Insolvency Act

Wolters Kluwer
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ACT

of 30 March 2006

on Insolvency and Methods of its Resolution (Insolvency Act)

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The Parliament has adopted the following Act of the Czech Republic:

PART ONE
GENERAL PART

Chapter I
Basic Provisions

Section 1
Scope of Application

This Act regulates

a) resolution of the insolvency and imminent bankruptcy of the debtor by the court proceedings through one of the set methods in order to organise the property relations to persons affected by the debtor's insolvency or imminent bankruptcy and to achieve the highest possible and essentially proportional satisfaction of the debtor's creditors,

b) the debtor's discharge of debts.

Section 2
Definition of some Basic Terms

For the purposes of this Act

a) the insolvency proceedings mean the court proceedings, the subject of which is the debtor's insolvency or imminent bankruptcy and the method of its resolution,

b) an insolvency court means a court before which the insolvency proceedings are held,

c) an insolvency petition at the insolvency court means a petition filed for the commencement of the insolvency proceedings,

d) an incidental dispute means a dispute caused by the insolvency proceedings, which is provided by this Act and heard during the insolvency proceedings,

e) assets means property intended for the satisfaction of the debtor's creditors,

f) a person with handling authority means a person who in the course of the insolvency proceedings has the right to handle the assets in regards to all permissions that it is comprised of,

g) a secured creditor means a creditor whose receivables are secured by property which falls under the assets through mortgage, right of lien, restriction of the transfer of immovable property, collateral assignment or through a referral of receivables for securing or another similar right under an international legal regulation,

h) an application of a receivable means a procedural act, by which a creditor applies the satisfaction of its rights in the insolvency proceedings,

i) an Insolvency Register means an information system which contains information under this Act,

j) a common interest of the creditors means an interest superior to their individual interests, provided its goal is to ensure that the elected method of the resolution of the insolvency is fair for them and more profitable than any other method of its resolution; this however does not affect the special legal position of certain creditors guaranteed by law,

k) a financial institution means a bank, savings and credit union, insurance company or reinsurance company and under other conditions set out in this Act, also certain other persons.

Section 3
Insolvency

(1) A debtor is insolvent if they have

a) several creditors and

b) outstanding financial liabilities for more than 30 days overdue and

c) they are not able to fulfil such liabilities (hereinafter referred to as "financial insolvency").

(2) It is believed that the debtor is not able to fulfil their financial liabilities if

a) they stopped the payments for the substantial part of their financial liabilities, or
b) they have defaulted for more than 3 months overdue, or
c) the satisfaction of any outstanding financial receivables against the debtor may not be achieved by the enforcement of a decision or the execution, or
d) they failed to comply with their obligation to submit the lists referred to in Section 104 Subsection 1, imposed upon them by the insolvency court.

(3) A debtor who is a legal entity or a natural person, i.e. an entrepreneur, is considered insolvent even if they have excess debts. If a debtor has several creditors and the total of their liabilities exceeds the value of their property, the debtor has excess debts. When estimating the value of the debtor's property, the further management of their property or the further operation of their company is also taken into account, provided that given all the circumstances it may be reasonably assumed that the debtor will be able to continue with the management of their property or the operation of their company.

(4) An imminent bankruptcy occurs when given all the circumstances, it may be reasonably assumed that the debtor will not be able to duly and timely fulfil the substantial part of its financial liabilities.

Section 4
Method of the Resolution of the Insolvency

(1) The method of the resolution of the insolvency or an imminent bankruptcy of a debtor in the insolvency proceedings (hereinafter referred to as "the method of the resolution of the insolvency") means

a) bankruptcy order,
b) restructuring,
c) discharge, and
d) special methods of resolution of the insolvency provided by this Act for specific bodies or certain types of cases.

(2) A decision of an insolvency court on the method of the resolution of the insolvency means,

a) if it is in regards to a bankruptcy order or any of the special methods of resolution of the insolvency, a decision on the declaration of the bankruptcy order for the debtor's property (hereinafter referred to as "decision on the declaration of the bankruptcy order"),

b) if it is in regards to restructuring, a decision on the restructuring permit, and
c) if it is in regards to a discharge, a decision on the discharge permit.

Section 5
Principles of Insolvency Proceedings

Insolvency proceedings are mainly based on the following principles:

a) the insolvency proceedings must be held so that none of the participants in the proceedings has been unfairly damaged or illegally advantaged and that the highest possible satisfaction of the creditors could be achieved swiftly and economically;
b) the creditors, who have an identical or similar position under this Act, have essentially equal opportunities in the insolvency proceedings;
c) unless this Act stipulates otherwise, the rights of the creditors acquired before the commencement of the insolvency proceedings in good faith may not be restricted by the decision of the insolvency court nor by the process of the insolvency administrator;
d) the creditors are obligated to abstain from any action towards the satisfaction of their receivables outside of the insolvency proceedings unless it is permitted by law.

Section 6
Exceptions from the Effects of the Law

(1) This Act cannot be applicable if it is in regards to

a) the State,
b) the local government unit[2)],
c) the Czech National Bank,
d) the General Health Insurance Company of the Czech Republic,
e) the Deposit Insurance Fund,
f) the Guarantee Fund of the Securities Traders,
g) public non-profit institutional health facilities, established under a special Act[2a)],
h) a public college, or

[2)] Article 99 of the Constitutional Act No. 1/1993 Coll., Constitution of the Czech Republic, as amended under the Constitutional Act No. 347/1997 Coll.

[2a)] Act No. 245/2006 Coll., on Public non-profit constitutional medical facilities and on the amendment of certain laws, as amended under the determination of the Constitutional Court declared under No. 483/2006 Coll.

i) a legal entity, if the State or the higher local government unit[2)] has assumed all its debts or guaranteed them on its behalf before the commencement of the insolvency proceedings.

(2) This Act can no longer be applicable if it is in regards to

a) a financial institution, for the period during which it is the license or permit holder under special legal regulations, governing its activity,

b) a health insurance company established under a special legal regulation[3)], for the period during which it is the permit holder for the provision of public health insurance,

c) a political party or political movement during the time of the declaration of the elections under a special legal regulation.

Section 7
Application of the Code of Civil Procedure

(1) The provisions of the Code of Civil Procedure[4)] shall apply to the insolvency proceedings and incidental disputes accordingly, unless this Act stipulates otherwise or unless such a procedure is in conflict with the principles upon which the insolvency proceedings are based on.

(2) In order to determine the local and material jurisdiction of the court that decides in the insolvency proceedings and incidental disputes, the provisions of the Code of Civil Procedure[5)] shall apply.

Section 8

The provisions of the Part One and Part Three of this Act shall apply unless this Act stipulates in regards to the method of the resolution of the insolvency in its Part Two otherwise.

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2) Article 99 of the Constitutional Act No. 1/1993 Coll., Constitution of the Czech Republic, as amended under the Constitutional Act No. 347/1997 Coll.

3) Act No. 280/1992 Coll., on Resort, departmental, commercial and other medical insurance companies, as amended.

4) Code of Civil Procedure.

5) Section 9 Subsection 4, Section 11, Section 84 through 89 of the Code of Civil Procedure.

Chapter II
Procedural Bodies

Division I
Procedural Bodies

Section 9

Procedural bodies under this Act are:

a) the insolvency court,
b) the debtor,
c) creditors who exercise their rights against the debtors,
d) the insolvency administrator or another administrator,
e) the Attorney General's Office which entered the insolvency proceedings or incidental dispute, and
f) the liquidator of the debtor.

Section 10
Insolvency Court

The insolvency court in the insolvency proceedings

a) issues decisions, the issue of which is required or assumed by law,
b) continuously supervises the process and activities of other procedural bodies and decides on related matters (hereinafter referred to as "supervision activities").

Section 11

(1) During the performance of the supervision activity, the insolvency court decides on the matters that relate to the course of the insolvency proceedings, takes measures necessary for the provision of its purpose and imposes obligations relating to the activity of individual participants in the proceedings.

(2) The insolvency court is entitled to request reports and explanations of the procedure from the insolvency administrator, to inspect their accounts and to perform the necessary investigations. It is also entitled to give orders to the insolvency administrator and instruct them to request the opinion of the creditors committee for certain issues.

Section 12

(1) A single judge acts and makes decisions in the insolvency proceedings and incidental disputes in the first instance.

(2) A special legal regulation[6)] shall stipulate when the higher judicial officer is entitled to act and make decisions during the insolvency proceedings.

Section 13
Assistant Judge of the Insolvency Court

The assistant judge of the insolvency court performs individual acts of the insolvency proceedings on the authority of the insolvency court judge.

Division II

Participants in the Proceedings

Section 14

(1) The participants in the insolvency proceedings are the debtor and creditors who exercise their right against the debtor.

(2) An accessory party is not admissible in the insolvency proceedings; the provisions of Section 16 Subsection 2 shall not be affected.

Section 15

Unless it is a registered creditor, other persons, exercising their rights in the insolvency proceedings, are considered to be participants in such proceedings only for the period during which the insolvency court acts and decides on such rights.

Section 16

(1) The participants in the proceedings in incidental disputes are the plaintiff and the defendant unless it is further stipulated otherwise.

(2) An accessory party to the incidental disputes is admissible.

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6) Act No. 189/1994 Coll., on Senior court officials, as amended.

Section 17

Entry into the proceedings[7)] and the substitution of the participant in the proceedings[8)] are not admissible in insolvency proceedings.

Section 18

(1) If, during the course of the insolvency proceedings, a fact that the legal regulations connect the transfer or subrogation of the registered receivables from the original creditor to the acquirer of the receivable with, occurs without the original creditor losing the capacity to be a participant in the proceedings, the insolvency court shall decide that the acquirer of the receivable shall enter into the insolvency proceedings instead of such a creditor. It shall do so upon the basis of the petition of the creditor and upon the written consent of the acquirer of the receivable. The transfer or subrogation of receivables, which does not directly follow from the legal regulation, must be demonstrated by a public document[9)] or a document which includes the officially certified signatures of the persons who have signed it.

(2) The insolvency court shall decide on the petition under Subsection 1 before the end of the working day following the day on which it received such a petition; failing to do so after the lapse of such period, it is considered that the insolvency court issued a decision which granted the petition.

(3) The insolvency court shall issue the decision referred to in Subsection 1 also if the creditor and the acquirer of the receivables make a joint statement into the transcript of such court that the fact referred to in Subsection 1 occurred; Subsection 2 shall apply accordingly.

(4) The decision under Subsection 1 and 3 shall be served to the creditor, the acquirer of the receivables, the debtor and the insolvency administrator; it shall be served to such persons separately. An appeal against it is not admissible; however, the insolvency court is not bound by such decision.

Section 19

The acquirer of the receivable becomes a participant in the insolvency proceedings as soon as the insolvency court decides on their entry into the insolvency proceedings under Section 18. The status of the insolvency proceedings applies to them during the period when they became the participant in the proceedings.

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7) Section 92 Subsection 1 of the Code of Civil Procedure.

8) Section 92 Subsection 2 of the Code of Civil Procedure.

9) Section 134 of the Code of Civil Procedure.

The acquirer shall thus replace the original creditor even in incidental disputes relating to receivables incurred by them.

Section 20

(1) The provisions of Part One, Chapter III of the Code of Civil Procedure, relating to acting on behalf of legal entities, the State and territorial self-governing units and the representatives of the participants in the proceedings shall apply for the insolvency proceedings and incidental disputes accordingly.

(2) Trade unions may represent an employee of the debtor in the insolvency proceedings and incidental disputes if it is in regards to the application of its labour receivables.

Division III

Insolvency Administrator and other Administrators

Section 21

(1) The insolvency administrator is appointed from the list of the insolvency administrators managed by the Ministry of Justice (hereinafter referred to as the "Ministry").

(2) The particulars of the list of insolvency administrators, the information recorded in it, its structure, management and terms of entry and creation of the right to perform activity as an insolvency administrator and the hosting insolvency administrator shall be governed by a special legal regulation[9a)].

(3) For the purposes of this Act, an insolvency administrator shall also mean a hosting insolvency administrator.

Section 22

(1) A person registered in the list of insolvency administrators may refuse their appointment into the position of an insolvency administrator only due to important reasons.

(2) If it is not possible to select an insolvency administrator from the list of insolvency administrators, it is possible to appoint a natural person who meets the general requirements and qualification for entry in the list and who consents to their appointment.

[9a)] Act No. 312/2006 Coll., on Insolvency administrators, as amended under Act No. 296/2007 Coll.

Section 23

An insolvency administrator shall conclude an agreement on liability insurance for the damage, which could arise in connection with the performance of their duties or the activities of their employees for the duration of their duties, at they own expense.

Section 24

(1) The insolvency administrator is excluded from the insolvency proceedings if, given their relationship to the matter or the participants in the proceedings, there is a reason to doubt their impartiality; this shall not apply in the case referred to in Section 34. Once the appointed insolvency administrator learns that there are reasons for their exclusion, they are obligated to immediately notify the insolvency court.

(2) An unlimited company appointed by an insolvency administrator shall immediately notify the insolvency court which of its partners will perform the duties of the insolvency administrator on its behalf; Subsection 1 shall apply to such partner accordingly.

Section 25

(1) The insolvency court shall appoint an insolvency administrator for the insolvency proceedings. If the decision on the bankruptcy is connected with the decision on the restructuring permit under Section 148 Subsection 2 and if there is an insolvency administrator designated in the submitted restructuring plan, the insolvency court shall appoint an insolvency administrator based on such plan; this shall not apply unless such appointed insolvency administrator meets the conditions set out in Section 21 through 24. The provisions of Section 29 shall not be affected.

(2) Unless it is the case referred to in Subsection 1, the insolvency court shall appoint an insolvency administrator based on the decision of the presiding judge of the insolvency court. When appointing an insolvency administrator, the presiding judge of the insolvency court shall, with respect to the existing status of the insolvency proceedings, take particular account of the debtor and their wealth, as well as the professional competence of the insolvency administrator and its burden. Unless other circumstances prevent it, the presiding judge of the insolvency court shall appoint the same person as an insolvency administrator for debtors, who form a group.

Section 26

An appeal against the decision on the appointment of an insolvency administrator is admissible. However, the appeal can only object against the fact that the appointed insolvency administrator fails to meet the conditions set out for their appointment or that they are not impartial. The facts that occurred or arose after the issue of the decision of the court of first instance shall not be taken into account in the appellate procedure.

Section 27

(1) The insolvency court shall appoint an insolvency administrator no later than in its decision on the bankruptcy. The insolvency court may, under the terms set out in this Act, appoint a provisional insolvency administrator (hereinafter referred to as "provisional administrator") before the decision on the bankruptcy; this decision shall be published in the same manner as the decision on the bankruptcy.

(2) The provisional administrator shall, before deciding on bankruptcy, perform the activities stipulated in this Act and imposed upon them by the insolvency court and they have the rights and obligations defined by such court. The insolvency court may not define these rights and obligations in a scope broader than that which the insolvency administrator is entitled to after the decision on the bankruptcy. Unless the insolvency court decides on the insolvency administrator in the decision on the bankruptcy otherwise, the provisional administrator becomes an insolvency administrator with full capacity after such decision.

(3) The provisions on the insolvency administrator shall also apply to the provisional administrator accordingly.

Section 28

Creditors institutions also decide on changes regarding the insolvency administrator under the terms stipulated by this Act; Section 21 through 24 shall apply to their decision accordingly.

Section 29

(1) The creditors may agree at the creditors meeting, which follows after the review meeting, that the insolvency administrator appointed by the insolvency court shall be removed from their position and that they will appoint a new insolvency administrator. Such resolution is adopted provided at least half of all creditors registered as of the day preceding the creditors meeting voted for it; their vote is in proportion to the amount of their receivables.

(2) The resolution on the appointment of an insolvency administrator under the provisions of Subsection 1 shall be confirmed by the insolvency court; it shall not confirm it only if the insolvency administrator fails to meet the conditions referred to in Section 21 through 24; Section 54 Subsection 1 shall not apply.

(3) The decision under Subsection 2 shall be issued by the insolvency court after the completion of the creditors meeting that adopted the resolution under Subsection 1; an appeal is admissible only if the insolvency court fails to confirm the resolution of the creditors meeting. A person entitled to file an appeal can only be a creditor that voted at the creditors meeting for the adoption of the resolution; Section 55 Subsection 1 shall apply accordingly.

Section 30

(1) If the creditors meeting adopts a resolution on the removal of an appointed insolvency administrator without the resolution on the appointment of a new insolvency administrator, or where an appointed insolvency administrator was removed from their position under Section 31 Subsection 2, the insolvency court shall appoint an insolvency administrator by its decision; Section 29 Subsection 1 shall not apply to such appointed insolvency administrator.

(2) If, due to the decision of the insolvency court to refuse the registration of a receivable, there is a change in creditors or the amount of their receivables, which could affect the outcome of the resolution of the creditors meeting under Subsection 1, the creditors meeting that next follows after such change may also adopt the resolution under Section 29 Subsection 1.

Section 31
Removal of an Insolvency Administrator

(1) The insolvency court may, upon the petition of an insolvency administrator or creditors institution, or even without such petition, remove an insolvency administrator from their position due to important reasons which do not originate from the violation of the obligations of the insolvency administrator. It shall usually do so after the hearing of the insolvency administrator; it shall decide on the filed petition immediately.

(2) The insolvency court shall remove an insolvency administrator appointed under Section 29 Subsection 1 through 3 even if they request it within 3 days of becoming aware of their appointment; this shall not apply if the insolvency administrator has given prior consent to their appointment.

(3) If the insolvency court removes an insolvency administrator from their position, it shall simultaneously appoint a new insolvency administrator. An appeal against such decision is admissible; however, an appeal against the statement

on the appointment of a new insolvency administrator is admissible only on grounds referred to in Section 26.

(4) A removed insolvency administrator is obligated to duly inform the new insolvency administrator of their current activities without undue delay and shall submit all the documents associated with the performance of their duty to them; their responsibility for their period of duty does not expire.

Section 32
Discharge of an Insolvency Administrator

(1) An insolvency court may, upon the petition of a creditors institution or a debtor or even without such petition, relieve an insolvency administrator who fails to duly fulfil their obligations or who fails to perform their duties with professional care or who grossly violates an important obligation imposed upon them by law or the court of their duties. It shall do so usually after the hearing of the insolvency administrator; it shall decide on the filed petition immediately.

(2) An appeal from an insolvency administrator and a person entitled to file a petition under Subsection 1 against the decision under Subsection 1 may be filed. The provisions of Section 31 Subsection 3 and 4 shall apply accordingly.

Section 33
Insolvency Administrator Representative

Where appropriate, the insolvency court may appoint a representative of the insolvency administrator in the event that they could not temporarily perform their duties due to a serious reason. Section 29 through 31 shall apply to an insolvency administrator representative, accordingly.

Section 34
Separate Insolvency Administrator

(1) If the insolvency administrator is excluded from certain acts due to their relationship to one of the debtor's creditors or only to one of the representatives of the debtor's creditors and, given the nature of the receivable of the debtor's creditors and their role in the insolvency proceedings, there are no reasons to doubt that such relationship should affect the whole manner of performance of the rights and obligations of the insolvency administrator, the insolvency court may appoint a separate insolvency administrator for such acts.

(2) If the insolvency administrator is excluded from certain acts because they could be contrary to the common interest of the creditors during the insolvency proceedings, during which they were also appointed as an insolvency

administrator, the insolvency court shall always appoint a separate insolvency administrator for such acts.

Section 35
Special Insolvency Administrator

(1) In cases when it is necessary to deal with a special issue requiring professional expertise during the insolvency proceedings, the insolvency court may also appoint a special insolvency administrator and amend their relationship with the insolvency administrator.

(2) The provisions on the insolvency administrator shall apply to the appointment into the position, the remuneration and removal of an insolvency administrator representative, separate insolvency administrator and a special insolvency administrator, accordingly.

(3) The court shall appoint a special insolvency administrator for the payment of receivables of the payment service users or holders of electronic money in the procedure stipulated by law governing the payments.

Section 36

(1) The insolvency administrator is obligated to proceed during the performance of their duties diligently and with due care; they are obligated to make every effort that may be reasonably required of them, so that the creditors are satisfied to the fullest extent possible. They are obligated to give priority to the common interests of the creditors over the interests of both their own and interests of other persons.

(2) The insolvency administrator shall provide all creditors institutions cooperation necessary for the proper performance of their duties; in particular, at the request of the creditors institution they shall take part in its hearings and at least once every 3 months submit a written report on the status of the insolvency proceedings to the creditors institution and the insolvency court.

Section 37

(1) The insolvency administrator is responsible for the damage or other loss caused to the debtor, to the creditors or third parties by the violation of their duties, which are imposed upon them by law or the decision of the court during the performance of their duties, as well as by the fact that they failed to proceed during the performance of their duties with professional care. The insolvency administrator shall be relieved of such responsibility only if they demonstrate that they were unable to prevent the damage or other loss despite all their efforts that

were reasonably required from them with respect to the course of the insolvency proceedings.

(2) Under Subsection 1, the insolvency administrator is also responsible for damage or other loss caused by another party which they used to carry out their tasks. This also applies to employees of the debtor, acting within the scope of their existing activities, or to other persons in a contractual relationship with the debtor.

(3) The insolvency administrator is responsible for damage or other loss which the creditor incurred with the receivable for the assets by the fact that it incurred a receivable on the basis of a legal act of the insolvency administrator which could not be satisfied; the insolvency administrator shall be relieved of such responsibility only if they prove that at the time when they performed such act, they could not know that the assets would not be sufficient to cover the incurred receivables for the assets.

(4) The right to damages or compensation for other loss against the insolvency administrator shall become statute-barred within 2 years after the victim became aware of the amount of damage and the liability of the insolvency administrator, however, no later than within 3 years, and if it is a damage caused by an intentional criminal offence for which the insolvency administrator was finally convicted, no later than within 10 years after the completion of the insolvency proceedings.

Section 38

(1) The insolvency administrator has the right to remuneration and the reimbursement of cash expenses. In the event of a bankruptcy order, the amount of remuneration shall be determined from the liquidation proceeds designated for the distribution among the creditors. If the insolvency administrator is liable for value-added tax, they are entitled to remuneration and reimbursement of cash expenses equivalent to the amount of such tax which the insolvency administrator is obligated to pay from the remuneration and the reimbursement of cash expenses under a special legal regulation[10)].

(2) The remuneration and reimbursement of cash expenses of the insolvency administrator shall be satisfied from the assets and if it is not enough then from the deposit for the costs for the insolvency proceedings; if the satisfaction is not possible from such sources, they shall be paid by the State.

(3) The insolvency administrator shall prepare the statement of remuneration and cash expenses in their final report and if it does not exist, then in the report on their activities. The insolvency court may, based on the circumstances of the case, appropriately increase or decrease the remuneration of the insolvency

[10)] Act No. 235/2004 Coll., on Value-Added Tax, as amended.

administrator after the meeting with the creditors committee. The reason for the reduction in remuneration is mainly the fact that the insolvency administrator violated some of their obligations or because they failed to petition the performance of a partial schedule, although the status of the liquidation of the assets permitted it.

(4) The insolvency court may decide on the payment of an advance of the remuneration to the insolvency administrator during the course of the insolvency proceedings and do so even repeatedly.

(5) The method of determination of the remuneration and some cash expenses of an insolvency administrator, their maximum admissible amount and the terms and scope of the payment of the remuneration and the reimbursement of cash expenses by the State shall be set out by the applicable legal regulation.

Section 39

(1) The creditors are entitled to, upon the consent of the insolvency court and based on the decision of the creditors committee, provide an advance for the payment of their expenses to the insolvency administrator and do so even repeatedly. When providing an advance, the terms for its accounting shall be determined; the purpose, for which the advance shall be spent, may also be determined.

(2) The costs of activities which the insolvency administrator is obligated to follow under the law or under the decision of an insolvency court are included in their remuneration and they shall cover it themselves. Exceptionally, they may appoint other persons for the performance of such activities on behalf of the assets with the consent of the insolvency court and the creditors committee; this shall not affect their responsibilities or obligations under this Act.

(3) The costs of the insolvency administrator associated with the use of legal, economic and other specialised professionals may be paid from the assets only if their use is purposeful given the scale and complexity of the insolvency proceedings and if they are pre-approved by the creditors committee.

Section 40

(1) The insolvency administrator shall act in its own name on behalf of the debtor, if the privileges to handle the assets were passed to them. It shall be indicated in the manner in which it is clear that they do so during the performance of their duties as an insolvency administrator; part of its indication is also the unmistakable indication of the debtor whose assets are being managed.

(2) The conduct referred to in Subsection 1 are mainly legal acts by which the insolvency administrator liquidates the assets or they otherwise handle, and

their acts in incidental disputes, as well as in other disputes which they take part in on behalf of the debtor.

(3) The insolvency administrator may instruct its employees and the employees of the debtor to act on their behalf in court and other proceedings; this shall not affect their liability under this Act.

Credit Financing

Section 41

(1) The insolvency administrator may, in order to sustain the continued operation of the company, which is part of the assets, conclude credit agreements and similar agreements as well as an agreement for the energy supply[11)] and raw materials, including agreements to ensure compliance with these agreements (hereinafter referred to as "credit financing") under the common commercial terms.

(2) Unless they offer worse terms than the best offer, the existing secured creditors take priority so that the agreements under Subsection 1 are concluded with them; the same applies to creditors from the agreements on the energy supply and raw materials under Subsection 1.

Section 42

(1) The property acquired from the resources provided under the credit financing is not subject to seizure under the previously concluded agreements.

(2) Resources obtained from credit financing may only be used for the purpose stated in the agreements on credit financing.

(3) The agreements on credit financing may also be concluded by a debtor with handling authority or a debtor for the duration of the moratorium.

Section 43

(1) Public authorities, in particular the Land Registry Offices, vehicle registration authorities and other administrative bodies such as notary offices, bailiffs, financial securities register, financial institutions, telecommunication services operators, postal services operators and other persons who deal with consignment shipment, publishers and carriage services shall provide the insolvency administrator with cooperation in the manner further described upon their written request without undue delay.

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11) E.g. Act No. 458/2000 Coll., on Conditions on entrepreneurial activities and the performance of the public administration in the energy sector and on the amendment of certain laws (Energy Act), as amended.

(2) Cooperation under Subsection 1 is based on the fact that the authorities and persons referred to in it shall provide the insolvency administrator with data on the property of the debtor and any other information that is necessary for the performance of the administration, to the same extent as they would provide it directly to the debtor. Such cooperation also lies in the fact that those authorities and persons which have documents or other items that can be used to determine the debtor's assets in possession shall release them or lend them to the insolvency administrator upon the receipt of the request without undue delay. Cooperation is provided free of charge; unless they are public authorities, those who provided cooperation have the right to reimbursement of related cash expenses.

(3) The obligation of the authorities and persons referred to in Subsection 1 to provide the insolvency administrator with cooperation under other provisions of this Act or under the provisions of special legal regulations is not affected.

Section 44

(1) Cooperation under Section 43 is provided mainly as follows:

a) the persons managing the financial securities register shall notify the insolvency administrator of any registered securities which fall under the debtor's assets,
b) banks, savings and credit unions and branches of foreign banks shall inform the insolvency administrator of the numbers of the accounts of the debtors, inform them about the status of such accounts and their cash flow and provide them with information about the debtor's savings and deposit books,
c) postal services operators and other persons engaged in the shipment of consignments shall inform the insolvency administrator of the debtor's delivery locations, the extent and nature of the delivered items and the total funds that the debtor receives through them,
d) providers of electronic communications services shall notify the insolvency administrator of data about the debtor's telephone, telex, telefax or other electronic addresses and stations, which are not included in the available lists,
e) the insurance companies shall notify the insolvency administrator about the insurance policies and insurance claims of a debtor,
f) the publishers shall notify the insolvency administrator of the data about classifieds relating to the assets,
g) carriage services shall notify the insolvency administrator about the carriage of the debtor's items and their recipients.

(2) The insolvency administrator shall enclose their appointment into the position through a decision of an insolvency court upon the request of authorities and persons from whom cooperation is sought.

(3) The authorities and persons who are obligated to provide the insolvency court or the insolvency administrator with cooperation shall be liable for damage or other loss which they caused in the event that they failed to provide such cooperation in a proper and timely manner.

Section 45

The insolvency administrator shall maintain confidentiality about facts that the special legal regulation stipulates confidentiality for if they learned about them during the performance of their duties, and even after their completion; the confidentiality may be removed to the extent of the performance of such duty only by those whose interest it is in or by the insolvency court. The same shall apply to third parties performing activities, which the insolvency administrator is obligated to perform.

Division IV

Creditors Institutions

Section 46
Creditors Meeting, Creditors Committee and Creditors' Representative

(1) Creditors institutions are the creditors meeting and the creditors committee or the creditors' representative.

(2) The creditors meeting has the right to elect and remove members of the creditors committee and its substitutes or representatives; it also decides on whether to keep the provisional creditors committee in power. The creditors meeting may reserve anything that falls within the scope of the creditors institutions. If there has not been a creditors committee or a creditors' representative appointed, unless this Act stipulates otherwise, the creditors meeting shall perform all their capacity.

(3) The creditors committee shall perform the capacity of the creditors institutions with the exception of matters falling within the scope of the creditors meeting or which the creditors meeting reserved.

Section 47
Creditors meeting

(1) The creditors meeting is convened and governed by the insolvency court. It convenes it out of its own initiative or on the petition of an insolvency administrator, creditors committee or at least two creditors whose receivables calculated

based on the amount (Section 49 Subsection 1) come to at least one tenth of the filed receivables. The insolvency court shall convene the creditors meeting so that it shall be held within 30 days after the petition for it was filed, unless a later date of the meeting was petitioned.

(2) The right to attend the creditors meeting belongs to the registered creditors, debtors, insolvency administrator and the public prosecution if they participate in the insolvency proceedings. If the debtor has an employee, the trade union which operates at the debtor is also entitled to attend the creditors meeting. If there are several trade unions active at the debtor, the trade union with the largest number of members or an association of trade unions with the largest number of members has such right, unless the trade unions active at the debtor agree otherwise.

Section 48

(1) A notification of the creditors meeting shall be disclosed by the insolvency court through an ordinance (Section 71 Subsection 3), which must include the subject of the hearing as well as the place and date of the meeting. If it convenes the creditors meeting upon the petition of the person referred to in Section 47 Subsection 1, the insolvency court shall indicate the issue for which such petition was filed as the subject of the hearing.

(2) The creditors meeting may only heard the subject of the hearing, which was listed in the notification upon convening it. If all the creditors are present, other subject of the hearing may also be introduced; for this purpose, a creditor, who votes in writing shall not be considered present (Section 50 Subsection 2). The subject of the first creditors meeting is always the election of the creditors committee and the resolution of creditors under Section 29 Subsection 1 if the insolvency administrator was appointed and if such meeting takes place after the review meeting, the report of the insolvency administrator about their current activity, and if the provisional creditors committee was appointed, the report of such committee on its current activity.

(3) A creditor who repeatedly files a petition for convening the creditors meeting without a reason is, upon request, obligated to pay other creditors the costs they incurred in connection with their attendance at the creditors meeting which occurred upon their petition; the insolvency court may also impose such creditor to pay the costs that the court incurred through the convening and organisation of the creditors meeting held upon their petition.