

Coronavirus - Insolvency and extraordinary moratorium - Czech Republic

Coronavirus and the related restrictive measures directly affect not only insolvency proceedings that are already in progress, but can also cause or accelerate financial problems that will lead to bankruptcy and subsequent beginning of insolvency proceedings.

We summarize below how to act in such cases, what are the possible solutions and what has the government prepared to support businesses in this area.



A special law called "Lex Covid Justice" has been adopted

On 24 April 2020, a law regulating, among other things, the area of insolvency was officially published in the Collection of Laws:

- for a transitional period (until 31 August 2020), creditors' entitlement to file insolvency petitions against debtors has been suspended - regardless of whether the bankruptcy occurred in connection with COVID-19
- for a transitional period (up to 6 months from the end or cancellation of the epidemic emergency measure, but no later than 31 December 2020), the obligation of the debtor who is a legal person or a natural person doing business to file an insolvency petition on itself has been also suspended, but only if the bankruptcy occurred as a result of emergency measures related to COVID-19 (the foreign impacts of COVID-19 are not relevant)
- an institute of extraordinary moratorium has been introduced to offer businesses a special three-month protection regime (it is not possible to decide on their bankruptcy), which can be extended for a further three months with the consent of the creditors; however, it does not apply to businesses who were already bankrupt as of March 12, 2020 and/or businesses whose bankruptcy was not caused by extraordinary measures in the Czech Republic in connection with COVID-19

Influence on ongoing insolvency proceedings

- insolvency proceedings that have already been opened and are ongoing are not affected by the current situation
- pay particular attention to the various procedural deadlines which are not automatically interrupted. There is a new exception in the form of the insolvency court's right (but not an obligation) to upon request waive a missed deadline due to restrictions imposed by the COVID-19 pandemic

The company is on the verge of bankruptcy - what should I do as a member of a statutory body?

- criminal liability remains unaffected, in particular with respect to bankruptcy offences, hence, avoid, among other things, favouring some of your creditors
- communicate transparently with all parties (bank, lenders, suppliers, etc.)
- call a general meeting to discuss the impending bankruptcy without undue delay
- if you are in doubt as to whether or not you meet the conditions under which the debtor does not have to file an insolvency petition on itself, consult with us immediately, as in addition to criminal liability you may be liable for damages if you breach the obligation

Reorganization as a rescue option

- bankruptcy of the company does not necessarily mean its liquidation
- the solution may be a reorganization - the quickest and most effective form is a pre-packaged reorganization agreed upon by the debtor and its major creditors in advance, i.e. before the insolvency proceedings are initiated
- therefore, in a relatively short period of time, it is possible to take rescue measures and organize relations with the creditors

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