negotiations leading to the preparation of a payment agreement.
- 2 - The declaration referred to in the previous paragraph must be signed by all declarants, stating the date of signature.
- 3 - The debtor presents to the court competent to declare his insolvency a request communicating the expression of will referred to in paragraph 1, accompanied by the following elements: a) The written declaration referred to in the previous paragraphs; b) List of all debt collection actions pending against the debtor, proof of the debtor's income declaration, proof of their professional status or, if applicable, unemployment status, as well as copies of the documents listed in paragraphs a), d) and e) of paragraph 1 of article 24, with this documentation being available at the secretariat for consultation by creditors throughout the process.
- 4 - Upon receipt of the request referred to in the previous paragraph, the judge immediately appoints, by order, a provisional judicial administrator, applying the provisions of paragraph 1 of article 32 and articles 33 and 34 with the appropriate adaptations.
- 5 - The appointment order referred to in the previous paragraph is not subject to appeal and is immediately notified to the debtor, applying the provisions of articles 37 and 38 with the necessary adaptations.
- 6 - The remuneration of the provisional judicial administrator is set by the judge, in the appointment decision itself or subsequently, and constitutes, together with the expenses he incurs in carrying out his functions, a charge included in the costs of the process, which is borne by the debtor, with the body responsible for the financial and asset management of the Ministry of Justice being responsible for its payment only if the debtor benefits from legal protection in the form of exemption from payment of the court fee and other process charges.
- 7 - If the debtor is declared insolvent following the non-approval of a payment agreement, the remuneration of the provisional judicial administrator and the expenses he has incurred, which are not paid, constitute

credits on insolvency.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Added by Article 4 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Article 222.^o-D

Subsequent processing

1 - As soon as the debtor is notified of the order referred to in paragraph 4 of the previous article, he shall immediately notify all creditors who have not signed the declaration mentioned in paragraph 1 of the same precept, which initiated negotiations with a view to drawing up a payment agreement, inviting them to participate, if they so wish, in the ongoing negotiations and informing that the documentation referred to in paragraph b) of paragraph 3 of The previous article is available at the court secretariat for consultation.

2 - Creditors have 20 days from the publication on the Citius portal of the order referred to in paragraph 4 of the previous article to claim credits, and complaints must be sent to the provisional judicial administrator, who within five days prepares a provisional list of credits, indicating: a) Their origin, maturity date, amount of capital and interest; b) The conditions to which they are subject, both suspensive and resolute; c) Their common, subordinate, privileged or guaranteed nature, and, in the latter case, the assets or rights subject to the guarantee and respective registration identification data, if applicable; d) The existence of any personal guarantees, with identification of the guarantors; e) The applicable default interest rate.

3 - The provisional list of credits is immediately presented at the court secretariat and published on the Citius portal, and may be challenged within five working days, based on the improper inclusion or exclusion of credits, the incorrect amount or qualification of the related credits and the judge then has the same period of time to decide on the objections raised.

4 - If not challenged, the provisional list of credits immediately becomes a definitive list.

5 - After the deadline for objections, the declarants have a period of two months to conclude the negotiations that have been initiated, which can be extended, once and for one month, upon prior written agreement between the appointed provisional judicial administrator and the debtor, and such agreement must be included in the records and published on the Citius portal.

6 - During negotiations, the debtor provides all relevant information to his creditors and to the provisional judicial administrator who has been appointed so that they can be carried out in a transparent and equitable manner, and must always keep the information provided to the provisional judicial administrator up to date and complete. and creditors.

7 - Creditors who decide to participate in the ongoing negotiations declare this to the debtor by registered letter, and may do so throughout the duration of the negotiations, with such declarations being attached to the process.

8 - Negotiations initiated between the debtor and his creditors are governed by the terms agreed between all parties involved or, in the absence of agreement, by the rules defined by the appointed provisional judicial administrator, with the experts that each party deems appropriate being able to participate in them. , each party being responsible for bearing the costs of the experts they have hired, if the contrary does not expressly result from the payment agreement that will be approved.

9 - The provisional judicial administrator participates in the negotiations, guiding and supervising the course of work and its regularity, and must ensure that the parties do not adopt measures that are dilatory, useless or, in general, harmful to the smooth running of the parties.

10 - During negotiations, participants must act in accordance with the guiding principles approved by Resolution of the Council of Ministers no. 43/2011, of October 25th.

11 - The debtor, as well as his legal or de facto administrators, if the debtor is a legal person, are jointly and civilly liable for the losses caused to his creditors due to lack or incorrectness of

communications or information provided to them, with the action brought to determine the aforementioned responsibilities occurring independently of this process.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Added by Article 4 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Article 222-E

Suspension of implementing measures

1 - The decision referred to in paragraph 4 of article 222.^o-C prevents the initiation of any executive actions to collect debts against the debtor and, for as long as negotiations continue, suspends, as regards the debtor, ongoing enforcement actions with the same purpose, terminating as soon as the payment agreement is approved and ratified, except when it provides for its continuation.

2 - If the judge appoints a provisional judicial administrator under the terms of no. 4 of article 222-C, the debtor is prevented from carrying out acts of special importance, as defined in no. 2 and in paragraphs d), and), f) and g) of paragraph 2 of article 161, without previously obtaining authorization to carry out the intended operation from the provisional judicial administrator.

3 - The authorization referred to in the previous paragraph must be requested in writing by the debtor from the provisional judicial administrator and granted in the same way.

4 - There cannot be more than five days between the debtor's communication to the provisional judicial administrator and the receipt of the response to the petitioner provided for in the previous paragraph, and electronic communications must be used whenever possible.

5 - The lack of response from the provisional judicial administrator to the request made by the debtor corresponds to a declaration of refusal of authorization to carry out the intended business.

6 - Insolvency proceedings in which the debtor's insolvency has previously been requested are suspended on the date of publication on the Citius portal of the order referred to in paragraph a) of paragraph 3 of article 222-C, as long as that a declaratory judgment of insolvency has not been issued, terminating as soon as a payment agreement is approved and ratified.

7 - Insolvency proceedings in which the debtor's insolvency is requested and which are entered after the publication of the order referred to in the previous paragraph are suspended, ending as soon as a payment agreement is approved and approved.

8 - The decision referred to in paragraph 4 of article 222.^o-C determines the suspension of all prescription and expiry periods enforceable by the debtor, for as long as negotiations continue and until the delivery of the orders of approval or non-approval, if a payment plan is not approved until the results of the vote are determined, or until the negotiations are concluded under the terms set out in paragraphs 1 and 2 of article 222-G.

9 - From the decision referred to in the previous paragraph and throughout the duration of the negotiations, the provision of the following essential public services cannot be suspended: a) Water supply service;

b) Electricity supply service; c) Supply
service of natural gas and piped liquefied
petroleum gases; d) Electronic communications service; e) Postal services; f) Wastewater
collection and treatment service; g) Urban
solid waste
management services.

10 - The price of essential public services provided during the period referred to in the previous paragraph that are not subject to payment by the debtor will be considered a debt of the insolvent estate in the event of its insolvency that will be decreed in the two years following the end of the negotiation period, without prejudice to the provisions of article 10 of Law no. 23/96 of 26 July, amended and republished by Law no. 12/2008, of 26 February, and amended by Law no. 24/2008, of June 2nd, 6/2011, of March 10th, 44/2011, of June 22nd, and 10/2013, of January 28th.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Added by Article 4 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Article 222.º-F

Conclusion of negotiations with approval of payment agreement

- 1 - Once the negotiations have concluded with the unanimous approval of a payment agreement, involving all creditors, it must be signed by all, and immediately sent to the process, for approval or refusal by the judge, accompanied by documentation which proves its approval, attested by the appointed provisional judicial administrator, producing such payment agreement, in case of approval, its effects immediately.
- 2 - When negotiations are concluded with the approval of a payment agreement, without observing the provisions of the previous paragraph, the debtor sends it to the court, and an announcement is immediately published on the Citius portal warning of the joining of the plan and from publication the voting period of 10 days, during which any interested party may request non-approval of the plan, under the terms and for the purposes set out in articles 215 and 216, with the necessary adaptations.
- 3 - Without prejudice to the judge being able to count in the calculation of majorities the credits that have been contested if he understands that there is a serious probability of these being recognized, the payment agreement is considered to be approved if: a) Being voted by creditors whose credits represent, at least one third of the total credits related to voting rights, contained in the list of credits referred to in paragraphs 3 and 4 of article 222-D, not taking into account abstentions, cumulatively collects:
 - i) The favorable vote of more than two thirds of the total votes cast; ii) The favorable vote of more than 50% of the votes cast corresponding to non-subordinated credits related to voting rights contained in the list of credits referred to in paragraphs 3 and 4 of article 222-D; or b) Cumulative collection, not considering abstentions: i) The favorable vote of creditors whose credits represent more than 50% of the total credits related to voting rights, contained in the list of credits referred to in paragraphs 3 and 4 of article 222-D; ii) The favorable vote of more than 50% of the votes cast corresponding to non-subordinated credits related to voting rights contained in the list of credits referred to in paragraphs 3 and 4 of article 222-D.
- 4 - Voting is carried out in writing, applying the provisions of article 211 with the necessary adaptations and the votes being sent to the provisional judicial administrator, who opens them together with the debtor and draws up a document with the result of the vote, which is immediately sent to the court.
- 5 - The judge decides whether to approve the payment agreement or refuse its approval, within 10 days following receipt of the documentation mentioned in the previous paragraphs, applying, with the necessary adaptations, the rules in force regarding the approval and approval of the payment plan. insolvency provided for in title IX, in particular the provisions of articles 215 and 216.
- 6 - If the judge does not approve the agreement, the provisions of paragraphs 3 to 9 of the following article apply.
- 7 - If a decision of non-approval is issued, the provisions of paragraph 3 of article 40 shall apply to the appeal filed against that decision, with the necessary adaptations, if the administrator's opinion is that the debtor is in a situation of insolvency.
- 8 - The decision binds the debtor and the creditors, even if they have not claimed their credits or participated in the negotiations, in relation to the credits constituted on the date on which the decision provided for in paragraph 4 of article 222-C was made, and is notified, publicized and registered by the court secretariat.
- 9 - The debtor is responsible for bearing the costs of the approval process.
- 10 - The provisions of no. 1 of article 218 apply to the payment agreement.
- 11 - The provisions of no. 8 of the following article apply, counting the period of two years from the decision provided for in no. 5, unless the debtor demonstrates, in the respective initial application, that he has fully executed the payment agreement or that

the request for a new special process for payment agreement is motivated by factors outside the plan itself and the subsequent change is outside the debtor's control.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Added by Article 4 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Article 222.^o-G

Conclusion of the negotiation process without approval of a payment agreement

- 1 - If the debtor or the majority of creditors referred to in paragraph 3 of the previous article conclude in advance that it is not possible to reach an agreement, or if the deadline set out in paragraph 5 of article 222-D is exceeded, the negotiation process is closed, and the provisional judicial administrator must communicate this fact to the process, if possible by electronic means, and publish it on the Citius portal.
- 2 - The debtor may terminate negotiations at any time, regardless of any cause, and must, for this purpose, communicate this intention to the provisional judicial administrator, all his creditors and the court, by registered letter.
- 3 - It is the responsibility of the provisional judicial administrator, in the communication referred to in paragraph 1 or after becoming aware of the debtor's communication referred to in paragraph 2, using the information available to him and after hearing the debtor and the creditors, issue an opinion on whether the creditor is in a situation of insolvency.
- 4 - When the provisional judicial administrator concludes that the debtor is not yet in a situation of insolvency, the closure of the special process for payment agreement entails the extinction of all its effects.
- 5 - When the provisional judicial administrator concludes that the debtor is insolvent, the court secretariat notifies the debtor to, within five days, file an opposition, by mere request, or, if he wishes and if the respective requirements are met, to present a plan of payments in accordance with the provisions of articles 249 and following, or request the exemption of the remaining liability in accordance with the provisions of articles 235 and following.
- 6 - If the debtor files an opposition, the judge orders the closure and archiving of the process, which results in the extinction of all its effects.
- 7 - If the debtor does not file an opposition, insolvency must be declared by the judge within three working days, with the special process for payment agreement being attached to the insolvency process.
- 8 - The end of the special process for payment agreement carried out in accordance with the previous paragraphs prevents the debtor from resorting to it for a period of two years.
- 9 - If there is a definitive list of claimed credits, and the debtor's insolvency is declared by application of the provisions of paragraph 7, the creditors included in that list do not need to claim the credits listed there under the terms of paragraph j) of paragraph 1 of article 36

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Added by Article 4 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Article 222-H

Guarantees

- 1 - The guarantees agreed between the debtor and his creditors during the special payment agreement process, with the purpose of providing the debtor with the necessary financial means to carry out his activity, remain in place even if, at the end of the process, the the debtor's insolvency must be declared within two years.
- 2 - Creditors who, during the process, finance the debtor's activity with a view to fulfilling the payment agreement, enjoy general movable credit privilege, ranked before the general movable credit privilege granted

to workers.

Changes

Added by Article 4 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Article 222.º-I

Approval of extrajudicial payment agreement

- 1 - The process provided for in this title may also begin with the presentation by the debtor of an extrajudicial payment agreement, signed by the debtor and creditors representing at least the majority votes provided for in paragraph 3 of article 222-F, accompanied by the document provided for in paragraph 2 of article 222-A.
- 2 - Once the documents mentioned in the previous paragraph have been received, the judge appoints a provisional judicial administrator, applying the provisions of articles 32 to 34 with the necessary adaptations, and the secretariat must: a) Notify the creditors who did not intervene in the same and which are included in the list of credits related by the debtor to the existence of the agreement, which are displayed at the court secretariat for consultation; b) Publish the provisional list of credits on the Citius portal.
- 3 - The provisions of paragraphs 2 to 4 of article 222-D apply, with the necessary adaptations, to the provisions of the previous paragraph.
- 4 - Once the list of credits becomes definitive, the judge will, within 10 days, analyze the extrajudicial agreement, and must approve it if it respects the majorities provided for in paragraph 3 of article 222-F, unless any of the circumstances set out in articles 215 and 216 persist, applying, with the necessary adaptations, the rules set out in title ix, in particular the provisions of articles 194 to 197, in paragraph 1 of article 198 and in articles 200 to 202, 215 and 216
- 5 - If the judge does not approve the agreement, the provisions of paragraphs 3 to 9 of article 222-G apply with the necessary adaptations.
- 6 - The provisions of article 222.º-E, paragraphs 6, 7, 8, 9 and 10 of article 222.º-F and article 222.º-H apply with the necessary adaptations.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Added by Article 4 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Article 222.º-J

Closing of the special process for payment agreement and termination of functions of the provisional judicial administrator

- 1 - The special process for payment agreement is considered closed: a) After the decision to approve the payment plan has become final; b) After compliance with the provisions of paragraphs 1 to 7 of article 222-G, in cases where a payment plan has not been approved or approved.
- 2 - The provisional judicial administrator will remain in office, without prejudice to his replacement or removal: a) Until a decision is made to approve the payment plan; b) Until the process is closed under the terms set out in paragraph b) of the previous paragraph in other cases.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Added by Article 4 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Title

Administration by the debtor

Article 223.º

Limitation to companies

The provisions of this title are only applicable to cases in which the insolvent estate includes a company.

Article 224

Assumptions of administration by the debtor

1 - In the declaratory judgment of insolvency, the judge may determine that the administration of the insolvent estate is ensured by the debtor.

2 - The decision referred to in the previous paragraph is prerequisite

that: a) The debtor has requested

it; b) The debtor has already presented, or undertakes to do so within 30 days after the decision declaring insolvency, an insolvency plan that provides for the continued operation of the company by itself; c) There are no reasons to fear delays in the process or other disadvantages for creditors; d) The insolvency applicant gives his agreement, if he is not the debtor.

3 - Administration is also entrusted to the debtor if he has requested it and the creditors so decide at the report assessment meeting or at a meeting that precedes it, regardless of the verification of the assumptions set out in paragraphs c) and d) of the previous number, counting The period provided for in subparagraph b) of the same number begins after the creditors' deliberation.

Article 225

Start of liquidation

Settlement only takes place after the administration is withdrawn from the debtor, without prejudice to the provisions of paragraph 1 of article 158 and the debtor's realization of sales under paragraph 2 of the same article, with the consent of the insolvency administrator and creditors committee, if any.

Article 226

Intervention by the insolvency administrator

1 - The insolvency administrator supervises the administration of the insolvency estate by the debtor and immediately communicates to the judge and the creditors' committee any circumstances that make it unadvisable for the situation to continue; If there is no committee of creditors, communication is made to all creditors who have claimed their credits.

2 - Without prejudice to the effectiveness of the act, the debtor must not incur

obligations: a) If the insolvency administrator objects, in the case of acts of day-to-day

management; b) Without the consent of the insolvency administrator, in the case of acts of extraordinary administration.

3 - The insolvency administrator may require that all cash receipts and payments be in his/her responsibility.

4 - On its own initiative or at the request of the meeting of creditors, the judge may prohibit the performance of certain acts by the debtor without the approval of the insolvency administrator, applying, with the necessary adaptations, the provisions of paragraph 6 of article 81. th

5 - (Revoked). 6

- It is the debtor's responsibility to prepare and deposit legally mandatory annual accounts.

7 - The attribution to the debtor of the administration of the insolvency estate does not prejudice the exercise by the insolvency administrator of all other powers that legally belong to him and the powers necessary for this purpose, namely the power to examine all elements of the debtor's accounts.

Changes

Amended by Article 7 of [Decree-Law no. 79/2017](#) - [Official Gazette no. 125/2017](#), [Series I of 2017-06-30](#)

Article 227.º

Remuneration

1 - As long as the insolvency administration is carried out by the debtor himself, the remunerations of his administrators and members of his corporate bodies will be maintained.

2 - As the debtor is a natural person, he has the right to withdraw from the estate the funds necessary for a modest life for himself and his family, taking into account his previous condition and the possibilities of the estate.

Article 228.º

Term of administration by the debtor

1 - The judge puts an end to the administration of the insolvent estate by the debtor: a) At his request; b) If so decided by the meeting of creditors; c) If the individual owner of the company is affected by the classification of insolvency as culpable; d) If, as the prerequisite set out in paragraph c) of paragraph 2 of article 224 no longer exists, this is requested by a creditor; e) If the insolvency plan is not presented by the debtor within the applicable deadline, or is not subsequently admitted, approved or approved.

2 - Once the decision referred to in the previous paragraph has been taken, the assets will be seized immediately, in accordance with the provisions of articles 149 et seq., with the process continuing under general terms.

Article 229.º

Advertising and registration

The attribution to the debtor of the administration of the insolvency estate, the prohibition of the performance of certain acts without the consent of the insolvency administrator and the decision that puts an end to that administration are subject to publicity and registration, under the terms set out in articles 37 and 38 .º

Changes

Amended by Article 1 of [Decree-Law no. 282/2007](#) - [Official Gazette no. 151/2007](#), [Series I of 2007-08-07](#), effective from 2007-08-08

Title XI

Closing the process

Article 230

When the process ends

1 - Continuing the process after the declaration of insolvency, the judge declares its closure: a) After carrying out the final apportionment, without prejudice to the provisions of paragraph 6 of article 239; b) After the decision to approve the insolvency plan has become final, if the content of the plan is not opposed to this; c) At the request of the debtor, when he is no longer insolvent or all creditors give their consent; d) When the insolvency administrator finds that the insolvency estate is insufficient to satisfy the costs of the proceedings and the remaining debts of the insolvency estate.

e) When this has not yet been declared, in the initial order of the incident of exoneration of the remaining liability referred to in paragraph b) of article 237. insolvent estate has been consumed by the respective debts.

2 - The decision to close the process is notified to creditors and is subject to publicity and registration as provided for in articles 37 and 38, with an indication of the determining reason.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Amended by Article 1 of [Decree-Law no. 282/2007 - Official Gazette no. 151/2007, Series I of 2007-08-07](#), effective from 2007-08-08

Article 231.º***Closing at the request of the debtor***

1 - The debtor's request for closure of the process based on the cessation of the insolvency situation is notified to the creditors so that they, if they wish, can file an opposition, within a period of eight days, applying the provisions of paragraphs 3 and 4 of the article 41st

2 - The debtor's request that is not based on the cessation of the insolvency situation is accompanied by documents proving the consent of all creditors who have claimed their credits, when it is presented after the period granted for that purpose has expired, or all known creditors, otherwise.

3 - Before deciding on the request, the judge hears, in any case, the insolvency administrator and the creditors committee, if any.

Changes

Amended by Article 1 of [Decree-Law no. 200/2004 - Official Gazette no. 194/2004, Series IA of 2004-08-18](#), effective from 2004-09-15

Article 232.º***Closure due to insufficiency of the insolvent estate***

1 - Verifying that the insolvency estate is insufficient to satisfy the costs of the proceedings and the remaining debts of the insolvency estate, the insolvency administrator informs the judge of the fact, and the judge may take cognizance of it ex officio.

2 - After hearing the debtor, the meeting of creditors and the creditors of the insolvent estate, the judge declares the process closed, unless any interested party deposits to the order of the court the amount determined by the judge according to what he reasonably deems necessary to guarantee the payment of the costs of the process and remaining debts of the insolvent estate.

3 - The court secretariat, when the case is referred to the account and then to it, distributes the sums of money existing in the insolvent estate, after paying the costs, to the creditors of the insolvent estate, in proportion to their credits.

4 - Once the insufficiency of the assets has been verified, the insolvency administrator is permitted to immediately interrupt the respective liquidation.

5 - Once the insolvency process has been closed due to insufficient assets, in cases where an insolvency qualification incident has been opened and if it has not yet been completed, it continues its terms as a limited incident.

6 - The provisions of the previous paragraphs are not applicable in the event that the debtor benefits from the deferral of payment of costs, in accordance with paragraph 1 of article 248, during the validity of the benefit.

Insufficiency of assets is presumed when the assets are less than (euro) 5000.

7 - Insufficiency of assets is presumed when the assets are less than (euro) 5000.

Changes

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Amended by Article 1 of [Decree-Law no. 282/2007 - Official Gazette no. 151/2007, Series I of 2007-08-07](#), effective from 2007-08-08

Article 233.º

Effects of closure

1 - Once the process is closed, and without prejudice to the provisions of paragraph 5 of article 217 regarding the concrete immediate effects of the decision to approve the

insolvency plan: a) All effects resulting from the declaration of insolvency cease, notably recovering the debtor has the right to dispose of his assets and freely manage his business, without prejudice to the effects of classifying the insolvency as culpable and the provisions of the following article; b) The powers of the

creditors committee and the insolvency administrator cease, with the exception of those relating to the presentation of accounts and those conferred, if applicable, by the insolvency plan; c) Insolvency creditors will be

able to exercise their rights against the debtor without restrictions other than those contained in the possible insolvency plan and payment plan and in paragraph 1 of article 242, constituting an enforceable title for the purpose of the sentence approval of the payment plan, as well as the credit verification sentence or the decision given in a subsequent verification action, in conjunction, if applicable, with the sentence ratifying the insolvency plan; d) The creditors of the estate can claim their unsatisfied rights from the debtor.

2 - The closure of the insolvency process before the final apportionment determines:

a) The ineffectiveness of the resolutions of acts for the benefit of the insolvent estate, except if the insolvency plan gives the insolvency administrator the competence to defend actions aimed at the respective challenge, as well as in cases where they can no longer be challenged due to the expiry of the period provided for in article 125, or where the challenge filed has already been dismissed by a final decision; b) The termination of the process of verifying credits and restitution and separation of already liquidated assets that are pending, except if the judgment of verification and graduation of credits provided for in article 140 has already been issued, or if the closure results from the approval of the insolvency plan, in which case the appeals lodged against that sentence and the actions whose authors or the debtor so request continue until the end, within 30 days; c) Termination of proceedings pending against those legally responsible for the insolvent's debts proposed by the insolvency administrator, unless the insolvency plan gives the insolvency administrator the authority to pursue them.

3 - The costs of actions to challenge the resolution of acts for the benefit of the insolvent estate deemed valid pursuant to the provisions of paragraph a) of the previous paragraph constitute the responsibility of the insolvent estate, if the process is closed due to its insufficiency.

4 - With the exception of credit verification processes, any action that is dependent on the insolvency process and whose instance is not extinguished, in accordance with paragraph b) of paragraph 2, nor must be continued by the insolvency administrator, in accordance with the terms of the insolvency plan, is removed from the process and sent to the competent court, with the debtor having exclusive legitimacy for the case, regardless of the qualification or agreement of the counterparty.

5 - Within 10 days after the closure, the insolvency administrator delivers to the court, for archiving, all the documentation relating to the process that is in his possession, as well as the elements of the debtor's accounts that do not need to be returned to the debtor.

6 - Whenever the insolvency process is closed without a qualification incident having been opened by application of the provisions of paragraph i) of paragraph 1 of article 36, the judge must expressly declare it in the decision provided for in article 230. ° the fortuitous nature of insolvency.

7 - The closure of the insolvency process under the terms of subparagraph e) of paragraph 1 of article 230, when there are assets or rights to be liquidated, determines solely the beginning of the period for the transfer of available income.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Amended by Article 1 of [Decree-Law no. 200/2004 - Official Gazette no. 194/2004, Series IA of 2004-08-18](#), in force from 2004-09-15, takes effect on from 2004-09-15

Article 234

Effects on commercial companies

1 - If the closure of the process is based on the approval of an insolvency plan that provides for the continuity of the commercial company, it resumes its activity independently of the shareholders' deliberation.

2 - The partners may decide to resume the activity if the closure is based on paragraph c) of paragraph 1 of article 230.

3 - With the registration of the closure of the process after the final apportionment, the company is considered extinct.

4 - In the case of closure due to insufficient insolvent assets, the liquidation of the company continues in accordance with the legal regime for administrative procedures for the dissolution and liquidation of commercial entities, and the judge must communicate the closure and the company's assets to the competent registry service .

Changes

Amended by Article 35 of [Decree-Law No. 76-A/2006 - Official Gazette No. 63/2006, Supplement No. 1, Series IA of 2006-03-29](#), effective from 2006-06-30

Title XII

Specific provisions on the insolvency of natural persons

Chapter I

Exemption of remaining liabilities

Article 235

General principle

If the debtor is a natural person, he or she may be granted exemption from insolvency claims that are not fully paid during the insolvency process or in the three years following its closure, in accordance with the terms of this chapter.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Article 236

Request for exemption from remaining liabilities

- 1 - The request for exemption from the remaining liabilities is made by the debtor in the insolvency submission request or within 10 days after the summons, and will always be rejected, if it is submitted after the report assessment meeting, or, in the case of exemption from carrying out this, after 60 days following the sentence that declared insolvency; the judge freely decides on the admission or rejection of a request presented in the intermediate period.
- 2 - If the insolvency process was not initiated by him, the act of summoning the individual debtor must indicate the possibility of requesting the exemption of the remaining liabilities, under the terms set out in the previous paragraph.
- 3 - The application expressly states that the debtor meets the requirements and is willing to observe all the conditions required in the following articles.
- 4 - At the report assessment meeting or, if the meeting is waived, within 10 days following the expiry of the 60-day period provided for in the final part of paragraph 1, creditors and the insolvency administrator are given the possibility of commenting on the request.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017](#) - [Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Article 237.º

Subsequent processing

The effective granting of exemption from the remaining liabilities presupposes that: a) There is no reason for the preliminary rejection of the request, pursuant to the provisions of the following article; b) The judge declares that the exemption will be granted once the conditions set out in article 239 have been observed by the debtor during the three years following the closure of the insolvency process, in this chapter referred to as the initial order; c) An insolvency plan is not approved and approved; d) After the period mentioned in paragraph b), and if the aforementioned conditions are effectively met, the judge issues an order decreeing the definitive dismissal, in this chapter called dismissal order.

Changes

Amended by Article 2 of [Law No. 9/2022](#) - [Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Article 238.º

Preliminary rejection

- 1 - The request for dismissal is outright rejected if: a) It is submitted after the deadline; b) The debtor, with intent or serious negligence, has provided in writing, in the three years prior to the date of initiation of insolvency proceedings, false or incomplete information about his or her economic circumstances with a view to obtaining credit or subsidies from public institutions or in order to avoid payments to institutions of this nature; c) The debtor has already benefited from the exemption of the remaining liabilities in the 10 years prior to the date on which the insolvency process began; d) The debtor has failed to comply with the obligation to present itself for insolvency or, if it is not obliged to present itself, has failed to present itself in the six months following the verification of the insolvency situation, with prejudice in either case to

creditors, and knowing, or being unable to ignore without serious fault, that there is no serious prospect of improving their economic situation;

e) The creditors or the insolvency administrator already contain elements in the process, or are provided by the time of the decision, that indicate in all likelihood the existence of the debtor's guilt in creating or worsening the insolvency situation, in accordance with article 186th; f) The debtor has been convicted by a final and unappealable sentence for any of the crimes provided for and punished in articles 227 to 229 of the Penal Code in the 10 years prior to the date of entry into court of the request for declaration of insolvency or subsequent to the this date; g) The debtor, with intent or serious negligence, has violated the obligations of information, presentation and collaboration that result from this Code, during the insolvency process.

2 - The preliminary rejection order is issued after hearing the creditors and the insolvency administrator in accordance with the terms set out in no. of any of the facts referred to in the previous paragraph.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017](#) - [Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Article 239.º

Transfer of disposable income

1 - If there is no reason for preliminary rejection, the initial order is made, at the report assessment meeting, or within 10 days following this or upon the expiry of the deadlines set out in paragraph 4 of article 236.

2 - The initial order determines that, during the three years following the closure of the insolvency process, in this chapter referred to as the assignment period, the disposable income that the debtor will earn is considered assigned to the entity, in this chapter referred to as fiduciary, chosen by the court from among those registered on the official list of insolvency administrators, under the terms and for the purposes of the following article.

3 - Disposable income includes all income that accrues to the debtor in any capacity, excluding: a) Credits referred to in article 115 assigned to a third party, for the period in which the assignment remains effective; b) What is reasonably necessary for: i) Minimally decent

support for the debtor and his family, which must not exceed, unless the judge decides otherwise, three times the national minimum wage; ii) The exercise by the debtor of his professional activity; iii) Other expenses reserved by the judge in the initial order or at a later time, at the debtor's request.

4 - During the assignment period, the debtor is also obliged to:

a) Not hide or conceal any income he receives, by any means, and to inform the court and the fiduciary about his income and assets in the form and within the deadline that this is requested of you; b) Exercise a paid profession, not abandoning it without legitimate reason, and diligently seek such a profession when unemployed, not unreasonably refusing any job in order to be suitable; c) Immediately deliver to the fiduciary, when received by you, the part of your income subject to transfer; d) Inform the court and the fiduciary of any change of residence or employment conditions, within 10 days after the respective occurrence, as well as, when requested and within the same period, about the steps taken to obtain job; e)

Not make any payments to insolvency creditors other than through the fiduciary and not create any special advantage for any of these creditors.

5 - The assignment provided for in paragraph 2 prevails over any agreements that exclude, condition or in any way limit the assignment of the debtor's assets or income.

6 - If an appeal is filed against the initial order, the completion of the final apportionment only determines the closure of the process after the decision has become final.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Article 240.º***Trustee***

1 - The remuneration of the fiduciary and the reimbursement of his expenses constitute the debtor's responsibility.

2 - Paragraphs 2 and 4 of article 38, articles 56, 57, 58, 59 and 62 to 64 are applicable to the fiduciary, with due adaptations. ; The provisions of paragraph 1 of article 60 and paragraph 1 of article 61 are also applicable, and the information must be on an annual basis and sent to each creditor and the judge.

Article 241***Functions***

1 - The fiduciary notifies the assignment of the debtor's income to those from whom he is entitled to receive them, and allocates the amounts received, at the end of each year in which the assignment lasts: a)

Payment of the costs of the insolvency proceedings still in debt; b) Reimbursement

to the body responsible for the financial and asset management of the Ministry of Justice of the remuneration and expenses of the insolvency administrator and the trustee himself that have been borne by the latter; c) Payment of their own remuneration already

due and expenses incurred; d) The distribution of the remainder among the insolvency

creditors, whose claims are verified and graduated by sentence, under the terms prescribed for payment to creditors in the insolvency process.

2 - The fiduciary maintains separately from his personal assets all amounts arising from income transferred by the debtor, being responsible with all his assets for the funds that he unduly fails to allocate to the purposes indicated in the previous paragraph, as well as for the losses caused by this lack of distribution.

3 - The task of monitoring compliance by the debtor with the obligations imposed on him, with the duty to inform creditors in case of knowledge of any breach, may be conferred on the fiduciary, if the creditors request it at the meeting of creditors to assess the report or, if the report is not required, within 10 days following the expiry of the 60-day period provided for in the final part of paragraph 1 of article 236.

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Article 241.º-A***Supervening liquidation***

1 - Once the liquidation of the debtor's assets has been completed and the insolvency process has been concluded in accordance with the provisions of subparagraph e) of paragraph 1 of article 230, if assets or rights susceptible to alienation enter the debtor's assets, the fiduciary must, promptly, proceed with its seizure and sale, with the provisions of title vi being applicable for this purpose, with the necessary adaptations.

2 - The fiduciary presents accounts within 10 days following the sale of the assets or rights referred to in the previous number, and the period may be extended by court order.

3 - The provisions of paragraph 3 of article 62 and article 64 apply, and after payment of the variable remuneration to the trustee for the sale of the assets or rights referred to in paragraph 1 and other possible debts, the proceeds of the sale are allocated by the fiduciary under the terms of the previous article.

Changes

Added by Article 8 of [Law No. 9/2022](#) - [Official Gazette No. 7/2022](#), [Series I of 2022-01-11](#), effective from 2022-04-11

Article 242.º***Equality of creditors***

1 - Any executions on the debtor's assets intended to satisfy insolvency claims are not permitted during the assignment period. 2 - The granting of special

advantages to an insolvency creditor by the debtor or by a third party is null and void.

3 - Set-off between insolvency debts and an insolvency creditor's obligations is only lawful under the conditions under which it would be admissible during the pendency of the proceedings.

Article 242.º-A***Extension of the assignment period***

1 - Without prejudice to the provisions of the second part of paragraph 3 of article 243, the judge may extend the assignment period, up to a maximum of three years, before the end of that period and for a single time, upon a reasoned request : a) From the debtor; b) From

an insolvency creditor; c) The

insolvency administrator, if he/she is still in office; or d) The fiduciary who

has been entrusted with monitoring compliance with the debtor's obligations, if the debtor has violated any of the obligations imposed on him by article 239, thereby jeopardizing the satisfaction of insolvency claims.

2 - The application can only be presented within six months following the date on which the applicant was or could have been aware of the grounds invoked, with the corresponding proof being immediately offered.

3 - The judge must hear the debtor, the fiduciary and the insolvency creditors before deciding the issue, and decree the extension only if he concludes that there is a serious probability of the debtor complying with the obligations referred to in paragraph 1. 1, in the additional period.

Changes

Added by Article 8 of [Law No. 9/2022](#) - [Official Gazette No. 7/2022](#), [Series I of 2022-01-11](#), effective from 2022-04-11

Article 243.º***Early termination of the dismissal procedure***

1 - Even before the end of the assignment period, the judge must refuse the dismissal, upon a well-founded request from an insolvency creditor, the insolvency administrator, if he is still in office, or the fiduciary, if he has been entrusted with supervising the fulfillment of the debtor's obligations, when: a) The debtor has intentionally or with serious negligence violated any of the obligations imposed on him by article 239, thereby jeopardizing the satisfaction of insolvency claims; b) The existence of any of the circumstances referred to in subparagraphs b), e) and f) of paragraph 1 of article 238 is determined to exist, if it was only known to the applicant after the initial order or is a subsequent verification;

c) The decision on the insolvency qualification incident concluded that the debtor was guilty of creating or worsening the insolvency situation.

2 - The application can only be presented within six months following the date on which the applicant was or could have been aware of the grounds invoked, and the respective proof must be offered immediately.

3 - When the request is based on paragraphs a) and b) of paragraph 1, the judge must hear the debtor, the trustee and the insolvency creditors before deciding the issue; Exoneration is always refused if the debtor, without reasonable reason, does not provide within the deadline set information proving compliance with his obligations, or, duly summoned, unjustifiably misses the hearing at which he should provide them.

4 - The judge, ex officio or at the request of the debtor or fiduciary, also declares the incident closed as soon as all insolvency claims are fully satisfied.

Changes

Amended by Article 2 of [Law No. 9/2022](#) - [Official Gazette No. 7/2022](#), [Series I of 2022-01-11](#), effective from 2022-04-11

Article 244

Final decision on dismissal

1 - If there is no early termination, after hearing the debtor, the fiduciary and the insolvency creditors, the judge decides, within 10 days following the end of the assignment period, on the respective extension, under the terms set out in article 242. -A, or on the granting or not of the exoneration of the debtor's remaining liabilities.

2 - Exoneration is refused on the same grounds and subject to the same requirements as it could have been refused in advance, under the terms of the previous article.

3 - After the deadline for extending the assignment period, if applicable, the judge decides whether or not to grant the exemption of the remaining liabilities in accordance with the previous paragraphs.

Changes

Amended by Article 2 of [Law No. 9/2022](#) - [Official Gazette No. 7/2022](#), [Series I of 2022-01-11](#), effective from 2022-04-11

Article 245

Effects of dismissal

1 - The exoneration of the debtor entails the extinction of all insolvency claims that still exist on the date on which it is granted, without the exception of those that have not been claimed and verified, with the provisions of paragraph 4 of article 217 being applicable. th

2 - However, the exemption does not

cover: a) Food credits; b)

Compensation due for intentional illegal acts committed by the debtor, which have been claimed in that capacity; c) Credits for fines, fines and other pecuniary sanctions for crimes or administrative offenses; d) Tax and social security credits.

Changes

Amended by Article 169 of [Decree-Law no. 84/2019](#) - [Official Gazette no. 122/2019](#), [Series I of 2019-06-28](#), effective from 2019-06-29

Article 246

Revocation of dismissal

1 - The exoneration of the remaining liability is revoked if it is proven that the debtor has incurred any of the situations set out in subparagraphs b) et seq. of paragraph 1 of article 238, or has intentionally violated his obligations during the period of assignment, and for

any of these reasons has significantly harmed the satisfaction of insolvency creditors.

2 - Revocation may only be decreed until the end of the year following the final and unappealable order of dismissal; When requested by an insolvency creditor, the latter must also prove that he was not aware of the reasons for the revocation until the moment of the transit.

3 - Before deciding the issue, the judge must hear the debtor and the fiduciary.

4 - The revocation of the exemption entails the reconstitution of all extinguished credits.

Article 247.º

Publication and registration

The initial orders, dismissal, early termination and revocation of dismissal are published and registered, in accordance with the terms set out for the decision to close the insolvency process.

Article 248

Costs

1 - The debtor who submits a request for exemption from the remaining liabilities benefits from the deferral of payment of costs until the final decision on that request, in the part in which the insolvent estate and its available income during the period of assignment are insufficient for the respective payment in full, the same applies to the obligation to reimburse the body responsible for the financial and asset management of the Ministry of Justice of the remuneration and expenses of the insolvency administrator and the trustee that the body has borne.

2 - If exemption from the remaining liability is granted, the provisions of article 33 of the Procedural Costs Regulation are applicable to the payment of costs and the reimbursement obligation referred to in the previous paragraph.

3 - If the exemption is subsequently revoked, the authorization to pay in installments expires, and the amounts owed will be subject to default interest calculated as if the benefit provided for in paragraph 1 had not been granted, at the rate provided for in paragraph 1 of article 33 of the Procedural Costs Regulation.

4 - (Revoked.)

Changes

Amended by Article 2 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Amended by Article 3 of [Decree-Law No. 79/2017 - Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 248.º-A

Value of the case

For procedural purposes, in the case of an appeal against decisions made within the scope of the incident of exoneration of the remaining liability, the value of the case is determined by the liability to be exonerated from the debtor.

Changes

Added by Article 8 of [Law No. 9/2022 - Official Gazette No. 7/2022, Series I of 2022-01-11](#), effective from 2022-04-11

Chapter II

Insolvency of non-entrepreneurs and small business owners

Section I

General provisions

Article 249.

Scope of application

1 - The provisions of this chapter are applicable if the debtor is a natural person, and, alternatively: a) Has not owned the operation of any company in the three years prior to the start of the insolvency process; b) At the start of the process: i) Have no

employment debts; ii) The number of its creditors does not exceed 20; iii) Your global liabilities do not exceed (euro) 300000.

2 - If both spouses become insolvent, or proceedings are initiated against both, in accordance with article 264, the requirements set out in the previous paragraph must be met in relation to each of the spouses.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017](#) - [Official Gazette No. 125/2017](#), [Series I of 2017-06-30](#), effective from 2017-07-01

Article 250

Inadmissibility of insolvency plan and administration by the debtor

The provisions of Titles IX and X do not apply to insolvency proceedings covered by this chapter.

Section II

Payment plan to creditors

Article 251.º

Presentation of a payment plan

The debtor may present, together with the initial petition for insolvency proceedings, a payment plan to creditors.

Article 252.º

Payment plan content

1 - The payment plan must contain a proposal for satisfying the rights of creditors that duly safeguards their interests, in order to obtain their approval, taking into account the debtor's situation.

2 - The payment plan may in particular provide for moratoriums, pardons, provision of guarantees, total or partial extinction of real guarantees or existing credit privileges, a scheduled payment program or payment in a single installment and the adoption by the debtor of concrete measures of any nature capable of improving their financial situation.

3 - The debtor may include in the payment plan credits whose existence or amount he does not recognize, with the provision that the amounts destined for their settlement will be deposited with a financial intermediary to be delivered to the respective holders or distributed among the other creditors after the controversy is resolved at the appropriate headquarters.

4 - The presentation of the payment plan involves confession of the debtor's at least imminent insolvency situation.

5 - The payment plan is accompanied by the following annexes: a)

Declaration that the debtor meets the requirements required by article 249; b) List of

the debtor's available assets, as well as his income; c) Summary with the essential

content of that list, in this chapter referred to as asset summary; d) List in alphabetical order of creditors

and their addresses, indicating the amounts, nature and possible guarantees of their credits; e) Declaration that the information provided is true and complete.

6 - Unless it is manifestly unsuitable for the specific case, the elements contained in the previous paragraph must be included in a model approved by order of the Minister of Justice.

7 - The payment plan and its annexes are presented in two copies, one of which is intended for the court archive, the other remaining in the judicial secretariat for consultation by interested parties; In the case of digitized documents, two copies are extracted by the secretariat for the same purposes.

8 - A debtor who, once notified by the court, does not provide within the fixed period the elements mentioned in paragraph 5 that was initially omitted, is deemed to have withdrawn from presenting the payment plan.

Article 253.º

Insolvency request filed by a third party

If the insolvency process was not initiated by him, the act of summons to the natural person debtor must include an indication of the possibility of presenting a payment plan as an alternative to the challenge, within the period set for this, provided that any of the assumptions referred to in the paragraph 1 of article 249, with express warning of the consequences foreseen in paragraph 4 of the previous article and the following article.

Article 254

Preclusion of exoneration of remaining liabilities

A debtor who, when presenting a payment plan, has not declared that he or she intends to do so, cannot benefit from exemption from remaining liabilities, in the event that the plan is not approved.

Article 255

Suspension of insolvency proceedings

1 - If it appears highly unlikely that the payment plan will be approved, the judge will close the incident, with no appeal against the decision; otherwise, it determines the suspension of the insolvency process until a decision on the payment plan incident is made.

2 - If the insolvency process is to continue, a judgment declaring insolvency is immediately issued, followed by subsequent procedures, in general terms.

3 - The suspension provided for in paragraph 1 does not prejudice the adoption of the precautionary measures provided for in article 31.

Article 256***Notification of creditors***

- 1 - If the insolvency process is suspended, the secretariat extracts or notifies the debtor to attach, within five days, the number of copies of the payment plan and asset summary necessary for delivery to the creditors mentioned in the annex to the plan, depending on whether or not such documents were presented in digital format.
- 2 - The notification to the creditor requesting insolvency, if applicable, and the summons to the other creditors are made by registered letter, accompanied by the documents referred to in paragraph 1, and the act must indicate that: a) They have 10 days to comment, under penalty of having their adherence to the plan taken for granted; b) They must, within the same period, correct the information relating to their credits contained in the list presented by the debtor, under penalty of, in the event of approval of the plan, such information being accepted and any other debts whose omission is not due to that debtor being forgiven. creditor duly reported; c) The other annexes to the plan are available for consultation at the court secretariat.
- 3 - When a creditor disputes the nature, amount or other elements of their credit as defined by the debtor, or invokes the existence of other credits held by them, the debtor is notified within a maximum period of 10 days, declare whether or not the list of credits is modified, with only those credits whose existence is recognized by the debtor being covered by the payment plan, and only: a) In the part accepted by the debtor, if there is a disagreement regarding the amount; b) If the indication made by the debtor is accurate, if there is a discrepancy regarding other elements.
- 4 - The debtor may also be given the opportunity to modify the payment plan, within a period of five days, when this is considered convenient in view of the observations of creditors or with a view to reaching an agreement regarding the payment of debts.
- 5 - Any modifications or additions made by the debtor under the terms of paragraphs 3 and 4 will be notified, when necessary, to the creditors for a new statement regarding adherence to the plan, with the understanding that creditors who do nothing say within 10 days.

Article 257.º***Payment plan acceptance***

- 1 - If no creditor has refused the payment plan, or if the approval of all those who object is subject to approval, under the terms of the following article, the plan is considered approved.
- 2 - It is understood that the following are opposed to the payment plan: a) Creditors who have expressly refused it; b) Creditors who, in a manner not accepted by the debtor, have contested the nature, amount or other elements of their credits listed by the debtor, or invoked the existence of other credits.
- 3 - Credits that have not been related by the debtor, or in relation to which it was not possible to hear the respective holders, due to an act that is not attributable to them, are not covered by the payment plan.

Article 258***Supplying creditor approval***

- 1 - If the payment plan has been accepted by creditors whose credits represent more than two thirds of the total value of the credits related by the debtor, the court may, at the request of any of these creditors or the debtor, supply the approval of the other creditors, provided that: a) For none of the opponents, the plan results in an economic disadvantage greater than that, if the debtor's circumstances remained identical, would result from the continuation of the insolvency process, with liquidation of the insolvent estate and

exemption from the remaining liability, if this has been requested by the debtor and is capable of being granted; b)

Opponents are not subject to unjustified discriminatory treatment; c) Opponents do not

raise legitimate doubts regarding the veracity or completeness of the list of credits presented by the debtor, with consequences for the adequacy of the treatment given to them.

2 - The assessment of the opposition based on paragraph c) of the previous paragraph does not involve a decision on the effective existence, nature, amount and other characteristics of the disputed credits.

3 - The court may always grant the approval of the creditor who has limited himself to challenging the identification of the credit, without providing any information regarding its configuration.

4 - There is no appeal against the decision rejecting the request for approval from any creditor.

Article 259

Terms subsequent to approval

1 - The judge approves the payment plan approved under the terms of the previous articles by means of a sentence, and, after its final judgment, also declares the insolvency of the debtor in the main proceedings; The sentence declaring insolvency contains only the mentions referred to in subparagraphs a) and b) of paragraph 1 of article 36, with the provisions of subparagraph a) of paragraph 7 of article 39 being applicable.

2 - Both sentences are notified only to the creditors included in the list provided by the debtor.

3 - Only creditors whose approval has been granted may appeal against the payment plan approval decision or react against the insolvency declaration decision issued under the terms of paragraph 1, via appeal or by opposing embargoes; the revocation of this last sentence also implies the ineffectiveness of the plan.

4 - The final and unappealable decision of the approval of the payment plan and declaration of insolvency determines the closure of the insolvency process.

5 - The aforementioned sentences and the decision to close the case given under the terms of the previous paragraph are not the subject of any publicity or registration.

Changes

Amended by Article 2 of [Law No. 16/2012](#) - [Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 260

Non-compliance

Unless the payment plan expressly provides otherwise, the moratorium or forgiveness provided for in the plan are without effect in the cases provided for in paragraph 1 of article 218, however, paragraph 2 of this provision is not applicable.

Article 261

Other insolvency proceedings

1 - Holders of credits included in the list attached to the court-approved payment plan cannot request a declaration of insolvency in another process, except: a) In the case of non-compliance with the payment plan, under the conditions defined in the previous article; b) Proving that their credits have a higher amount or more favorable characteristics than those contained in that list; c) Due to the ownership of credits not included in the list, in whole

or in part, and which should not be considered forgiven, under the terms of paragraph 3 of article 256.

2 - By way of derogation from the provisions of article 8, the pendency of an insolvency proceeding in which a payment plan has been presented does not prevent the continuation of other proceedings initiated against the same debtor by holders of credits not included in the list annexed to the plan, nor the declaration of insolvency issued in the first, under the terms of no. 1 of article 259, suspend or extinguish the instance of the second.

3 - The provisions of the previous paragraph also apply if the other process is initiated by a credit holder that the debtor has related, provided that, after the end of the period provided for in paragraph 3 of article 256, there is still a divergence as to the amount or other elements of the respective credit, but insolvency will not be declared in this process without the applicant providing proof of the incorrect identification made by the debtor.

Article 262.º

Resumption of general procedures

If the payment plan is not approved, or the approval decision is revoked on appeal, the terms of the insolvency process are immediately resumed through the issuance of a judgment declaring insolvency under the terms of articles 36 or 39. , depending on the case.

Article 263.º

Attachment processing

The payment plan approval incident is processed as an attachment to the insolvency process.

Section III

Insolvency of both spouses

Article 264

Coalition

1 - If both spouses are in a situation of insolvency, and the property regime is not that of separation, it is lawful for the spouses to present themselves jointly for insolvency, or the proceedings to be initiated against both, unless one is responsible to the applicant. just theirs.

2 - If proceedings are initiated against only one of the spouses, the other may, with the consent of their spouse, but independently of the applicant's agreement, file for insolvency within the scope of that proceedings; If, however, the incident of approving a payment plan has already started, intervention is only permitted if the plan is not approved or approved.

3 - Presentation for insolvency under the terms of the previous paragraph, once admitted: a) Involves confession of the presenter's insolvency situation only if the insolvency of the other spouse is declared; b) Suspends any insolvency proceedings previously initiated only against the applicant and in which insolvency has not already been declared, if it is accompanied by an express confession of the insolvency situation or if a proposal for a payment plan is presented by the spouses.

4 - If both spouses are insolvent, or if both spouses are facing proceedings initiated by a third party: a) The assessment of the insolvency situation of both spouses is always contained in the same sentence; b) A possible payment plan proposal must be formulated jointly by the spouses.

5 - Exceptions to the provisions of paragraph b) of the previous paragraph are in the event that one of the spouses opposes the request for declaration of insolvency, in which case: a) If a proposal for a payment plan is presented by the other spouse, they run in parallel the corresponding incident and the insolvency process against his consort, without, however, the processing of the former being able to continue, subject to the provisions of article 256, before a sentence is handed down in the latter; b) If the opposition to the request is dismissed, the sentence declares the insolvency of both spouses and the payment plan incident is extinguished; c) If the opposition is judged to be valid, the payment plan incident follows its terms until the end, subsequently complying with the provisions of articles 259 or 262, depending on which is applicable.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017](#) - [Official Gazette No. 125/2017](#), [Series I of 2017-06-30](#), effective from 2017-07-01

Article 265***Common and own debts of each spouse***

1 - Respecting the insolvency process for both spouses, the payment plan proposal presented by them and the credit complaints indicate, for each debt, whether the responsibility lies with both or just one of the spouses, and the common nature or exclusive responsibility of one of the spouses, this responsibility must also be mentioned in the list of recognized creditors drawn up by the insolvency administrator and set out in the judgment of verification and graduation of credits. credits.

2 - Votes at the creditors' meeting are given according to the nominal value of the credits, regardless of whether responsibility for the debts belongs to both spouses or exclusively to one of them.

3 - In the deliberations of the meeting of creditors and the committee of creditors that affect one of the spouses' own assets, however, holders of credits for which the other spouse is exclusively responsible are not permitted to vote.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017](#) - [Official Gazette No. 125/2017](#), [Series I of 2017-06-30](#), effective from 2017-07-01

Article 266***Separation of assets***

The common assets and the personal assets of each spouse are inventoried, maintained and liquidated separately.

Title XIII***Emolumentary and tax benefits*****Article 267.º*****Registration fees***

No preparations may be required for acts of registration of orders or sentences handed down in the insolvency process, as well as those of registering the seizure of assets for the insolvency estate, the respective fees constituting a debt of the estate equivalent to the costs of the insolvency proceedings.

Article 268***Benefits relating to personal and corporate income taxes***

1 - The income and gains determined and the positive equity variations not reflected in the net result, verified as a result of the payment in fulfillment of the debtor's assets and rights, the assignment of creditors' assets and rights and the sale of assets and rights, in process of insolvency that proceeds to liquidation, are exempt from taxes on the income of natural and legal persons, and do not contribute to the determination of the debtor's tax base.

2 - Positive changes in assets resulting from changes to their debts provided for in an insolvency plan, payment plan or recovery plan are also not included in the formation of the debtor's tax base.

3 - The value of credits that are subject to reduction, under an insolvency plan, payment plan or recovery plan, is considered as a cost or loss for the respective year, for the purposes of determining the taxable profit of taxable persons subject to tax on personal income and corporate income tax.

Changes

Amended by Article 287 of [Law No. 114/2017 - Official Gazette No. 249/2017, Series I of 2017-12-29](#), effective from 2018-01-01

Amended by Article 234 of [Law No. 66-B/2012 - Official Gazette No. 252/2012, 1st Supplement, Series I of 2012-12-31](#), effective from 2013-01-01

Article 269***Stamp tax benefit***

The following acts are exempt from stamp duty, when subject to it, as long as they are provided for in insolvency, payment or recovery plans or carried out as part of the liquidation of the insolvent estate: a) Modifications to due dates or interest rates on insolvency credits; b) (Revoked.) c) The formation of a new company or companies; d) The payment of company assets and the transfer of assets to creditors; e) The carrying out of financing operations, the transfer or transfer of the operation of company establishments, the formation of companies and the transfer of commercial establishments, the sale, exchange or transfer of elements of the company's assets, as well as the leasing of assets; f) The issuance of bills or promissory notes; g) The creation or extension of guarantees.

Changes

Amended by Article 287 of [Law No. 114/2017 - Official Gazette No. 249/2017, Series I of 2017-12-29](#), effective from 2018-01-01

Amended by Article 234 of [Law No. 66-B/2012 - Official Gazette No. 252/2012, 1st Supplement, Series I of 2012-12-31](#), effective from 2013-01-01

Article 270.º***Benefit related to municipal tax on onerous property transfers***

1 - The following transfers of real estate, integrated into any insolvency, payment or recovery plan, are exempt from municipal tax on onerous property transfers: a) Those intended for the constitution of a new company or companies and the carrying out of the your capital; b) Those intended to increase the capital of the debtor company; c) Those arising from the payment of company assets and the transfer of assets to creditors.

2 - Acts of sale, exchange or assignment of the company or establishments integrated within the scope of insolvency, payment or

recovery or carried out as part of the liquidation of the insolvent estate.

Changes

Amended by Article 234 of [Law No. 66-B/2012](#) - Official Gazette No. 252/2012, 1st Supplement, Series I of 2012-12-31, effective from 2013-01-01

Title XIV

Implementation of Regulation (EC) No. 1346/2000, of the Council of 29 May

REVOKED

Changes

Repealed by Article 7 of [Decree-Law No. 79/2017](#) - Official Gazette No. 125/2017, Series I of 2017-06-30, effective from 2017-07-01

Article 271.º

Rationale for international competence

REVOKED

Changes

Repealed by Article 7 of [Decree-Law No. 79/2017](#) - Official Gazette No. 125/2017, Series I of 2017-06-30, effective from 2017-07-01

Article 272.º

Preventing conflicts of competence

REVOKED

Changes

Repealed by Article 7 of [Decree-Law No. 79/2017](#) - Official Gazette No. 125/2017, Series I of 2017-06-30, effective from 2017-07-01

Article 273.º

Effects of closure

REVOKED

Changes

Repealed by Article 7 of [Decree-Law No. 79/2017](#) - Official Gazette No. 125/2017, Series I of 2017-06-30, effective from 2017-07-01

Article 274

Foreign Decision Advertising

REVOKED

Changes

Repealed by Article 7 of [Decree-Law No. 79/2017](#) - Official Gazette No. 125/2017, Series I of 2017-06-30, effective from 2017-07-01

Title XV

Conflict rules

Chapter I

General provisions

Article 275

Prevalence of other norms

1 - The processes regulated in this Code to which Regulation (EU) no. 2015/848 of the European Parliament and of the Council, of 20 May 2015, applies, are governed by the discipline laid down in that instrument and, in everything regarding not contradicted by this diploma.

2 - The provisions of this title are applicable only to the extent that they do not contradict what is established in the Regulation referred to in the previous number or in other rules of European Union Law or in international treaties and conventions.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017](#) - [Official Gazette No. 125/2017](#), [Series I of 2017-06-30](#), effective from 2017-07-01

Article 276.º

General principle

In the absence of any provision to the contrary, insolvency proceedings and their respective effects are governed by the law of the State in which the proceedings were initiated.

Article 277.º

Labor relations

The effects of the declaration of insolvency in relation to employment contracts and the employment relationship are governed exclusively by the law applicable to the employment contract.

Article 278.º

Debtor's rights over real estate and other assets subject to registration

The effects of the declaration of insolvency on the debtor's rights relating to an immovable property, a ship or an aircraft, the registration of which is mandatory in a public register, are governed by the law of the State under whose authority that register is maintained.

Article 279.º

Contracts on real estate and movable property subject to registration

1 - The effects of the declaration of insolvency on contracts that confer the right to acquire real rights over immovable property, or the right to use it, are governed exclusively by the law of the State in whose territory that property is located.

2 - In respect of the contract for a ship or aircraft whose registration in a public register is mandatory, the law of the State under whose authority that register is maintained shall apply.

Article 280.º

Real rights and reservation of title

- 1 - The effects of the declaration of insolvency on the real rights of creditors or third parties over tangible or intangible, movable or immovable assets, whether specific assets or sets of indeterminate assets considered as a whole, the composition of which may undergo changes over the course of time, belonging to the debtor and which, at the time of opening the process, are located in the territory of another State, are governed exclusively by the law of that State; the same applies to the seller's rights relating to goods sold to the insolvent debtor with retention of title.
- 2 - The declaration of insolvency of the seller of an asset, after delivery of the same, does not in itself constitute a basis for resolution or rescission of the sale nor does it prevent the buyer from acquiring ownership of the asset sold, provided that, at the time of opening process, that asset is in the territory of another State.
- 3 - The provisions of the previous paragraphs do not affect the possibility of resolution for the benefit of the insolvent estate, in general terms.

Article 281

Third party acquirers

The validity of an act concluded after the declaration of insolvency by which the debtor disposes, for consideration, of immovable property or of a ship or aircraft whose registration in a public register is mandatory, is governed by the law of the State in whose territory it is located the said immovable property or under whose authority such registration is maintained.

Article 282.º

Rights over securities and payment systems and financial markets

- 1 - The effects of the declaration of insolvency on rights relating to registered or deposited securities are governed by the law applicable to the respective transfer, in accordance with article 41 of the Securities Code.
- 2 - Without prejudice to the provisions of article 281, the determination of the law applicable to the effects of the declaration of insolvency on the rights and obligations of participants in a financial market or in a payment system as defined by paragraph a) of article 2.º of Directive no. [98/26/EC](#), of the European Parliament and the Council, of 19 May, or equivalent, is governed by the provisions of article 285 of the Securities Code.

Article 283.º

Sales operations based on repurchase agreements

The effects of the declaration of insolvency on sales transactions based on repurchase agreements, within the meaning of article 12 of Directive no. [86/635/EEC](#), of the Council of 8 December are governed by the law applicable to such contracts.

Article 284

Exercise of creditors' rights

- 1 - Any creditor may exercise his rights both in the main insolvency proceedings and in any other proceedings secondary.
- 2 - To the extent that this is admissible according to the law applicable to foreign proceedings, the insolvency administrator appointed in that process may: a) Claim in Portugal the credits recognized in the foreign proceedings;

b) Exercise the votes inherent to such credits at the meeting of creditors, unless the respective holders oppose this.

3 - A creditor who obtains payment in foreign insolvency proceedings cannot be paid in the proceedings pending in Portugal until creditors of the same rank obtain equivalent satisfaction in this case.

Article 285

Pending actions

The effects of the declaration of insolvency on pending action relating to an asset or right forming part of the insolvent estate are governed exclusively by the law of the State in which the said action takes place.

Article 286

Compensation

The declaration of insolvency does not affect the insolvency creditor's right to compensation, if this is permitted by the law applicable to the debtor's counter-credit.

Article 287.º

Resolution for the benefit of the insolvent estate

The resolution of acts for the benefit of the insolvent estate is unacceptable if the third party demonstrates that the act is subject to a law that does not allow it to be challenged by any means.

Chapter II

Foreign insolvency proceedings

Article 288

Recognition

- 1 - The declaration of insolvency in foreign proceedings, whenever the center of the debtor's main interests is located outside a Member State of the European Union, is recognized in Portugal, unless: a) The jurisdiction of the foreign court or authority is not founded in any of the criteria referred to in article 7 or in an equivalent connection; b) Recognition leads to a result that is manifestly contrary to the fundamental principles of the Portuguese legal order.
- 2 - The provisions of the previous paragraph apply to conservation measures adopted after the declaration of insolvency, as well as to any decisions taken with a view to executing or closing the process.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017](#) - [Official Gazette No. 125/2017](#), [Series I of 2017-06-30](#), effective from 2017-07-01

Article 289.º

Precautionary measures

The provisional administrator appointed prior to the declaration of insolvency may request the adoption of the precautionary measures referred to in article 31 for the purposes of preserving the debtor's assets located in Portugal.

Article 290.º***Advertising***

1 - Having verified the prerequisites for recognizing the declaration of insolvency, the Portuguese court orders, at the request of the foreign insolvency administrator, the publicity of the essential content of the decision declaring insolvency, the decision appointing the insolvency administrator and the decision of closure of the process, in accordance with article 37, applicable with the necessary adaptations, and the court may require a translation certified by a person who is competent for this purpose according to the law of the State of the case.

2 - The publications referred to in the previous paragraph are determined ex officio if the debtor has an establishment in Portugal.

Changes

Amended by Article 1 of [Decree-Law no. 282/2007](#) - [Official Gazette no. 151/2007](#), [Series I of 2007-08-07](#), effective from 2007-08-08

Article 291.º***Competent Portuguese court***

The provisions of paragraph 9 of article 38 apply to the determination of the court competent to carry out the acts referred to in articles 289 and 290.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017](#) - [Official Gazette No. 125/2017](#), [Series I of 2017-06-30](#), effective from 2017-07-01

Article 292.º***Compliance in favor of the debtor***

Payment made in Portugal to the debtor in ignorance of the declaration of insolvency will be released, assuming knowledge of the declaration of insolvency which has been publicized, in accordance with article 290.º

Changes

Amended by Article 1 of [Decree-Law no. 200/2004](#) - [Official Gazette no. 194/2004](#), [Series IA of 2004-08-18](#), effective from 2004-09-15

Article 293.º***Feasibility***

Decisions taken in foreign insolvency proceedings can only be enforced in Portugal after they have been reviewed and confirmed, however, the respective final and unappealable decision is not a requirement for confirmation.

Chapter III***Private insolvency process***

Article 294***Assumptions of a particular process***

- 1 - If the debtor does not have his headquarters or domicile in Portugal, nor the center of his main interests, the insolvency process only covers his assets located in Portuguese territory.
- 2 - If the debtor does not have an establishment in Portugal, the international jurisdiction of the Portuguese courts depends on the verification of the requirements imposed by paragraph c) of paragraph 1 of article 62 of the Code of Civil Procedure.
- 3 - Whenever Regulation (EU) No. 2015/848 of the European Parliament and of the Council of 20 May 2015 applies, the private proceeding is referred to as territorial insolvency proceedings until a main proceeding is opened, if in which it becomes known as a secondary process.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017](#) - [Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Article 295***Regime specialties***

In private insolvency proceedings: a)

The insolvency or payment plan can only be approved by the judge if it is approved by all affected creditors, if it provides for a payment, a moratorium, a pardon or other modifications of credits on insolvency ; b) Insolvency is not classified as fortuitous or negligent; c) The provisions

on exemption from remaining liabilities are not applicable.

Article 296.º***Secondary process***

- 1 - The recognition of a foreign main insolvency proceeding does not preclude the opening in Portugal of a private proceeding, hereinafter referred to as secondary proceedings.
- 2 - The main proceedings referred to in the previous paragraph have been opened and if there are other proceedings previously initiated in Portugal and which through that opening will be closed, the effects already produced that are not limited to the duration of the proceedings, including those resulting from acts carried out, are safeguarded. by the insolvency administrator or before him, in the exercise of his functions.
- 3 - In the case provided for in the previous paragraph, the provisions of paragraph 2 of article 233 apply, terminating the instance of all proceedings that are attached to the insolvency proceedings.
- 4 - The foreign insolvency administrator has the legitimacy to request the initiation of secondary proceedings.
- 5 - In the secondary process, proof of insolvency is not required.
- 6 - The insolvency administrator must promptly communicate to the foreign administrator all circumstances relevant to the development of the foreign process.
- 7 - The foreign administrator has the legitimacy to participate in the creditors' meeting and to present an insolvency plan.
- 8 - Once the insolvency claims have been fully satisfied, the remaining amount is remitted to the administrator of the main process.

Changes

Amended by Article 3 of [Decree-Law No. 79/2017](#) - [Official Gazette No. 125/2017, Series I of 2017-06-30](#), effective from 2017-07-01

Title XVI

Indictment for a criminal offense

Article 297.º

Indictment for a criminal offense

1 - As soon as there is knowledge of facts that indicate the commission of any of the crimes provided for and punished in articles 227 to 229 of the Penal Code, the judge orders the judge to inform the Public Prosecutor of the occurrence, for the purposes of carrying out criminal action .

2 - Once the complaint is made in the initial application, the witnesses are heard about the facts alleged at the trial hearing for the declaration of insolvency, with their statements on the matter being extracted in the minutes.

3 - A certificate is extracted from the statements given, ordering its delivery to the Public Prosecutor's Office, together with other existing elements, in accordance with the provisions of paragraph h) of paragraph 1 of article 36.

Changes

Amended by Article 2 of [Law No. 16/2012 - Official Gazette No. 79/2012, Series I of 2012-04-20](#), effective from 2012-05-20

Article 298.º

Interruption of prescription

The declaration of insolvency interrupts the statute of limitations for criminal proceedings.

Article 299.º

Regime applicable to instruction and trial

In the investigation and trial of the offenses referred to in paragraph 1 of article 297, the terms prescribed in the criminal procedure laws are observed.

Article 300

Remittance of decisions made in criminal proceedings

1 - A certificate of the order of pronouncement or non-indictment, accusation and non-accusation, sentence and rulings handed down in the criminal proceedings must be sent to the insolvency court. 2 - The certificate must be sent in the same decision given in the case criminal.

Title XVII

Final dispositions

Article 301

Value of the case for costs purposes

For the purposes of costs, the value of the case in the insolvency process in which the insolvency is not declared or in which the process is closed before the inventory referred to in article 153 is drawn up is the equivalent to that of the jurisdiction of the

Ratio, or the value referred to in article 15, if this is lower; in other cases, the value is that attributed to the asset in the aforementioned inventory, taking into account the highest values of the assets, if applicable.

Article 302.º

Justice tax

1 - The court fee is reduced by half in insolvency proceedings, when insolvency is not declared; If the process ends before the discussion and trial hearing begins, the court fee is reduced to one quarter.

2 - If there is an insolvency plan that puts an end to the process, the court fee that would be due in the case is reduced to two thirds.

3 - In any of the cases referred to in paragraphs 1 and 2, the court fee may be reduced by the judge to an amount not less than 5 UC of costs, whenever for any special circumstance he considers the applicable fee to be manifestly excessive .

Article 303.º

Tax base

For taxation purposes, the insolvency process covers the main proceedings, the seizure of assets, the embargoes of the insolvent party, or their spouse, descendants, heirs, legatees or representatives, the liquidation of assets, verification of liabilities, payment to creditors, administration accounts, payment plan incidents, discharge of remaining liabilities, insolvency qualification and any other incidents whose costs must be borne by the estate, even if processed separately.

Article 304

Responsibility for the costs of the process

The costs of the insolvency proceedings are the responsibility of the insolvent estate or the applicant, depending on whether or not the insolvency is declared by a final and unappealable decision.