

LAW ON BANKRUPTCY PROCEEDINGS

I. BASIC PROVISIONS

Article 1 Subject of the Law

This Law stipulates the following:

1. Conditions for opening bankruptcy proceedings, the bankruptcy proceeding itself, the legal consequences of opening and enforcing bankruptcy proceedings;
2. Reorganization of debtors incapable of making payments on the basis of the reorganization plan.

Article 2 Objectives of the Bankruptcy proceeding

6. The bankruptcy proceeding is executed with the objective of group settlement of the bankruptcy debtor's creditors, through the realization of his property and through the distribution of collected resources to the creditors.
7. Within the course of a bankruptcy proceeding, in compliance with the provisions of Chapter V of this Law, the reorganization of the debtor can also be executed, with the objective of clarifying the legal position of the debtor as well as his relations with the creditors, and, especially, with the objective of maintaining his business activities.

Article 3 Institutions of the Bankruptcy Proceeding

The institutions of the Bankruptcy proceeding are the following: bankruptcy judge, bankruptcy trustee, interim bankruptcy trustee, Creditors' Assembly, the interim Board of Creditors and the Board of Creditors.

Article 4 Proposal for Opening Bankruptcy Proceeding

1. A bankruptcy proceeding is opened upon a written proposal of an authorized person. The authorization for submitting the proposals is given to the debtor and all the creditors who have legal interest in the enforcement of the bankruptcy proceeding. The creditor is under obligation to show that his claim, as well as the inability of the debtor to make payments, are probable, through attaching adequate documentation.
2. If the debtor is a legal entity, the institution authorized for representation is, in case the inability to make payments sets in, under obligation to submit, without any delay, a proposal for the opening of a bankruptcy proceeding. The proposal has to be submitted within 30 days from the day the inability to make payments sets in. The institution authorized for representation is under obligation to compensate the legal entity for the reduction of property caused by their legal actions taken after the inability to make payments set in, except if they can prove that the legal actions were taken with due care and diligence.
3. The court is required to consider the proposal within 15 days of its submission to the court. The court will advise the proposer within 15 days of the date of submission whether the documentation submitted is complete. If additional documentation is required, the court will require the petitioner to submit the required documents within 15 days. If the proposer fails to submit the necessary documentation within this time period, the court will reject the proposal. In this case, the costs of the proceedings are born by the proposer.
4. The court make a decision on amount of the deposit required to fund the preliminary proceedings within 15 days of the submission of an acceptable proposal.
5. The proposal can be withdrawn before the bankruptcy proceeding is opened or before a valid decision on the refusal or rejection of the proposal is made. If the debtor, after the

submission of the proposal, covers the claim of the submitter of the proposal, which had been the reason for the submission of the proposal for opening bankruptcy proceeding, the judge can stop the bankruptcy proceeding, upon a proposal of the submitter of the proposal, or the debtor, and in that case the costs incurred are on the burden of the bankruptcy debtor.

Article 5 Bankruptcy Debtor

1. A bankruptcy proceeding can be executed over the property of a legal entity, as well as over the property of an individual debtor. An individual debtor in the context of this Law is an independent entrepreneur, a limited partner within a limited partnership, or a founder of an association with unlimited solidarity responsibility.
2. Bankruptcy can be initiated over the property of legal entities with public rights also, except over the property of the Republic of Srpska, municipalities, public funds which are, in full or partially, financed from the budget,.
3. For opening bankruptcy proceeding over a debtor producing items of armament or military equipment, prior approval of the Ministry of Defense of the Republic of Srpska (hereinafter: the Ministry of Defense) is required.
4. If the Ministry of Defense does not refuse its approval of the initiation of the bankruptcy proceeding within 30 days from the day it receives the information on the initiation of the preliminary proceeding from the bankruptcy judge, it shall be concluded that the approval is given.
5. If the Ministry of Defense refuses to issue approval, the Republic of Srpska shall assume the liabilities of the bankruptcy debtor, in a manner of solidarity.

Article 6 Reasons for Bankruptcy

1. The reason for opening bankruptcy proceeding is the inability of the debtor to make payments.
2. The debtor is incapable of making payments if he is in position of not being able to fulfill his accrued and outstanding payment liabilities. The fact that the debtor has met or is able to meet the claims of certain creditors, in full or partially, does not, by itself, mean that he is capable of making payments.
3. As a rule, it is concluded that a debtor is incapable of making payments if he fails to meet his outstanding payment liabilities for a period of 30 days.
4. A bankruptcy proceeding can also be opened because of the threat of inability to make payments. It is present if the debtor, according to the projections, is not going to be able to fulfill the existing payment liabilities at the time of the maturity. Only the debtor can submit a proposal for opening a bankruptcy proceeding because of the threat of inability to make payments.

I. GENERAL PROCESSING PROVISIONS

Article 7 Authority

1. The bankruptcy proceeding is executed by a actually relevant court in the area of which the center of business activities or the residence of the debtor is located.
2. If the proposal is submitted to a local court which is not authorized, the aforementioned court shall, without any delay, issue a decision announcing itself unauthorized and it shall submit the proposal to the local authorized court.

No appeals against that decision are permitted.

3. The Bankruptcy court is, besides that, actually and locally authorized for the following legal disputes:

1. for legal disputes concerning the determination in the table in compliance with Article 115-117,
 2. for legal disputes of avoidance in compliance with Article 80-87,
 3. for compensation rights in compliance with Article 4 Par. 2, 26 Par. 1, 29 Par. 4, 44 Par. 2, 58 Par. 3 and 64.
4. The bankruptcy proceeding is carried out by a bankruptcy judge, as an individual judge.

Article 8 Adequate Implementation of the Provisions of the Law on Legal Proceedings

Unless this Law stipulates otherwise, the adequate provisions of the Law on Legal Proceedings are implemented accordingly in bankruptcy proceedings. .

Article 9 Principles of the Proceeding

1. The Bankruptcy proceeding is urgent.
2. The decrees of the bankruptcy court are issued in the form of decisions. A bankruptcy judge can order a verbal discussion to be held. The decision is issued after the debtor is questioned, unless that puts the purpose of the decision in danger, due to special circumstances. If the prior questioning of the debtor is not carried out, that has to be explained in the decision, separately, and the subsequent questioning has to be carried out immediately, without delay.
3. The bankruptcy judge has to investigate, in official capacity, all the circumstances of interest to the bankruptcy proceeding. For that purpose he can, explicitly, question the debtor, his legal representatives, witnesses and experts.

Article 10 Obligatory Participation and Enforcement Measures

1. The debtor, his legal representatives and witnesses are responsible to the bankruptcy court to the appointed expert and to the bankruptcy trustee for giving full and correct information. The debtor and his legal representatives are, besides that, also obligated to contribute to ensuring bankruptcy estate and to abstain from harmful actions.
2. If the bankruptcy debtor, or some other person obligated to give information, does not fulfil his obligations concerning the provision of information or participation, which are stipulated by the Law, or if there is reasonable doubt that he is executing actions with the objective of harming the bankruptcy estate, or that he is not executing the activities necessary for ensuring the estate, the bankruptcy judge can, according to his own estimate and upon a proposal of the interim bankruptcy trustee or bankruptcy trustee, order adequate measures of enforcement.
3. The measures of enforcement in the context of Paragraph 2 of this Article are the following:
 1. enforced appearance at the court;
 2. imposing a cash penalty in the amount between 500 and 1.700 KM, which can follow after an unsuccessful enforced appearance at the court.

The decision which orders the enforced appearance at the court can, at the same time, issue a warning about the cash penalty which can be imposed.

3. Replacement of the imposed cash penalty with the penalty of putting in custody,.
 1. The afflicted person has the right to appeal against the decision which orders a measure of enforcement. In this case the appeal does not have the effect of postponing the implementation of the decision.

Article 11 Legal Resources

1. Appeals against the decisions of bankruptcy courts are permitted in the cases envisaged by this Law.
2. The period in which an appeal can be submitted is 8 days, from the day the decision is announced, or from the day decision is submitted, if the decision is not announced.
3. The bankruptcy judge can accept the appeal himself, if his findings are that the appeal is justified.
4. If the bankruptcy judge does not accept the appeal, he is under obligation to submit it to the second instance court which is to decide on the appeal, without delay, and within 15 days from the receipt of the appeal at the latest. The authority for deciding on appeals is given to a council consisting of three judges of that court. The council is under obligation to decide on the appeal within 15 days from the day of the receipt of the appeal.
5. Appeals have the effect of postponing the implementation, unless this Law stipulates otherwise.
6. The reinstatement of previous conditions can not be requested within a bankruptcy proceeding, nor can a proposal for the repetition of the procedure be submitted, nor can a revision be stated.

Article 12 Submissions, Public Announcements

1. The bankruptcy court executes the submission in official capacity.
2. The submission is deemed executed through public announcements, including the cases for which this Law stipulates full submission. The submission is deemed executed two working days after the announcement.

I. **PRELIMINARY PROCEEDING**

Article 13 **Advance for the Expenses of the Preliminary Proceeding**

(1) If the petition is submitted by a creditor, the creditor is obliged to advance an amount determined by the bankruptcy judge to cover the expenses of the preliminary proceeding.

(2) If the creditor does not provide the advance within 15 days, the bankruptcy judge shall reject the proposal with a decision.

1. If a Bankruptcy Proceeding is opened upon a proposal of a creditor, the amount advanced by the creditor is included in the expenses of the Bankruptcy Proceeding.
2. If the petitioner is the debtor, the court can exempt it from paying the advance, if it can prove that it has sufficient assets to fund the cost of a preliminary proceeding.

Article 14 **Ascertaining the Conditions for Opening Bankruptcy Proceeding**

1. After the receipt of an acceptable proposal for the initiation of a bankruptcy proceeding the bankruptcy judge is under obligation to ascertain, without any delay, whether there is cause for opening bankruptcy and whether the proposal is justified. He can, for that purpose, appoint an interim bankruptcy trustee or a adequate expert. The compensation for the expert is ascertained in accordance with special regulations in compliance with Article 237 of this Law.
2. The debtor, or his legal representatives, are under obligation to provide full review of the business documentation, and, upon a request of the bankruptcy judge, to submit the aforementioned documentation.

Article 15 **Security Measures**

1. A bankruptcy judge can, according to his own estimate, ascertain, through a decision, measures for ensuring future bankruptcy estate, and he can also abolish them. Specifically, the bankruptcy judge can:

1. ascertain measures for ensuring specific property items of value, amounts in the accounts or claims of the debtor, even if they are subject to rights to separate settlement or separate recovery,
2. condition the management of the debtor with the approval of the bankruptcy court or limit it in some other way,
3. appoint an interim bankruptcy trustee;
4. order an interim ban on the postal exchange to which the provisions of Article 61 of this Law apply accordingly.

(2) If the business activities are not yet terminated, the bankruptcy judge is under obligation to appoint an interim bankruptcy trustee.

(3) The measures of individual enforced execution commenced against the debtor must be temporarily suspended. A creditor can not execute the rights to separate settlement or separate recovery in the preliminary proceeding

(4) If the bankruptcy judge has, in compliance with Paragraph 1 Item 3 of this Article, appointed an interim bankruptcy trustee, he still can, on the basis of his own estimate or upon a request of a interim bankruptcy trustee, order the following:

1. that the interim bankruptcy trustee can undertake legal actions and legal activities necessary for the continuation of the business activities on behalf of the debtor which have effect for the debtor, provided that the continuation of such activities does not damage the debtor, or the potential bankruptcy creditors. In that case, the interim bankruptcy trustee does not require the approval of the debtor who is, in that context, excluded from the management.
2. that the legal actions of the debtor can become effective only with the approval of the interim bankruptcy trustee.
5. If there are special circumstances present, especially in case there is danger of outstanding liabilities, the bankruptcy judge can order a general ban on management for the debtor. In that case, the authorization for management and control over the property of the debtor is transferred, in total, to the interim bankruptcy trustee. An appeal against that decision does not have the effect of postponing the implementation of the decision.
6. In case the limitation of management is infringed, the provisions of Articles 52 and 53 of this Law are applied accordingly.
7. An appeal against the decision of the bankruptcy court brought on the basis of Paragraphs 1 to 5 of this Article can be submitted by the debtor or by the interim bankruptcy trustee. An appeal submitted by the debtor does not have the effect of postponing the implementation of the decision.

Article 16 Interim Bankruptcy Trustee's Tasks and Legal Position

1. The interim bankruptcy trustee is under obligation to ensure the property of the debtor and to take care of it.
2. The interim bankruptcy trustee is under obligation to investigate whether the property of the debtor can cover the costs of the procedure and whether there is cause for opening the bankruptcy proceeding and report his finding to the court within 30 days of his appointment.
3. The interim bankruptcy trustee carries out an assessment of whether the business activities of the debtor can continue, in their entirety or partially. If the continuation of the business activities would cause damage to the debtor or to the potential the bankruptcy estate, the interim bankruptcy trustee must submit a proposal to the bankruptcy judge for a temporary suspension of the business activities. An appeal against

the decision on the proposal for a suspension of business activities can be submitted by the debtor, as well as by the interim bankruptcy trustee.

4. (4) The interim bankruptcy trustee is under obligation to meet the claims based on his own actions or the actions of the debtor, with the approval of the interim bankruptcy trustee, except if it is otherwise arranged or stipulated by this Law. The interim bankruptcy trustee is under obligation to ensure that this creditor's right is fulfilled after the opening of the bankruptcy proceeding, too.
5. The interim bankruptcy trustee is not under obligation to meet tax or other public duties incurred during this period. Those claims represent bankruptcy claims in compliance with Article 31 of this Law.
6. The interim bankruptcy trustee is authorised to enter into the business premises of the debtor and to enforce the necessary actions there. The debtor – individual, and the bodies of the debtor - legal entity are obliged to allow the provisional bankruptcy Administrator to inspect the commercial books and business documents of the debtor..
7. The interim bankruptcy trustee is under obligation to render accounts to the bankruptcy judge and to submit a report on his work during the period of provisional administration to him.
8. The interim bankruptcy trustee has the right to compensation which is ascertained in compliance with Article 237 of this Law.

Article 17 Permanent Obligatory Relations During Provisional Administration, Public Claims and Employees' Claims.

1. During the provisional administration contractual partners of the bankruptcy debtor can not revoke a permanent obligatory relation.
2. The interim bankruptcy trustee is not under obligation to meet the claims for taxes, contributions and other public duties resulting from permanent obligatory relations, incurred in the period after the submission of the proposal. Such claims are bankruptcy claims in compliance with Article 32 of this Law.
3. The interim bankruptcy trustee is under obligation to meet the claims of the employees, as well as the contributions on the basis of the employees' labor only in case that the employees are still employed/in labor relations. Otherwise, the rights to compensation resulting from labor relations, as well as the claims for contributions, do not cease, but they can be executed as bankruptcy claims only. The claims of the employees who are employed by the interim bankruptcy trustee can be redefined through a loan.
4. The interim bankruptcy trustee is under obligation to meet other claims resulting from permanent obligatory relations only if a special agreement has been reached in connection with that. Otherwise, those claims are considered bankruptcy claims in compliance with Article 32 of this Law.

Article 18 Effect and Announcement of Security Measures

1. The limitation of management in compliance with Article 15 of this Law, as well as the appointment of an interim bankruptcy trustee, has to be announced. The decision which ascertains those measures is submitted to the debtor.
2. The decision on the appointment of a interim bankruptcy trustee calls upon the creditors to inform the interim bankruptcy trustee, without any delay, which security measures over the property items of the debtor shall be requested by them. The item over which a security measure is requested, the type and the basis on the right of provision is founded, as well as the secured claim, must be specified. Those who fail to issue the information, or who delay it clandestinely, can not execute the right to compensation of damage against the interim bankruptcy trustee when it comes to rights of provision, except if they can prove that the interim bankruptcy trustee knew about the existence of that security right of provision.
3. In view of revoking the security rights, Paragraph 1 of this Article is applied accordingly.

Article 19 Public Registers

The bankruptcy judge ascertains the entries into the adequate public registers, for the limitation of management, as well as of the abolition of that limitation.

Article 20 Responsibilities of the Interim Bankruptcy Trustee

Provisions of Article 26 of this Law on the responsibilities and insurance of the bankruptcy trustee are accordingly applied on the responsibilities and insurance of the interim bankruptcy trustee. The measure of the level of insured amount is the property of the debtor which the interim bankruptcy trustee takes care of

Article 21 Discontinuation of the Service of a Interim Bankruptcy Trustee

1. With the opening of the bankruptcy proceeding, the rights and the obligations of the interim bankruptcy trustee are transferred on the bankruptcy trustee. The interim bankruptcy trustee, who has not been appointed a bankruptcy trustee when the bankruptcy proceeding was opened, is under obligation to execute the transfer of duties to the bankruptcy trustee and to hand over all assets he manages to him, as well as all business documentation he has received or made.
2. If the bankruptcy trustee collects on the claims which the interim bankruptcy trustee has executed in compliance with Article 16 and 17 of this Law, he is under obligation to use the collected resources to meet the liabilities which the interim bankruptcy trustee has conceived in accordance with the said provisions, primarily. Any potential extra resources remaining after the liabilities are met shall be included in the bankruptcy estate.
3. If the bankruptcy judge abolishes the provisional administration due to other causes, the responsibility of the interim bankruptcy trustee ceases after he covers the incurred costs and liabilities conceived either by himself or the debtor, with his approval, from the property he manages, or provides a security for payment for the settlement of unpaid or disputed obligations he has incurred, and not before that.

I. BANKRUPTCY PROCEEDING

1. INSTITUTIONS OF THE BANKRUPTCY PROCEEDING

Article 22 Bankruptcy Judge

1. The bankruptcy judge manages and runs the bankruptcy proceeding from the moment the proposal for opening is submitted and until the end of the bankruptcy proceeding.
2. During that period the bankruptcy judge executes the rights and the responsibilities in compliance with the provisions of this Law.
3. The bankruptcy judge appoints the expert in the bankruptcy proceeding, the interim bankruptcy trustee, the members of the interim Board of Creditors and the bankruptcy trustee and executes supervision of the work of the interim bankruptcy trustee and the bankruptcy trustee in compliance with the provisions of this Law.

Article 23 Persons Who Can Be Appointed as Bankruptcy Trustees

1. Only physical entities who have adequate professional capacities and business experience can be appointed bankruptcy trustees.
2. A bankruptcy trustee has to have completed professional education and expert exam passed. More detailed provisions on the type of education and content of the expert exam shall be prescribed by the Minister of Justice.
3. The Minister of justice shall, for the period until the sufficient number of bankruptcy trustees finalize the professional education and pass the expert exam, compile a preliminary list of bankruptcy trustees, after receiving opinions from the presidents of the courts authorized for concluding bankruptcy proceedings.

(4) The following persons can not be appointed as bankruptcy trustees:

1. persons who would have to be exempt as judges in the bankruptcy proceeding,
2. persons who are close relatives of the bankruptcy judge,
3. persons who are responsible for the liabilities in bankruptcy or who are members of institutions for the representation of debtors,
4. persons who are creditors of the debtor or who are in competitive relations with the debtor,
5. persons who, according to a special law, could not be appointed as members of a supervisory institution or an institution for the representation of debtors,
6. persons who were or are employed with the debtor or who were or are members of some of his bodies,
7. persons who worked as advisors for the debtor or who were participating in the business activities connected with the property or the capital of the debtor.

Article 24

The list of bankruptcy trustees with completed expert education and passed expert exam shall be compiled by the Minister of Justice and the aforementioned list is published in the "Official Gazette of the Republic of Srpska"

Article 25. Rights and Responsibilities of Bankruptcy Trustee

1. The bankruptcy trustee is authorized and obligated to take into possession the property which is included into bankruptcy estate, without any delay, to manage it, to continue business activities until the reporting hearing, if this does not damage the bankruptcy creditors, if possible, and to realize it, in compliance with the decision of the Creditors' Assembly. If it is typical for the business activities and if it is necessary for the continuation of the business activities, he is also authorized to realize certain items, especially goods, in the course of current business activities, even before the decision of the Creditors' Assembly is made. The bankruptcy trustee can, on the basis of the executive notice of the decision on the opening of the bankruptcy, request the handing over of the items which are in possession of the debtor, as well of the business documentation, even if it is in the possession of third parties. The bankruptcy court is authorized for issuing executive notices.
2. The bankruptcy trustee is-, under obligation to submit to the bankruptcy court a detailed list of the bankruptcy estate within 45 days of his appointment. It is necessary to state, for each item, the amount which is expected to be collected from the realization, as well as the book value. The bankruptcy trustee is under obligation to compile a list of all the debtors' creditors he has been informed of, or has found in the books and business documentation of the debtor..
3. The bankruptcy trustee is under obligation to keep business ledgers, and, especially, to make an initial balance on the basis of the inventory, according to the condition on the day the procedure is initiated, as well as to submit the necessary reports to the responsible bodies.
4. The fee for the work of the bankruptcy trustee is ascertained in compliance with the provisions of Article 237 of this Law.

Article 26 Accountability and Insurance of the Bankruptcy Trustee

1. In case the bankruptcy trustee consciously breaches the responsibilities he is, according to this Law, under obligation to execute, he is under obligation to compensate for the damage caused in that way to all the participants of the bankruptcy proceeding. The exemptions from the aforementioned rule concern the liabilities of the bankruptcy estate which are not covered in full from the bankruptcy estate, if the bankruptcy trustee, at the time those liabilities were conceived, could not project that the bankruptcy estate shall not be sufficient for their coverage.
2. The bankruptcy trustee is under obligation to contract insurance coverage for accountability with an insurance firm, immediately after the acceptance of the position, for all the risks of accountability which are connected with his activity. The level of the

insured sum is ascertained by the bankruptcy judge, taking into account the expected bankruptcy estate, as well as the special circumstances of the procedure. The bankruptcy judge can free the bankruptcy trustee of that obligation, in justified cases.

Article 27 Supervision of the Bankruptcy Trustee

The management of the property and the execution of the service of the bankruptcy trustee is subject to legal supervision of the bankruptcy judge. The bankruptcy judge can request from the bankruptcy trustee to provide him with information on the actual situation and management. If the bankruptcy trustee does not fulfil his obligations, the bankruptcy judge can, after issuing a prior warning, impose a cash penalty on the bankruptcy trustee, in the amount between 500 and 1.700 KM. If there is an important reason present, the bankruptcy judge can relieve the bankruptcy trustee of his post and appoint another bankruptcy trustee. The bankruptcy trustee has the right to appeal against the decision of the bankruptcy judge. In this case, the appeal does not have the effect of postponing the implementation.

Article 28 Creditors' Assembly

1. The bankruptcy judge convenes the assembly of the creditors. The convening of the initial assembly is announced in the decision to open a bankruptcy proceeding in the course of the proceeding, the creditors' assembly has to be convened if it is requested by the bankruptcy trustee, by the Board of Creditors or by at least five creditors who jointly represent at least one fifth of the reported amount of claims.
2. The right of vote in the creditors' assembly is given to creditors who have registered their claims, which were not contested by the bankruptcy trustee or by some of the creditors who have the right to vote. The creditors in lower payment ranks do not have the right to vote. The right to vote of the creditors with the right to separate settlement is, in the context of Article 39 of this Law, limited to the amount with which they appear as bankruptcy creditors.
3. The bankruptcy judge can decide on the recognition of the right to vote in case when a contested claim seems probable. At the hearing, the present creditors, the debtor and the bankruptcy trustee can request an urgent reinvestigation of the decision on the right to vote. The bankruptcy judge has to make a decision in the brief immediately, on the basis of the situation, and the creditors do not have the right to appeal against that decision.
4. The creditors' assembly is chaired by the bankruptcy judge. The decisions are made by the absolute majority of the creditors present, taking into account that the sum amount of the claims of the creditors who have voted for a decision has to be greater than half of the sum amount of the claims of all the creditors present.
5. At the first assembly of creditors following the appointment of the bankruptcy trustee, another bankruptcy trustee can be elected by the assembly, who needs to be appointed by the bankruptcy judge. The election of another bankruptcy trustee can be proposed by at least five creditors who jointly represent at least one fifth of the reported amount of claims. The bankruptcy judge can refuse the appointment of the elected bankruptcy trustee, if there are reasons pointing to him being biased or inappropriate or if he does not fulfill all the qualifications listed in Article 23 of this Law. The bankruptcy judge decides on engaging the new bankruptcy trustee and the replacement of the person who had acted as the bankruptcy trustee until then, through issuing a decision. The person who had acted as the bankruptcy trustee so far, the debtor and each of the creditors can appeal against that decision. The appeal does not have the effect of postponing the implementation.

Article 29 Board of Creditors

1. In compliance with the provisions of this Article, the creditors' assembly can elect the Board of Creditors from the ranks of the creditors.

(2) In order for the interests of the creditors to be protected, the bankruptcy judge can, if it is necessary, appoint an interim Board of Creditors, until the Board of Creditors is elected. The members of this provisional Board can be replaced by the creditors assembly

3. The following groups of creditors have to be represented within the Board of Creditors: bankruptcy creditors with the highest claims, bankruptcy creditors with small claims, representatives of the debtor's employees and the creditors with the right to separate settlement. Persons who are not creditors can also be appointed as members of the Board, if they could contribute to the work of the Board through their professional knowledge.
4. The creditors Board consists of an odd number of member, not to exceed seven
5. The Board of Creditors is under obligation to support and supervise the bankruptcy trustee in his management. The board has the right to request that the bankruptcy trustee submits reports and renders accounts, as well as the right to carry out direct controls. The decisions of the Board of Creditors are made by simple majority of the votes of the present members.
6. Important legal actions of the bankruptcy trustee - including , , accepting liabilities, dispossession or acquisition of real estate, of the enterprise in its entirety or of certain parts of the enterprise, initiating litigations or underatking defense at litigations, drafting of a reorganizatoiion plan before it is submitted to the court or to the creditors, as well as making proposals for terminating the business of the debtor - which have significant influence on the scope of the property being managed, require the approval of the Board of Creditors, if it is established. Otherwise, the approval of the creditors' assembly is required. If no decision is made at two consecutive sessions of Creditors' Board or at two consecutive convened sessions of the the assembly, such an approval can be issued by the bankruptcy judge.
7. Either officially, or upon a request made by a member of the Board, or by the Assembly of Creditors, the Bankruptcy judge may dismiss a member of the Board of Creditors. Before it brings a decision for dismissal, the Bankruptcy judge shall hear that member of the Board of Creditors. The member of the Board of Creditors has a right to appeal against the decision of the Bankruptcy judge, but the appeal does not have the effect of postponing the execution of the decision..
8. The Board of Creditors decides upon issues related to their scope of action in sessions. The Bankruptcy Judge in his official capacity calls the first session of the Board of Creditors upon a proposal of the Bankruptcy Administrator, or by the majority of the members of the Board of Creditors. The members of the Board elect a president in their first session.
9. The Bankruptcy Judge and the Bankruptcy Administrator can attend the sessions of the Board of Creditors. The Board of Creditors is obliged to invite the Bankruptcy Judge to its sessions. The Board of Creditors may decide to hold a session of the Board in the absence of the Bankruptcy Administrator.
10. The Board of Creditors is capable of holding a session if a majority of the members of the Board attend the session. A decision is passed if a majority of the present members, eligible to vote, vote for it, and if the votes are devided, the bankruptcy judge shall make the decision.

(11) The members of the Board of Creditors are under obligation to compensate all the participants for the damages caused by a conscious infringement of the obligations which they have in compliance with this Law.

(12) The compensation for the members of the Board of Creditors, as well as for the members of the interim Board of Creditors, is ascertained in accordance with special regulations in compliance with Article 237 of this Law.

1. **BANKRUPTCY ESTATE AND THE GROUPING OF CREDITORS**

Article 30 The Concept of the Bankruptcy Estate

The bankruptcy proceeding covers the entire property which has belonged to the debtor at the time of the opening of the bankruptcy proceeding, as well as the property which the debtor obtains during the bankruptcy proceeding (bankruptcy estate), unless other legal regulations envisage otherwise. The bankruptcy estate is used for covering the costs of the bankruptcy proceeding, of the creditors who, at the time of the initiation of the bankruptcy proceeding, have had a justified property claim towards the debtor (bankruptcy creditors), as well as of the creditors who acquire

the right to claim against the bankruptcy estate during the bankruptcy proceeding which has been opened (creditors of the estate).

Article 31 Payment Ranks of Bankruptcy Creditors

(1) According to the type of their claims, the bankruptcy creditors are classified in payment ranks. The creditors of a lower payment rank can have their claims met only after the creditors of the preceding payment rank have had their claims met in full. The bankruptcy creditors of the same payment rank have their claims met proportionally to the size of their claims.

(2) Meeting the claims of the creditors from the existing resources of the free bankruptcy estate is executed in accordance with the following priority list:

1. bankruptcy creditors of higher payment ranks in compliance with Article 33 of this Law,
2. bankruptcy creditors of general payment rank in compliance with Article 32 of this Law,
3. bankruptcy creditors of lower payment ranks in compliance with Article 34 of this Law.

Article 32 Bankruptcy Creditors of General Payment Rank

The creditors who, at the time of the initiation of the bankruptcy proceeding, have a justified property related claim towards the debtor (bankruptcy creditors) are the creditors of the general payment rank, unless they are included in higher or lower payment ranks in compliance with the provisions of Articles 33 or 34 of this Law.

Article 33 Bankruptcy Creditors of Higher Payment Ranks

1. Claims originating from the period of provisional administration which, in contrast to the provisions of Article 16 Paragraph 4, Article 17 Paragraph 3 and Paragraph 4, neither the interim bankruptcy trustee nor the bankruptcy trustee could have met in compliance with Article 21, Paragraph 2 of this Law, are met before any other claims of the bankruptcy creditors.
2. The claims of the debtor's employees, resulting from labor relations, are met before all other claims of the bankruptcy creditors, except for the claims of the creditors referred to in Paragraph 1 of this Article, but only at the level of the minimum wage stipulated by the Law. The same provision is applied to the payment of the compensation for damages for labor injuries, which are paid in full amount.

Article 34 Bankruptcy Creditors of Lower Payment Ranks

1. The claims of the rank which is below other claims of bankruptcy creditors are met in accordance with the following priority list, and those which are in the same rank are met proportionally to their amount:
 1. interest on the claims of the bankruptcy creditors, incurred since the initiation of the bankruptcy proceeding;
 2. costs of certain bankruptcy creditors incurred by their participation in the proceeding;
 3. cash penalties, fees, misdemeanor penalties and cash enforcement, as well as the consequences of certain criminal acts or misdemeanors which present obligatory cash payments;
 4. claims which relate to some free of charge deeds of the debtor;
 5. claims which relate to the repayment of a capital replacing loan of some founder or the claims which are equalized with that.
1. Claims for which the creditor and the debtor have agreed on the lower rank in the bankruptcy proceeding are met in case there is doubt, after the claims listed in Paragraph 1 of this Article.

2. Interest on the claims of the bankruptcy creditors of lower ranks and the costs of the creditors incurred because of the participation in the proceeding have the same rank as the claims of those creditors.

Article 35 Sustenance of the Debtor

1. In case the bankruptcy proceeding is initiated over the property of physical entities, the first creditors' assembly is to decide on the amount necessary for the sustenance of the debtor, which is to remain to the debtor from his revenues, or which is, if the revenues are lacking, approved from the bankruptcy estate. During that procedure, the potential requirements that third parties may have towards him on the basis of the right to sustenance and the decree on the limitation of the execution are adequately taken into account. If the creditors' assembly does not issue a decision, the bankruptcy trustee can approve adequate sustenance. In all other cases, the debtor's liabilities of sustenance can not, after the initiation of bankruptcy, be executed from the bankruptcy estate.
2. If the debtor is an individual, then during the period preceding the first assembly of the creditors, the bankruptcy judge is, in compliance with paragraph 1 of this Article under obligation to ascertain the amount which is to remain to the debtor for adequate life sustenance, from his revenues, or, if the revenues are lacking, from the bankruptcy estate, in the amount which would belong to the debtor according to the regulations of the executive legislation on the limitation of the execution.

Article 36 Undue, Conditional and Non-cash Claims

1. Claims which are not due are, when the proceeding is opened, deemed as due claims.
2. Claims connected to an abrogation term are, in a bankruptcy proceeding, taken into account as unconditional claims until the abrogation term sets on.
3. Claims connected to a postponement term participate in the distribution if that postponement term has set on before the final distribution of the bankruptcy estate.
4. Non-cash claims or claims the cash amount of which is undefined are stated at the value at which they can be assessed at the time the bankruptcy proceeding is initiated. Claims which are stated in foreign currency or in some accounting unit are recalculated into the domestic currency in accordance with the currency exchange value which is valid for the location of the payment at the time of the opening of the proceeding.
5. Solidarity debtor and guarantor can execute the claims, which they could obtain towards the debtor in the future through meeting the claims of the creditors, in the bankruptcy proceeding only if the creditor does not request his claims to be met.

Article 37. Separate Recovery and Compensation for the Right to Separate Recovery

1. A person who has the right to separate recovery of items which do not belong to the debtor (extraction creditor) is not a bankruptcy creditor. His right to to separate recovery of that item is regulated in accordance with special regulations.
2. The right to separate recovery can not be executed in the preliminary proceeding. After the opening of the bankruptcy proceeding, the right to separate recovery can be executed after the reporting hearing, at the earliest. If the item to be separately recovered is necessary for the continuation of the business activities of the debtor, the bankruptcy trustee can postpone the request for separate recovery for the period of 90 days starting with the reporting hearing. If, after this period of 90 days runs out, the item to be separately recovered is still necessary to the bankruptcy trustee, for the continuation of business activities, that requires the approval of the bankruptcy judge. The decision is submitted to the bankruptcy trustee and to the creditor with the right to separate recovery. The participants can appeal against that decision.
3. During the period before the reporting hearing only the right to claim because of the excessive wear of the item of the separate recovery belongs to the creditor with the the right to separate recovery. After the reporting hearing, the right to compensation for the usage of that item also belongs to the creditor with the the right to separate recovery. The extraction creditor is entitled to be fully compensated for any loss in value of item of extraction following the reporting hearing. If the administrator is unable to protect the

value of the item through payments to the extraction creditor, then the extraction creditor is entitled to extract the item, upon giving the administrator 8 days notice

4. If the item with the separate recovery of which could have been requested before the opening of the bankruptcy proceeding has been sold, in an unauthorized fashion, by the debtor, interim bankruptcy trustee, or, after the opening of the bankruptcy proceeding, by the bankruptcy trustee, the creditor with the right to separate recovery can request the ceding of the right to counter-deed, if it still hasn't been executed. He can request a counter-deed from the bankruptcy estate, if it exists in the estate and if it can be recovered separately from the estate.
5. If the conditions referred to in Paragraph 4 of this Article are not met, the creditor with the right to separate recovery can seek compensation of damages, as a bankruptcy creditor. If the item has been sold by the debtor, and as an expense of the bankruptcy estate if it has been sold in an unauthorized manner by the provisional administrator or the bankruptcy administrator

Article 38 Creditors with the Right to Separate Settlement

1. Creditors who have the right to separate settlement over certain items of the bankruptcy estate are authorized to a separate settlement from the item of the right to separate settlement for the principal claim, the interest and the costs, in compliance with the provisions of Articles 102 - 107 of this Law.
2. The creditors with the right to separate settlement are the following:
 1. holders of mortgages and land charges
 2. creditors who have through the law, confiscation, in-court agreement on legal action acquired some a right of lien
 3. creditors to whom the debtor has transferred certain right, with the objective of insurance;
 4. Creditors who are entitled to a right of retention.

Article 39 Creditors with the Right to Separate Settlement as Bankruptcy Creditors

Creditors with the right to separate settlement can be bankruptcy creditors if the debtor is also personally accountable to them. They have the right to proportional settlement from the bankruptcy estate only if they give up on the separate settlement, or if they were unable to get a separate settlement, in full or partially, in which case they are settled proportionally to the level of the unmet part of their claims.

Article 40 Creditors of the Bankruptcy Estate

The costs of the bankruptcy proceeding and the debts of the bankruptcy estate are settled from the bankruptcy estate before the bankruptcy creditors are settled.

Article 41 Costs of the Bankruptcy Proceeding

The costs of the bankruptcy proceeding are the following:

1. court costs of the bankruptcy proceeding
2. fees and costs of the experts, interim bankruptcy trustee, bankruptcy trustee and members of the interim and the final Board of Creditors
3. other costs for which it is stipulated by this Law or by some other law that they are to be met as the costs of the bankruptcy proceedings.

Article 42 Debts of the Bankruptcy Estate

The debts of the bankruptcy estate are the following liabilities:

1. liabilities based on the actions of the bankruptcy trustee or in some other way through the management, realization and distribution of the bankruptcy estate, and which are not included in the costs of the bankruptcy proceeding;
2. liabilities from the mutually binding contracts, if the execution of the said contracts is required for the bankruptcy estate or if it has to follow the opening of the bankruptcy proceeding;
3. liabilities from the unjustified enrichment of the bankruptcy estate.

1. **OPENING OF THE BANKRUPTCY PROCEEDING**

Article 43 Decision on the Proposal for the **Opening of the Bankruptcy Proceeding**

1. The Bankruptcy judge shall schedule a hearing on the conditions for opening of a Bankruptcy Proceeding, after having received the report from the the interim Bankruptcy trustee, together with the opinion from any expert appointed to assess the debtor's insolvency. The proposer, the debtor, the provisional bankruptcy trustee and, when necessary, the experts, are summoned to the hearing.
2. The bankruptcy judge shall bring a decision for opening of a bankruptcy Proceeding, or it shall reject the proposal for opening of a bankruptcy Proceeding, not later than three days from the conclusion of the Court hearing.
3. In a decision for the rejection of the proposal to open a bankruptcy Proceeding, the bankruptcy judge shall identify the person liable for the costs of the Proceeding.
4. The bankruptcy judge is to initiate the bankruptcy proceeding over the property of the debtor is the proposal is acceptable, if there is a reason for bankruptcy and if the property of the debtor, according to the projections, is going to be sufficient to cover the costs of the proceeding. If the property of the debtor does not cover the costs of the proceeding, but the proposal is acceptable and justified, the bankruptcy judge can initiate the proceeding if the interested party advances a sufficient amount in cash. The advance is included as an obligation of the bankruptcy estate
5. If the asstes of the bankrupt estate are insufficient to repay the advance of the costs of the porceedings, the person who has paid such an advance can request repayment from each person who was under obligation to submit a proposal for the initiation of the bankruptcy proceeding, but has omitted to do so, through no fault but their own.

Article 44 Direct opening of a bankruptcy proceeding

(1) The Bankruptcy judge may decide to open the Bankruptcy Proceeding without conducting a preliminary proceeding and without examining the reasons for opening of the Proceeding, if the proposal for opening of the Bankruptcy Proceeding has been submitted by the debtor or a Liquidator.

(2) A bankruptcy proceeding can be opened directly if the petition to open the proceeding is submitted by a creditor who holds a final execution order, and that execution order has remained unsatisfied for 60 days. In this case, the bankruptcy judge makes a presumption that the existence of the obligation of the debtor and the inability of the debtor to pay have been proven

Article 45 Decision on the Opening of the Proceeding

1. If the bankruptcy proceeding is opened, the bankruptcy judge is to appoint the bankruptcy trustee.

2. The decision on the opening of the bankruptcy proceeding contains the following:
 1. the title, or the name and surname, the center of business activities or the address of the debtor's residence;
 2. the name and address of the bankruptcy trustee;
 3. the date and hour of the opening of bankruptcy.

1. If the hour of the opening of the bankruptcy proceeding is not stated, than noon hour of the day on which the decision is brought is deemed as the moment of the opening.

Article 46 Summons of Creditors and Debtors

1. Within the decision on the opening of the bankruptcy proceeding, the creditors are summoned to register their claims with the bankruptcy court within 30 days, in compliance with Article 110.
2. Within the decision on the opening of the bankruptcy proceeding the creditors are summoned to inform the bankruptcy trustee, within 30 days , of the rights of security which they claim for the items of the debtor's property. The item over which a security right is requested, the type and the basis on which the right of security is founded, as well as the secured claim, must be specified.
3. Within the decision on the opening of the bankruptcy proceeding, persons who have liabilities towards the debtor are summoned, in order for them to execute those liabilities towards the bankruptcy trustee without delay.

Article 47 Ascertaining the Hearings

1. Within the decision on the opening of the bankruptcy proceeding, the bankruptcy judge is to ascertain the dates of the hearings for the following:
 1. the creditors' assembly, on which it is, on the basis of the report of the bankruptcy trustee, decided on the subsequent development of the bankruptcy proceeding (reporting hearing). The assembly of creditors summoned to hear the administrators report (the reporting hearing) may not be held before, nor later than fifteen days after, the hearing date for the investigation of claims submitted.
 2. the creditors' assembly, on which the registered claims are investigated (investigation hearing). The period between the expiry date for registering claims and the investigation hearing has to be 8 days long, at least, and 30 days long, at most.

1. The hearings be held at the same time.

Article 48 Proclamation of the Decision on the Opening of Bankruptcy.

1. The bankruptcy court is under obligation to announce the decision on the opening of bankruptcy publicly, on the day the decision is brought, on the court notice board. The announcement, has to be publicized in the Official Gazette of the RS.
2. The bankruptcy court is to inform the creditors and the debtor's debtors through sending them a copy of the decision.
3. The submitter of the proposal and the debtor must have that decision delivered in person.
4. A copy of the decision is delivered to the authorized prosecutors' office. The authorized prosecutors' office is also informed if the opening of the bankruptcy proceeding does not happen because of the lack of estate.

Article 49 Public Registers

If the debtor or items of his property are written in the public registers, the bankruptcy court is under obligation to order the following entries in the adequate registers:

1. the entry of the opening of the bankruptcy proceeding;
2. the entry of the refusal of the proposal for the opening due to the lack of estate in case the debtor is a legal entity which ceases to exist because of the refusal due to the lack of estate.
3. the entry of the conclusion of the bankruptcy proceeding.

Article 50 Appeal Against the Decision on the Opening of the Bankruptcy Proceeding

1. If the proposal for the opening of the bankruptcy proceeding is refused, the submitter of the proposal can submit an appeal, and if the proposal is accepted, the bankruptcy debtor can submit an appeal.
2. A valid decision on abolishing the decision on the opening of the bankruptcy proceeding is announced publicly. The consequences caused by the abolished decision referred to in this Paragraph remain in force. Article 48 paragraph 1 of this Law is applied accordingly.

1. LEGAL CONSEQUENCES OF THE OPENING OF THE BANKRUPTCY PROCEEDING

a. General effects of opening proceedings

Article 51 Transfer of the rights of administration and disposition

Upon the institution of bankruptcy proceedings, the bankruptcy debtor's right to administer and dispose of the property belonging to the bankruptcy estate, as well as the rights of the institutions, authorized clerk, representative and power of attorney shall be transferred to the bankruptcy trustee.

Article 52 Dispositions by the bankruptcy debtor

(1) Dispossessions of the bankruptcy debtor over the assets of the bankruptcy estate after the institution of bankruptcy proceedings have no legal effect, except for those dispossessions to which the general rules on the protection of confidence in land registers and other adequate public registers apply. The bankruptcy trustee may request for the return of the subject of the dispossession, and the other party has the right to be refunded for the executed counter-action, if that counter-action still exists in the bankruptcy estate.

(2) If the bankruptcy debtor has disposed of assets on the day the proceedings commenced, it shall be assumed that it has disposed of assets after the commencement of proceedings.

Article 53 Payments to the bankruptcy debtor

(1) If a direct payment has been made to the bankruptcy debtor for the purpose of meeting an obligation after the opening of bankruptcy proceedings, the payer shall not be liable to execute the payment to the bankruptcy trustee only if he did not know of the opening of bankruptcy proceedings at the time it made the payment.

(2) It is assumed that a person who had met the liability before the initiation of the bankruptcy proceeding was announced did not know of the institution of proceedings.

Article 54 Distribution of the Property of a Legal Corporation

(1) If the bankruptcy debtor is in a legal corporation with a third party (co-ownership, joint ownership, partnership), the dissolution of the legal corporation is executed outside of the bankruptcy proceedings..

(2) For claims based on the legal relationship, preferential satisfaction may be demanded from the bankruptcy debtor's share received through the dissolution of the legal corporation.

(3) Provisions of an agreement which, pertaining to legal corporations referred to in Paragraph 1 of this Article, exclude the right to request a dissolution of a corporation permanently or for a specified period, or which specify a notice period, shall have no effect on the bankruptcy proceedings.

Article 55 Takeover of Disputes

(1) In the event of the opening of bankruptcy proceedings, all pending litigation proceedings including arbitral proceedings will be suspended if the bankruptcy estate is affected. The suspension will continue until the conclusion of the bankruptcy proceedings, unless the legal proceedings are resumed before that time in accordance with the provisions of this Article.

(2) Pending legal disputes concerning assets belonging to the bankruptcy estate, in which the bankruptcy debtor is the plaintiff and which are ongoing at the time of the initiation of the bankruptcy proceedings, can be taken over by the bankruptcy trustee and the opposing party in the dispute, in their current state.

(3) Legal disputes that are pending against the bankruptcy debtor at the time of the initiation of the the bankruptcy proceedings, may be taken over by either the bankruptcy trustee or the opposing party, if they concern:

1. separation of an asset from the other assets in the bankruptcy estate,
2. separate satisfaction of a secured claim or
3. debts of the bankruptcy estate (a privileged debt).

(4) Legal disputes which relate to bankruptcy claims can be continued by the creditor only after the bankruptcy trustee disputes those claims at the examination hearing.

(5) If the bankruptcy trustee immediately acknowledges the claim, the opposing party may only assert a claim for the refund of the costs of the legal dispute as a bankruptcy creditor.

Article 56 Claims of the bankruptcy creditors

The bankruptcy creditors may realise their claims towards the bankruptcy debtor within the bankruptcy proceedings only.

Article 57 Execution prior to opening proceedings

If a bankruptcy creditor has obtained a right to separate settlement of the claim or some other safeguarding right over the property of the bankruptcy debtor which is a part of the bankruptcy estate, in the last 60 days prior to the submission of the proposal to institute bankruptcy proceedings or after this petition, through coercive execution or coercive court safeguarding, those safeguarding rights shall become ineffective at the time of instituting proceedings.

Article 58 Prohibition of execution and safeguarding

(1) After the initiation of the bankruptcy proceedings, individual bankruptcy creditors can not request coercive execution against the bankruptcy debtor or request safeguarding over the parts of the property which enter into the bankruptcy estate.

(2) Proceedings referred to in Paragraph 1 of this Article which are pending at the time of the initiation of the bankruptcy proceeding are suspended.

1. The bankruptcy judge shall decide on any objections that are raised on the basis of the provisions of Paragraph 1 of this Article against the admissibility of a coercive execution.

2. After the opening of the Bankruptcy Proceeding, creditors with a right to separate settlement can initiate proceedings against the debtor to exercise their rights of execution and securing by the general rules of the executive proceeding. Any suspended proceedings of execution and securing that those creditors have initiated before the opening of the Bankruptcy Proceeding, will be resumed and carried out by the execution court in accordance with the regulations of the execution proceeding.
3. Upon a request of a creditor with a right of separate settlement, the court may agree not to initiate the enforcement procedure pursuant to the previous Paragraph or to suspend it if the administrator provides appropriate protection for the claim of the creditor with the right of separate settlement. Appropriate protection of a secured claim means protection acknowledged with a decision of the court, if the value of the credit guarantee is sufficient, so that the creditor will not suffer any damage as a result of the suspension or deferral of the execution proceedings

Article 59 Prohibition of execution in order for the claims on the bankruptcy estate (privileged debts) to be settled

(1) Coercive execution in order for the settlement of the claims on the bankruptcy estate (privileged debts) that were not created through a legal act of the bankruptcy trustee shall be inadmissible for a period of six months following the institution of bankruptcy proceedings.

(2) The provision of Paragraph 1 of this Article does not apply to the following:

1. liabilities of the bankruptcy estate from a bilateral contractual agreement which the bankruptcy trustee has chosen to perform,
2. liabilities from a continuous obligation for the time after the first date to which the bankruptcy trustee was able to give notice in compliance with this Law.
3. claims from a working relation or some other continuous obligation, to the extent that the bankruptcy trustee claims the consideration for the bankruptcy estate.

Article 60 Exclusion of any further acquisition of title over the property which enters into the bankruptcy estate

(1) Rights over parts of the property which enters into the bankruptcy estate may not be validly acquired after the opening of proceedings, even if the acquisition is not based on a disposition by the bankruptcy debtor or coercive execution or safeguarding by a bankruptcy creditor.

(2) The provisions of paragraph 1 of this Article are not applied in the cases of acquisition connected to the confidence in the land registries and other public registries.

Article 61 **Suspension of mail**

(1) If it appears necessary in order to find or prevent legal acts of the bankruptcy debtor that are disadvantageous for the creditors, at the request of the bankruptcy trustee or ex officio, the bankruptcy judge shall issue a decision stating that certain or all postal consignments for the bankrupt must be forwarded to the bankruptcy trustee. The aforementioned decision must include an explanation.

(2) The bankruptcy trustee shall be entitled to open the postal consignments forwarded to him. Postal consignments whose contents do not concern the bankruptcy estate must be forwarded immediately to the bankruptcy debtor. Incoming mail is controlled in accordance with the rules of the office business activities, its receipt is documented, as well as its delivery to the title holder.

(3) The bankrupt shall have a right of appeal against the order to suspend mail. The bankruptcy judge must revoke the order after the hearing of the bankruptcy trustee, if the prerequisites for the suspension of the mail have ceased to exist.

Article 62 **Bankruptcy debtor's duty to provide information and co-operate**

(1) The bankruptcy debtor is obliged to supply information to the bankruptcy court, the bankruptcy trustee, the Board of Creditors and, upon the order of the bankruptcy judge, inform the creditors' assembly regarding all circumstances relating to the proceedings.

(2) The information given in compliance with the provisions of Paragraph 1 of this Article can be used in a law suit or a misdemeanour proceedings against the bankruptcy debtor or his immediate relatives with his consent only.

(3) The bankruptcy debtor is under obligation to submit all necessary documentation to the bankruptcy trustee and support the bankruptcy trustee in the performance of his duties.

(4) Upon the order of the bankruptcy judge, the bankruptcy debtor is obliged to make himself available at all times in order to fulfil his duties to co-operate. He must abstain from all acts that run counter to the fulfilment of these duties.

(5) If it appears necessary in order to obtain truthful statements, the bankruptcy judge shall order that the bankruptcy debtor make a solemn declaration, which is entered into the minutes, that, to the best of his belief and knowledge, he has supplied the information demanded from him correctly and completely.

(6) The bankruptcy judge may have coercive measures adopted against the bankruptcy debtor, in the following cases:

1. if the bankruptcy debtor refuses to supply information or to make the solemn declaration on the completeness of the data or to co-operate with the bankruptcy trustee in the fulfilment of his duties,

2. if, regardless of the court order, the bankruptcy debtor attempts to avoid the fulfilment of its duties to provide information and co-operate, in particular makes preparations to flee, regardless of the order prohibiting his absence, or,

3. if this is necessary for the prevention of acts of the bankruptcy debtor that run counter to the fulfilment of his duties to provide information and co-operate, in particular for the purpose of safeguarding of the bankruptcy estate.

(7) The determination of the coercive measures, their enforcement, as well as the legal remedies against the determination of the coercive measures, is executed in compliance with Article 10 Paragraphs 2 to 5 of this Law..

Article 63 Representatives of the organs. Employees

If the bankruptcy debtor is a legal entity, the provisions of Articles 61 and 62 shall apply accordingly to the members of the management and supervisory organs of the bankruptcy debtor, as well as to personally liable members who are accountable to the extent of their property in case they are authorised to represent the bankruptcy debtor. The previous provision does not apply to persons who have left the aforementioned positions more than two years prior to the petition to institute bankruptcy proceedings.

Article 64 Personal liability of the members of the corporation and partners

If bankruptcy proceedings are opened over a corporation whose members are personally accountable for the liabilities of the corporation, or over the property of a partnership, claims against the members of the corporation or partners on the basis of their personal liability, which are derived from the provisions of this or another Law, may only be enforced by the bankruptcy trustee, for the duration of the bankruptcy proceedings.

b. Performance of legal transactions

Article 65 Right of the bankruptcy trustee to choose

(1) If a bilateral contractual agreement is not or not completely performed by the bankruptcy debtor and by the other party at the time of instituting bankruptcy proceedings, the bankruptcy trustee may perform the contractual agreement in place of the bankruptcy debtor and demand performance from the other party.

(2) If the other party requests that the bankruptcy trustee exercise his right to choose, the bankruptcy trustee must immediately declare whether he wishes to demand performance. Otherwise, the bankruptcy trustee may not insist on performance.

(3) If the bankruptcy trustee refuses to perform, the other party may assert a claim for non-performance only as a bankruptcy creditor.

Article 66 Fixed transactions

(1) If the time of delivery of a liability of a fixed contract falls after the institution of bankruptcy proceedings, the performance can not be a matter of choice.

(2) The other contractual party of the bankruptcy debtor may assert a claim for compensation for non-performance, as a bankruptcy creditor.

(3) The compensation for non-performance consists of the difference between the contractual and market price which applies to fixed contracts on the day of the initiation of the bankruptcy proceeding, in the location of performance.

Article 67 **Divisible performances**

If the performances owed are divisible and, at the time of the institution of bankruptcy proceedings, the other contracting party has already rendered part of the performance owed by it, this party shall be a bankruptcy creditor with a claim to consideration in an amount corresponding to its part performance, even if the bankruptcy trustee demands fulfilment of the still outstanding performance. When the other contracting party's right to consideration has not been fulfilled, it will not be entitled to demand the return from the bankruptcy estate of a part payment which has become part of the assets of the bankrupt prior to the institution of bankruptcy proceedings.

Article 68 **Reservation of title**

(1) If a reservation of title has been entered in the land register in order to safeguard a claim for acquisition or revocation of a right over certain property of the debtor or over certain right entered on behalf of the bankruptcy debtor or in order to safeguard a claim for the change of content or rank of that right, the creditor may settle his claim as a creditor of the bankruptcy estate. This shall also apply if the bankruptcy debtor has assumed further obligations towards the creditor and these were not or not completely satisfied.

(2) The provision of Paragraph 1 of this Article is accordingly applied on the reservations of title entered into other public registers, such as for example the registers of ships or aircraft.

Article 69 **Maintaining ownership rights**

(1) If, prior to the institution of bankruptcy proceedings, the bankruptcy debtor sells movable goods subject to a reservation of title and transfers possession to the buyer, the buyer may demand performance of the sales agreement. This shall also apply if the debtor has assumed further obligations with regard to the buyer and these were not or not completely satisfied.

(2) If the bankruptcy debtor buys goods subject to a reservation of title prior to the institution of bankruptcy proceedings and takes possession of them from the seller, the bankruptcy trustee has the right to choose in compliance with the provisions of Article 65 of this Law.

Article 70 Lease and tenancy relations over items of real estate

(1) Leases and tenancies of the bankruptcy debtor of immovable property or premises shall continue to be binding on the bankruptcy estate

(2) The other party may assert claims for the time prior to the institution of bankruptcy proceedings only as a bankruptcy creditor.

Article 71 Bankruptcy debtor as a lessor or a landlord

(1) If, as landlord or lessor of immovable property or premises, the bankruptcy debtor had exercised its disposition right in relation to rental payments due for a certain period later than the current calendar month at the time of instituting proceedings, the exercise of such right shall only be effective if it pertains to rental payments for the current calendar month at the time of instituting proceedings. If the proceedings are instituted after the fifteenth day of the month, the debtor's exercise of its right to the rental payments shall also be effective for the following calendar month.

(2) A disposition within the meaning of Paragraph 1 of this Article shall be the collection of rent for the lease or leasehold. A contractual disposition shall be on an equal footing with a disposition in the course of execution.

(3) The debtor's tenant or lessee may deduct a claim for the rent for the lease, i.e. leasehold due for the period specified in Paragraph 1 of this Article against a claim belonging to him as a bankruptcy creditor. The provisions of this Paragraph do not apply to the implementation of the provisions of Article. 78 and Article 79 No. 2 to 4 of this Law.

Article 72 Bankruptcy debtor as a lessee or a tenant

(1) The bankruptcy trustee may give notice of termination of a lease or tenancy of immovable property or premises, which the debtor entered into as tenant or lessee, irrespective of the agreed duration of the contract by complying with the statutory notice period. If the bankruptcy trustee gives notice of termination, the other party may demand, as a bankruptcy creditor, compensatory damages for the premature termination of the contractual relationship.

(2) If the immovable property or premises has still not been transferred to the bankruptcy debtor at the time the proceedings were instituted, both the bankruptcy trustee and the other party may rescind the contractual agreement. If the bankruptcy trustee rescinds the contract, the other party may demand, as a bankruptcy creditor, compensatory damages for the premature termination of the contractual relationship. Each party must declare within fifteen days of the other party's request whether it wishes to continue the contractual agreement; if it fails to do so this shall be deemed to be an exercise of its right to rescind the contract.

Article 73 **Prohibition of the termination of leases and leasehold agreements**

A lease or leasehold agreement, which the bankruptcy debtor entered into as a tenant or lessee, may not be terminated by the other party after the petition to institute bankruptcy proceedings:

1. due to a default in the payment of the rent for the lease or leasehold that has occurred in the time prior to the opening of the proceedings;
2. due to a deterioration in the financial situation of the bankruptcy debtor.

Article 74 **Labour contracts**

(1) Labour relations of the employees of the bankruptcy debtor are terminated on the day the bankruptcy proceedings are opened. The bankruptcy debtor informs the employees about the termination of the labour relation.

(2) The bankruptcy trustee may enter into new labour relations of the employees who are necessary for the continuation of the business activities or for the execution of the bankruptcy proceeding.

(3) The claims of the employees which may result on the basis of the termination of the labor relations, such as compensation of damages caused by the untimely termination of the labor relations, or severance pay, can be settled as bankruptcy claims of the general payment rank in compliance with Article 32 of this Law.

Article 75 Cancellation of orders and contracts on service provision

An order placed by the bankruptcy debtor involving assets belonging to the bankruptcy estate shall be cancelled upon the institution of bankruptcy proceedings.

1. The contractor is under obligation to proceed with the completion of the order even after the initiation of the bankruptcy proceeding, in order for the damages to be prevented, until the bankruptcy trustee can take over the provision of the services. To this extent, the order shall be deemed to continue to exist. The claims of the contractor concerning the aforementioned continuation of the order are settled as the claims of the creditors of the bankruptcy estate.

(3) As long as the contractor is unaware of the institution of bankruptcy proceedings through no fault of its own, the order shall be deemed for the benefit of the contractor to remain valid. Through the claims for damages arising from this continuation, the contractor shall become a bankruptcy creditor.

Article 76 **Revocation of powers of attorney**

(1) A power of attorney granted by the bankruptcy debtor relating to assets belonging to the bankruptcy estate shall be revoked upon the opening of bankruptcy proceedings.

(2) If an order or contract for service under Article 75 Paragraph 2 continues to exist, the power of attorney given on the basis of that contractual relation shall also be deemed to continue to exist.

(3) As long as the person holding the power of attorney is unaware of the institution of proceedings through no fault of his own, he shall not be liable, unless the Law stipulates otherwise.

Article 77 Disallowed contractual provisions

Contractual provisions which exclude or restrict the application of Article 65 to 76 of this Law in advance shall be invalid.

c. **Setting-off and avoidance**

Article 78 **Admissibility of setting-off claims**

(1) If a bankruptcy creditor is entitled to a set off on the basis of the Law or a contract the time the bankruptcy proceedings commence, this right shall not be affected by the proceedings..

(2) If the claims to be set off are still subject to a suspensory condition at the time of instituting bankruptcy proceedings, such claims can only be set off when that prerequisite is satisfied. A

creditor who has a claim under a suspensory condition can prevent the realisation of the counter-claim of a bankruptcy trustee if he submits adequate safeguarding.

(3) Setting-off shall not be excluded on the basis that the claims are expressed in different currencies or accounting units if these currencies or accounting units can be freely exchanged at the claim's place of payment against which such claims are set off. The values of the claims must be converted using the exchange rate that is relevant for this place at the time the notice of set-off is received.

Article 79 Inadmissibility of setting-off of claims

Setting-off shall be inadmissible,

1. if a bankruptcy creditor has become indebted to the bankruptcy estate after the opening of bankruptcy proceedings,
2. if a bankruptcy creditor acquired its claim from one of the other creditors only after the opening of proceedings,
3. if a bankruptcy creditor obtained the possibility of setting-off through a contestable transaction,
4. if a creditor, whose claim must be satisfied from the assets of the bankruptcy debtor which are not entered into bankruptcy estate, is in debt to the bankruptcy estate,
5. if a creditor is an associated party within the meaning of Article 87 of this Law from whom the bankruptcy debtor is entitled to a claim that originated during the three months prior to the filing of the petition in bankruptcy or has become due, insofar as the creditor fails to prove that it was unaware of the bankruptcy debtor's imminent or current inability to pay its due debts at the time of the initial setting-off.

Article 80 Basic provision for avoidance

(1) In compliance with the provisions of this Law all legal transactions that were carried out before the opening of bankruptcy proceedings which disrupt the equitable settlement of creditors (which are damaging to the creditors), i.e. which put certain creditors into a more favourable position (which are favourable to the creditors), may be avoided.

(2) A legal transaction shall be deemed to have been carried out at the time its legal effect first became manifest. In the case of a conditional or temporary act, the fulfilment of the condition or the occurrence of the deadline shall be disregarded.

(3) Permission to pass, as well as the measures of coercive execution, are equated with legal transactions.

Article 81 General reasons for avoidance

(1) A legal transaction that has facilitated or granted a security or satisfaction (security or cover not to be claimed) to a bankruptcy creditor shall be voidable,

1. if it was carried out in the last six months prior to the petition to institute bankruptcy proceedings, if the debtor was unable to pay its due debts at the time of the act and if, at this time, the creditor knew of the debtor's inability to pay its due debts or was unaware due to gross negligence, or
2. if it was carried out after the petition to institute proceedings and if the creditor knew of the debtor's inability to pay its due debts at the time of the act or was unaware due to gross negligence.

(2) A legal transaction that has facilitated or granted an unusual security or satisfaction (security or cover not to be claimed) to a bankruptcy creditor, such as a satisfaction he did not have the right to request, or did not have the right to request it at that time and in that manner, shall be voidable:

1. if the legal transaction was carried out in the last month prior to the petition to institute bankruptcy proceedings or after the submission of that petition, ,

2. if the legal transaction was carried out in second or the third month prior to the petition to institute bankruptcy proceedings, and the debtor was unable to pay its due debts at the time of the legal transaction,

(3) It shall be considered that the creditor knew of inability to pay or the petition to institute proceedings if he knew of the circumstances from which it is unavoidable to conclude that there is inability to pay due debts or that a petition to institute bankruptcy proceedings has been submitted

(4) With regard to an entity affiliated to the debtor at the time when the legal transaction was undertaken in compliance with Article 87 of this Law, it shall be assumed that it knew of the debtor's inability to pay its due debts or the petition to institute proceedings.

Article 82 Avoidance of legal transactions without compensation

(1) A legal transaction of the bankruptcy debtor without a compensation or with a negligible compensation can be avoided, except if it was undertaken four years before the submission of the proposal for the initiation of the bankruptcy proceeding

(2) It is assumed that a legal transaction is without compensation or with negligible compensation if the bankruptcy debtor gave up on certain property value and did not receive adequate consideration as a compensation.

(3) If this concerns a usual adequate gift of negligible value, the transaction can not be avoided.

Article 83 Directly detrimental legal acts

A legal transaction of a bankruptcy debtor which was carried out in the last five years prior to the petition to institute bankruptcy proceedings, or after that, with the intent to harm a creditor, can be avoided if the other contractual knew of the intentions of the bankruptcy debtor at the time the transaction was carried out. It is assumed that the other party knew of the intent if it knew that the bankruptcy debtor was under threat of the inability to pay and that the transaction would harm the creditors.

Article 84 **Capital-replacing loans**

(1) A capital-replacing loan exists if a member of the corporation had, at a certain time when a crisis in the corporation onset, granted a loan to the corporation, at which time the good management practices of the members of the corporation would require an injection of their own capital, instead of granting loans. This also includes other legal transactions that economically correspond to the granting of a loan.

(2) A legal transaction that has granted security for the claim of a corporation member for a refund of a capital-replacing loan, or for some other similar claim, shall be voidable if the act was carried out in the last five years prior to the institution of bankruptcy proceedings or after this petition;

(3) A legal transaction that has granted satisfaction for the claim of a corporation member for the refund of a capital-replacing loan shall be voidable if the act was carried out in the last year prior to the institution of proceedings or after this petition.

Article 85 Initiation of the avoidance proceeding

(1) The bankruptcy trustee is authorized for the avoidance of legal transactions referred to in Article 78 of this Law, on behalf of the bankruptcy debtor.

(2) Creditors can also execute avoidance of legal transactions, under the condition that the bankruptcy trustee does not, upon an invitation of the creditor, initiate a law suit within thirty days from the date of the invitation from the creditor.

(3) The law suit for the avoidance of legal transactions can be initiated within the deadline of two years from the day of the initiation of the bankruptcy proceeding. A legal transaction can be avoided through the initiation of a counter-suit or an objection during a law suit and, in that case, the aforementioned deadline does not apply.

(4) The law suit referred to in Paragraph 1 of this Article is initiated against the person to whose benefit the avoided transaction was undertaken..

(5) If the request for the avoidance of a legal transaction is accepted, the avoided legal transaction is ineffective to the bankruptcy estate and the opposing party is under obligation to return to the bankruptcy estate all property benefits acquired on the basis of the avoided transaction.

(6) The person who had received the benefit without compensation or with negligible compensation must return what he has received only if it had enriched him, except if he knew or must have known that such a benefit would harm the creditors.

Article 86 Counter-claims of the opposition to the avoidance

(1) If the opposing party to the avoidance returns what he has acquired on the basis of an avoided transaction, his claim shall be revived.

(2) Insofar as it is still distinguishable in the bankruptcy estate or insofar as the bankruptcy estate has been enriched by its value, consideration must be paid from the bankruptcy estate. In addition, the opposing party of the voidable transfer may assert the claim for return of the consideration only as bankruptcy creditor.

Article 87 Associated persons

(1) If the debtor is a natural person, associated persons in the context of this Law shall be:

1. the spouse of the debtor, even if the marriage was entered into after the legal transaction or was dissolved in the last year prior to the act,

2. relations of the debtor or the spouse specified in no.1 in ascending and descending line and full and half siblings of the debtor or the spouse specified in no.1 as well as the spouses of these persons,

(2) If the debtor is a legal entity or a partnership, associated entities the context of this Law shall be:

1. members of management or supervisory organs and personally liable members of the debtor, partners as well as entities which hold a share of more than 10% of the capital of the debtor,

2. an entity or company which, on account of its comparable association with the debtor under company law or a contract of employment, has the possibility to inform itself about the debtor's economic situation,

3. an entity which has a personal connection specified in Paragraph 1 of this Article with one of the entities specified in No. 1 or 2 of this Paragraph obliged by the act of law to maintain secrecy about the affairs of the debtor,

4. third parties which are effectively in a position to exert influence on the debtor which is tantamount to that of a majority shareholder or representative organ. If the above-mentioned third parties are legal entities or partnerships, this shall also apply for the authorised representative organs of the third party.

5. ADMINISTRATION AND REALISATION OF THE ASSETS OF THE BANKRUPTCY ESTATE

a. Safeguarding the bankruptcy estate

Article 88 Taking over the bankruptcy estate

(1) After the opening of the bankruptcy proceeding the bankruptcy trustee is under obligation to take over the ownership of the entire property which enters into the bankruptcy estate, and to manage it.

(2) On the basis of an executive submission of the decision on the initiation of the bankruptcy proceeding, the bankruptcy trustee can request from the court to order that the items are transferred to the bankruptcy trustee and to order the actions which will enforce the execution of that decision. Together with the order for the transfer the court can, in its official capacity, order coercive measures, too, against the representative who is representing the bankruptcy debtor, who is a legal entity, in compliance with the Law, or who is representing the bankruptcy debtor, who is an individual, in compliance with Article 62 of this Law.

Article 89 Accounts of the bankruptcy debtor

(1) On the day of the opening of the bankruptcy proceeding the account of the bankruptcy debtor shall be closed and the rights of the persons who were authorized to manage the property of the bankruptcy debtor in those accounts shall cease.

(2) The bankruptcy trustee shall open new accounts of the bankruptcy debtor and specify persons who will be authorized to manage the resources in those accounts.

(3) The resources in the closed accounts shall be transferred to new accounts.

Article 90 The title of the bankruptcy debtor's firm

After the initiation of the bankruptcy proceeding, the indication "in bankruptcy" is added to the firm or to the title of the bankruptcy debtor.

Article 91 **Objects of value**

(1) The Board of Creditors may specify the place and conditions under which money, shares and valuables may be deposited and invested. If no Board of Creditors has been appointed or the Board of Creditors has not yet adopted a decision, the bankruptcy judge may order such a decision on the depositing or investing the aforementioned objects of value accordingly.

(2) If a Board of Creditors has been appointed, the bankruptcy trustee shall only be entitled to take delivery of money, shares or objects of value from the place these were deposited or invested if a member of the Board of Creditors countersigns the receipt. Instructions of the bankruptcy trustee concerning the depositing or investing in this case shall only be valid if a member of the Board of Creditors has countersigned them.

(3) The creditors' meeting may adopt a decision concerning the depositing or investing which is in conflict with the rules of Paragraphs 1 and 2 of this Article.

Article 92 Sealing

In order for the items of the bankruptcy estate to be safeguarded, the bankruptcy trustee may request for a court official to sign and seal the bankruptcy debtor's property.

Article 93 Inventory of the items of the bankruptcy estate

(1) The bankruptcy trustee is under obligation to compile an inventory of the items of the bankruptcy estate.

(2) The value of each item has to be stated. If the value depends of whether the enterprise of the bankruptcy debtor continues operations or not, it is necessary to state both values. If it is necessary, the assessment of certain parts of the property can be entrusted to the court experts.

Article 94 Inventory of creditors

(1) The bankruptcy trustee is under obligation to compile the list of all the bankruptcy debtor's creditors of whom he has found out from the ledgers and business documentation of the bankruptcy debtor, from their claims or in some other way.

(2) The list shall keep the creditors with the right to separate settlement separated from the bankruptcy creditors who are grouped by payment ranks. For each creditor it is necessary to state the address as well as the basis and the amount of his claim. For creditors with the right to separate settlement it is also necessary to indicate the item over which there is a right to separate settlement, as well as the probable amount for which the creditor shall not be sufficiently settled. The compilation of the list can be entrusted by the bankruptcy trustee to court experts if there is a need for that.

(3) The list shall include the possibilities of setting off. It is necessary to estimate the level of the liabilities of the bankruptcy estate in the event of sequential and undisturbed realisation of the bankruptcy debtor's property.

Article 95 **Summary of assets**

(1) Within a period which can not be longer than 45 days of his appointment, the bankruptcy trustee must draw up a well-ordered summary listing the assets of the bankruptcy estate and the liabilities of the debtor at the time of instituting bankruptcy proceedings. This summary must include an assessment of the part of the bankruptcy estate which can be counted on in the bankruptcy proceeding for the settlement of the bankruptcy debtor's creditors.

(2) Once the summary of assets and liabilities is drawn up, upon the request of the bankruptcy trustee or a creditor, the bankruptcy judge must instruct the bankruptcy debtor to make a solemn declaration in front of the bankruptcy judge that the summary of assets and liabilities is complete.

Article 96 Deposit of the inventory and the review to be considered

The inventory of the assets of the bankruptcy estate, the schedule of creditors and the summary of assets must be deposited by the bankruptcy trustee at the court registry at the latest eight days prior to the reporting hearing for the inspection of the parties concerned..

Article 97 Business ledgers and tax liabilities

(1) After the opening of a bankruptcy proceeding the business ledgers of the bankruptcy debtor are being managed by the bankruptcy trustee or a person appointed by the bankruptcy trustee.

(2) With the initiation of the bankruptcy proceeding a new business year is initiated. The period of time until the reporting hearing is not calculated in the legally prescribed deadlines for the compilation and the announcement of the final account rendered.

(3) The bankruptcy judge shall appoint an auditor for the assessment of the final account in the bankruptcy proceeding, after enabling the bankruptcy trustee and the creditors' committee to declare their opinion of the person to be appointed as auditor.

b. Decision on the realisation of the bankruptcy estate

Article 98 **Reporting hearing**

(1) At the reporting hearing, the bankruptcy trustee must report on the economic situation of the bankruptcy debtor and its causes. The bankruptcy trustee must state whether there is any likelihood of saving in whole or in part the enterprise of the bankruptcy debtor, what possibilities exist for a restructuring proposal and what the consequences would be for the satisfaction of the creditors.

(2) At the reporting hearing, the bankruptcy debtor and the creditors must be given opportunity to comment on the report presented by the bankruptcy trustee.

Article 99 Decision on the continuation of business activities of the bankruptcy debtor

1. At the reporting hearing, the creditors' assembly shall decide whether the enterprise should be closed down or its operation continued on a provisional basis. The creditors may instruct the bankruptcy trustee to draw up a restructuring proposal and specify the objective of the plan. The creditors may alter their decisions at subsequent hearings.
2. The creditors assembly determines the manner and the conditions for conversion of the debtor's property into cash

Article 100 Termination of business activities prior to the decision of the creditors

(1) If the bankruptcy trustee wishes to close down the enterprise prior to the reporting hearing, he must obtain the consent of the Board of Creditors, if one has been appointed.

(2) The bankruptcy trustee must inform the bankruptcy debtor prior to the resolution of the Board of Creditors or, if one has not been appointed, prior to closing down the enterprise. At the request of the bankruptcy debtor and after hearing the bankruptcy trustee, the bankruptcy judge shall prohibit the closure if this can be postponed until the reporting hearing without a considerable reduction of the bankruptcy estate.

Article 101 Realization of the bankruptcy estate

(1) After the reporting hearing, the bankruptcy trustee must immediately realise the assets belonging to the bankruptcy estate, unless this is precluded by the resolutions of the creditors' assembly.

(2) When realising the assets of the bankruptcy estate, the bankruptcy trustee is under obligation to abide by the decision of the creditors' assembly or the Board of Creditors on the conditions and the method of sale

Article 102 **Realization of immovable property**

(1) Immovable property may be realised in compliance with the regulations on coercive execution, or can be realised by the bankruptcy trustee through free negotiation.

(2) If an immovable piece of property cannot be realised, the bankruptcy trustee may release it from the bankruptcy estate, by giving it over to the creditors in proportion to their claims if they will accept it.

(3) The property which can not be distributed to the creditors in compliance with Paragraph 2 of this Article shall be given over to persons who have a share in the bankruptcy debtor, if the bankruptcy debtor is a legal entity, or to the bankruptcy debtor himself, if he is an individual.

(4) For the sale on the open market of immovable property against which creditors have the right to separate settlement, the consent of the creditor with the right to separate settlement shall be required. In this case, the bankruptcy estate shall be entitled to a share of 5% of the proceeds of the sale.

(5) The creditor with the right to separate settlement shall have the right to inspect the property.

Article 103 Realization of movable property and rights

(1) The bankruptcy trustee may sell movable property against which creditors have the right to separate settlement directly or may have this sold at a public auction, if it has the property in its possession..

(2) The bankruptcy trustee may recover or realise in some other manner a claim that the bankruptcy debtor has assigned or pledged as security for a certain right.

(3) If the bankruptcy trustee is entitled to realise movable property under Paragraph 1 of this Article, he must, at the request of the creditor with the right to separate settlement, provide this person with information on the condition of the property. Instead of providing information, he may allow the creditor to inspect the property

(4) If the bankruptcy trustee is entitled to recover a claim under Paragraph 2 of this Article, he must, at the request of the creditor with the right to separate settlement, provide this person with information regarding the claim. Instead of providing information, he may allow the creditor to inspect the accounts and business records of the bankruptcy debtor.

Article 104 Notification of the intention to dispose of assets

(1) Before the bankruptcy trustee sells an asset of movable property or a right, which he is entitled to realise under Article 103 of this Law, to a third party, he must notify the creditor with the right to separate settlement of the manner in which he intends to sell the asset. He must give the creditor 8 days to present another more favourable possibility by submitting a concrete offer which also indicates the buyer's solvency.

(2) If, within the time specified under Paragraph 1 of this Article or in due time prior to the sale, the creditor informs the bankruptcy trustee of a more favourable possibility, the bankruptcy trustee must avail himself of this possibility or must put the creditor in the position that it would have been in had he availed himself of the possibility.

(3) Another possibility of realisation would be that of the creditor taking over the asset itself.

Article 105 Distribution of the sale proceeds from movable property in respect of which there is a right to separate settlement

1. After the bankruptcy trustee sells an item of the movable property or a right, the amount realized through the sale shall be used primarily in the settlement of the costs of the bankruptcy estate, which relate to the identification of the rights or the realization. The remaining part of the realized amount shall be used for the settlement of the creditors with the right to separate settlement, without any delay.

2. If the item referred to in Article 103 of this Law was transferred by the bankruptcy trustee to a creditor, the creditor shall be under obligation to pay to the bankruptcy estate the amount necessary for the settlement of the costs pertaining to the determination of the rights to claim and for paying the taxes with which such a sale is burdened.
3. The costs referred to in the previous Paragraph of this Article as well as the costs of the identification of the items and the determination of the rights to separate settlement which are connected to those items, shall be determined at a flat rate of 5% of the realized sales price.
4. If the actual costs are higher than the flat rate of 5%, they shall be determined at their actual level. If the bankruptcy estate is burdened with taxes because of the realization, the amount of that tax is added to the costs of the realization.

Article 106 Protection of the creditor from a delay in the realization.

If the bankruptcy trustee is entitled to realise an asset against which a secured creditor has a preferential right and delays the realisation after the reporting hearing, he must compensate the creditor from the bankruptcy estate for the loss of value resulting to its share of the realisation.

Article 107 **Realisation by the creditor**

(1) The creditor is entitled to realise movable property or claims which are subject to the right to separate settlement, if that property is in his ownership or if the bankruptcy trustee has given the claim to be realised over to him.

(2) At the request of the bankruptcy trustee and after hearing the creditor, the bankruptcy judge may specify a period within which the creditor must realise the asset. Upon expiry of the period, the bankruptcy trustee shall be entitled to realise the asset.

Article 108 Legal actions of special importance

(1) The bankruptcy trustee is under obligation to acquire a consent of the Board of Creditors for legal actions which are of special importance to the bankruptcy proceeding. If the Board of Creditors has not been established, the consent shall be given by the creditors' assembly.

(2) The consent referred to in Paragraph 1 of this Article is especially necessary in the following cases:

1. if there is intent to dispossess of an enterprise or a plant, commodity warehouse in full, an item of real estate, a share of the bankruptcy debtor in some other enterprise which should serve for the establishment of a permanent connection with that enterprise, or a right to regular incomes,
2. if there is intent to take a loan, which would exert significant burden on the bankruptcy estate,
3. if there is intent to file or to take over a law suit the subject of which is of significant value, if there is intent to refuse the filing of that law suit, or there is intent for a settlement, or an agreement on the elected court, to be reached, in order for such a law suit to be decided on or to be refused.

Article 109 Effectiveness of the Action

A breach of the provision of Article 108 of this Law shall not affect the legal validity of the bankruptcy trustee's action.

6. SETTLEMENT OF THE CREDITORS

Article 110 **Notices of claims**

(1) The creditors shall submit their claims to the bankruptcy court in writing. In the notice of claim, the following must be stated:

1. the firm name or the name and registered offices or place of residence of the creditor;
2. the legal basis and amount of the claim;
3. the number of the current account or another account of the creditor.

(2) The creditors that have claims in foreign currencies shall submit these in the national currency.

(3) The bankruptcy trustee shall compile a list of all the claims of the employees and previous employees of the bankruptcy debtor incurred before the opening of the bankruptcy proceeding and shall submit the registration of their claims in two copies for them to sign. The employees and the previous employees may register the difference of their claims if they consider that the list of the bankruptcy trustee does not cover their claims in full.

4. If a claim subject to a pending legal action is submitted, the submission shall indicate the court before which the proceedings will be conducted and state the file reference.
5. In the submission, the creditors with the right to separate settlement shall indicate the part of the bankruptcy debtor's assets to which their petition refers and the amount to which it is expected that their claims are not going to be covered by that right to separate settlement.
6. In the submission, the creditors with the right to separate recovery shall indicate the part of the assets to which the petition refers.
7. The claims of creditors of lower payment rank must only be submitted if the bankruptcy judge makes a special request for the submission of these claims. In the submission of such claims, the lower priority of the claim must be noted and the creditor's place in the order of priority must be indicated. In the event of a breach of this regulation, the claim must be disregarded in the event of a distribution.
8. The bankruptcy creditors shall submit the registration of their claims in two copies, together with the proofs of the justification of the claims.

Article 111 **Table**

The bankruptcy court must record each submitted claim, with the data listed in Article 110 of this Law, in a table. The table and the enclosed documents and certificates must be deposited at the registry of the bankruptcy court no later than eight days prior to the examination hearing for the inspection of the parties concerned.

Article 112 The structure of the examination hearing

(1) At the hearing for the examination of claims, the bankruptcy judge examines the registered claims of the creditors.

(2) The hearing for the examination of claims is attended by the bankruptcy trustee, the creditors who have registered their claims, as well as other parties who, taking into account the activities they provided for the bankruptcy debtor, may submit data on the existence and the level of the registered claims

(3) The hearing for the examination of claims shall be held even if all the creditors who have registered their claims are not present, if they were invited in the correct manner.

Article 113 **Claims filed subsequently**

(1) Claims submitted after the expiry of the submission period can be examined at the examination hearing, if it is proposed by the bankruptcy trustee.

(2) Claims submitted after the expiry of the submission period which were not examined at the examination hearing, as well as claims registered within the deadline of three months after the first examination hearing, but not after the announcement of the invitation to the final hearing, may be examined at one or more separate examination hearings which shall, upon a proposal of the creditors who did not register their claims in a timely manner, be ordered by the bankruptcy judge under the condition that the costs of that hearing are covered by an advance which is paid by those creditors within 15 days, solidarily. If the advance is not paid within the time limit, the separate examination hearing shall not be held, and the untimely registrations shall be disregarded.

(3) The creditors whose claims are examined subsequently are not under obligation to cover other creditors' costs of the proceedings.

(4) Registrations submitted after the deadlines referred to in Paragraph 2 of this Article shall be disregarded.

(5) The bankruptcy judge shall make a decision on disregarding claims which were not registered in a timely manner referred to in Paragraphs 2 and 4. The decision is announced on the notice board of the court and submitted to the applicant of the registration, to the bankruptcy trustee and to the bankruptcy creditor who proposed for that registration to be disregarded.

(6) The applicant of the registration may appeal against the decision on disregarding the registration, while the bankruptcy trustee or any of the creditors may appeal against a decision which determines that the registration submitted subsequently is a timely one.

(7) If, in compliance with the provisions of Article 110 of this Law the bankruptcy court invited the creditors of lower payment ranks to register their claims so that the deadline for the registration of those claims is to run out later than eight days before the examination hearing, a separate examination hearing shall be held at the expense of the bankruptcy estate.

(8) An invitation to a separate examination hearing is to be announced. The bankruptcy trustee and the bankruptcy debtor, if he is an individual, receive special invitations to that hearing.

Article 114 Prerequisites and effects of officially recognizing the claim

(1) The bankruptcy trustee must declare whether he officially recognises the claim or contests the claim. In the submission of the claims of creditors with the right to separate settlement under Article 39 of this Law, the bankruptcy trustee may determine, subject to the provision that the individual creditor must still produce evidence, the extent to which the item serving as security is insufficient to satisfy the creditor..

(2) An objection of the bankruptcy debtor or a bankruptcy creditor shall not preclude the determination. The bankruptcy court shall note both the result of the public examination and who has raised an objection, in the table.

(3) The entry of the officially recognised claims into the table shall have the effect of a final judgment and determines both their amount and rank.

(4) Spelling mistakes or any other obvious mistakes in the sheet must be corrected in the official capacity.

(5) If a bankruptcy creditor subsequently registers his claim at a reduced value, this must be noted in the schedule. The bankruptcy trustee may subsequently officially recognise claims, which were disputed during the examination hearing, upon a request of the bankruptcy creditor. Claims contested at the examination hearing can be recognised subsequently by the bankruptcy trustee, with a written notification to the bankruptcy court.

Article 115 **Contested claims**

If a claim is contested by the bankruptcy trustee, the creditor may choose to file a legal action to have the claim officially recognised. If, for the claim which has been contested, there is an enforceable title, the bankruptcy trustee must file a law suit prove the justification of the contestation. If the bankruptcy debtor or a creditor contested the claim at the examination hearing, the party contesting the claim may choose to file a law suit to prove the justification of the contestation. The party which is required to initiate a lawsuit regarding a disputed claim, must initiate such a suit within 30 days of the examination hearing at which the claim was contested. If the person who is required to initiate a suit does not do so within this time period, it will be considered that he has renounced the right to initiate legal proceedings

Article 116 Effect of the decision

(1) A legally valid decision through which a claim is officially recognised or an objection is declared to be justified shall be binding on the bankruptcy trustee and all the bankruptcy creditors.

(2) The party who has won the dispute at the court may require of the bankruptcy trustee to correct the table of claims.

Article 117 Settlement of the bankruptcy creditors

(1) The satisfaction of the bankruptcy creditors can only begin after the examination hearing.

(2) The bankruptcy trustee shall be entitled to make intermediate distributions at its discretion. Bankruptcy creditors of lower payment ranks in compliance with Article 33 of this Law shall be disregarded in intermediate distributions.

(3) The distributions shall be made by the bankruptcy trustee. Prior to each distribution, the bankruptcy trustee must obtain the consent of the Board of Creditors, if one has been appointed, or by the creditor's assembly if no creditors committee has been appointed.

Article 118 Distribution schedule

Prior to a distribution, the bankruptcy trustee must draw up a schedule of the claims that must be taken into consideration in the distribution. The schedule must be deposited at the bankruptcy court for inspection by the parties concerned. The bankruptcy trustee must give public notice of the total claims and the amount available in the bankruptcy estate for the distribution..

Article 119 Consideration of contested claims

(1) A bankruptcy creditor, whose claim was not officially recognised and for whose claim there is no enforceable title or final decision, must within 15 days after the public notification in compliance with Article 118 of this Law supply the bankruptcy trustee with documents showing that a declaratory action has been filed and the value of this declaratory action or that the proceedings have been resumed in a previously pending lawsuit. An objection by the bankruptcy debtor or a bankruptcy creditor shall remain immaterial, unless, within the time limit, judicial findings confirm that the objection is justified.

(2) If the evidence referred to in Paragraph 1 of this Article is produced within the allowed time, the share apportionable to the claim shall be withheld in the distribution as long as the lawsuit is pending.

Article 120 Consideration of creditors with the right to separate settlement

(1) A creditor entitled to separate satisfaction must, within the preclusive time limit provided in Article 119, provide evidence to the bankruptcy trustee that it has waived its right to separate satisfaction and of the value of the separate satisfaction to which it has waived its right or that the

realisation of the value as security has not resulted in the satisfaction of the personal claim. If the evidence is not provided within the allowed time, the claim shall be disregarded in the distribution.

(2) If the bankruptcy trustee is entitled to realise the asset claimed by the creditor with the right to separate settlement and he has not yet realised the asset, Paragraph 1 of this Article shall not apply.

Article 121 **Subsequent consideration**

Creditors, who were disregarded in an intermediate distribution, but who subsequently fulfil the conditions referred to in Articles 119 and 120 of this Law, shall receive, in the following distribution, an amount in advance from the remaining bankruptcy estate to grant them equal treatment with the other creditors.

Article 122 **Changes to the distribution schedule**

The bankruptcy trustee must effect the changes to the distribution schedule that are required under Art 119, 120 and 121 within three days after the expiry of the preclusive time limit provided in Art 119 Paragraph 1 of this.

Article 123 **Objections to the distribution schedule**

(1) The objections of creditors to the distribution schedule can be raised at the bankruptcy court before the expiry of 8 days after the end of the preclusive time limit provided in Art 119 Paragraph 1 of this Law.

(2) A decision of the bankruptcy court through which the objections are overruled must be served on the creditor and the bankruptcy trustee. The creditor shall be entitled to appeal against the decision within eight days, directly to the higher instance court.

(3) A decision of the bankruptcy court ordering a rectification of the schedule must be served on the creditor and the bankruptcy trustee and deposited at the court registry for inspection by the parties concerned. The bankruptcy trustee and the bankruptcy creditors shall be entitled to appeal against the decision on the objection. The period for the appeal shall begin on the day the decision is deposited at the court registry for inspection by the parties concerned.

Article 124 **Main distribution**

(1) The distribution proposal must be discussed by the creditors and the bankruptcy trustee at the hearing for the main distribution. In the event of the appeal being made by a creditor, the provisions of Article 123 Paragraph 1 shall be applied accordingly. At the hearing for the main distribution, the distribution proposal can be modified or supplemented. If there are no proposals for modifying or supplementing, or after they are adopted, the bankruptcy judge shall certify the distribution proposal.

(2) After the distribution proposal is certified by the bankruptcy judge, the bankruptcy trustee must carry out the distribution. The bankruptcy court shall inform the creditors, whose claims have been either not satisfied or only partly satisfied, by returning their submitted documents, that unsatisfied claims against the bankruptcy debtor may be asserted in a regular execution proceeding. The informing is executed in compliance with the rules on personal submission.

(3) Together with the aforementioned information, the creditors must be issued enforceable extracts from the certified schedule of claims.

(4) In the hearing for the main distribution, the bankruptcy trustee must render his final account.

(5) Creditors may relinquish unrealisable assets at the estimated value by setting off these against acknowledged claims. Otherwise, they must be handed over to the bankruptcy debtor, if he is an entrepreneur, or to a member of the corporation.

6. The bankruptcy trustee shall provide evidence to the bankruptcy court of the distribution to the creditors.
7. The period between the announcement of the hearing for the main distribution and its holding must be at least 15 days long and at the most 30 days long.

Article 125 **Depositing retained amounts**

Any amounts that have been retained in the main distribution must be deposited by the bankruptcy trustee with the court.

7. CONCLUSION OF THE BANKRUPTCY PROCEEDING

Article 126 **Conclusion of bankruptcy proceedings**

(1) As soon as the main distribution has been carried out, the bankruptcy judge shall order the closing of the bankruptcy proceedings.

(2) The order and the reasons for closing the bankruptcy proceedings must be publicly announced in the "Official Gazette of the Republic of Srpska".

Article 127 **Rights of creditors after the bankruptcy proceedings are concluded**

(1) After the bankruptcy proceedings are concluded, bankruptcy creditors may assert its remaining claims against the bankruptcy debtor, who is an individual, according to the general rights stipulated by the Civil Code..

(2) After the proceedings are concluded, bankruptcy creditors, who have participated with their claims in the bankruptcy proceedings, may only enforce these against the bankruptcy debtor on the basis of an enforceable extract from the table. The petition for an enforceable extract from the schedule of debts shall first be admissible after the closing of proceedings. The bankruptcy court shall be competent to issue this enforceable extract.

Article 128 **Subsequent distribution**

(1) Upon the application of the bankruptcy trustee or a bankruptcy creditor or ex officio, the bankruptcy judge shall order a subsequent distribution, if, after the final hearing:

1. the conditions are met for the retained amounts to be distributed to bankruptcy creditors
2. amounts paid from the bankruptcy estate flow back to the bankruptcy estate
3. assets of the bankruptcy estate are discovered subsequently.

(2) The conclusion of the bankruptcy proceedings shall not preclude the ordering of a subsequent distribution.

(3) The bankruptcy judge may refrain from ordering a subsequent distribution and relinquish the available amount or the discovered asset to the bankruptcy debtor, if this appears reasonable considering the insignificance of the amount or the negligible value of the asset and the costs of a subsequent distribution. The bankruptcy judge may be make the determination of a subsequent

distribution contingent upon a sum of money being advanced to cover the costs of the subsequent distribution.

Article 129 **Legal remedies**

(1) The order through which the application for a subsequent distribution is overruled must be served on the applicant. The applicant shall be entitled to appeal against the order.

(2) The order through which a subsequent distribution is ordered must be served on the bankruptcy trustee, the bankruptcy debtor and, if a creditor has filed the application for the distribution, on this creditor. The bankruptcy debtor, if he is an entrepreneur, shall be entitled to appeal against the order.

Article 130 **Carrying out a subsequent distribution**

After a subsequent distribution has been ordered, the former bankruptcy trustee must distribute the amount which is freely available or the proceeds from the realisation of the subsequently located asset on the basis of the final schedule. The bankruptcy trustee must render account to the bankruptcy court.

Article 131 **The exclusion of creditors of the bankruptcy estate**

The creditors of the bankruptcy estate whose claims first came to the knowledge of the bankruptcy trustee:

1. in an intermediate distribution after the distribution schedule was filed,
2. in the main distribution after the end of the hearing for the main distribution or
3. in a subsequent distribution after the public announcement,

may only demand satisfaction of their claims from the resources remaining in the bankruptcy estate after the distribution.

Article 132 **Termination due to insufficient bankruptcy estate**

(1) If, after the institution of bankruptcy proceedings, it is established that the bankruptcy estate is insufficient to cover the costs of the bankruptcy proceedings, the bankruptcy judge shall terminate the proceedings. The proceedings will not be terminated if an adequate sum of money is paid in advance; Article 43 Paragraph 1 of this Law shall apply accordingly.

(2) Prior to the termination, the bankruptcy judge shall hold a hearing of the creditors, the bankruptcy trustee and the creditors of the bankruptcy estate. At the request of the bankruptcy trustee, this consultation may already take place during the reporting hearing.

(3) To the extent that liquid funds are available in the estate, prior to the termination, the bankruptcy trustee must pay the costs of the proceedings, and primarily the expenses, proportional to the amount of the claims. He shall no longer be obliged to realise the assets of the bankruptcy estate.

Article 133 **Notification of insufficient assets in the bankruptcy estate**

(1) If the costs of the bankruptcy proceedings are covered, but the bankruptcy estate will not be adequate to meet privileged debts which are otherwise outstanding, the bankruptcy trustee shall

notify the bankruptcy court that there are insufficient assets in the estate. The same shall apply if the estate appears to be insufficient to satisfy the other existing privileged debts when they become due.

(2) The bankruptcy court must give public notice of the insufficient assets in the bankruptcy estate. In particular, notice must be served on the creditors of the bankruptcy estate.

(3) The duty of the bankruptcy trustee to administer and realise the assets of the estate shall continue after the public announcement of the insufficient assets in the bankruptcy estate.

Article 134 Settlement of the creditors of the bankruptcy estate in the event of the bankruptcy estate having insufficient assets

(1) The bankruptcy trustee must satisfy the liabilities of the bankruptcy estate in the following order of priority:

1. the costs of the bankruptcy proceedings;
2. liabilities of the bankruptcy estate that were created after the announcement of the insufficiency of the estate's assets, without being part of the costs of the proceedings,
3. the remaining liabilities of the bankruptcy estate.

(2) liabilities of the bankruptcy estate within the meaning of Paragraph 1 No. 2 of this Law shall also include liabilities:

1. from a bilateral contractual agreement, which the bankruptcy trustee chose to perform after he had notified of the insufficient assets in the bankruptcy estate,
2. from a continuous obligation from the time after the first hearing, which the bankruptcy trustee could have rescinded after notifying of the insufficient assets in the bankruptcy estate,
3. from a continuous obligation, if the bankruptcy trustee has claimed the payment on behalf of the bankruptcy estate after notifying of the insufficient assets in the bankruptcy estate.

Article 135 Prohibition on Execution

As soon as the bankruptcy trustee has notified the bankruptcy court of the insufficient assets in the bankruptcy estate, execution based on privileged debts within the meaning of Article 134 Paragraph 1 No. 3 of this Law shall not be permitted.

Article 136 Termination Upon Notification of Insufficient Assets in the Bankruptcy Estate

(1) Once the bankruptcy trustee has distributed the bankruptcy estate in accordance with Article 134 of this Law, the bankruptcy judge shall terminate the bankruptcy proceeding.

(2) After giving notice of the insufficient assets in the bankruptcy estate, the bankruptcy trustee must render a separate account for his services.

(3) If assets of the bankruptcy estate are discovered after the proceedings have been discontinued, upon the application of the bankruptcy trustee or a privileged creditor of the bankruptcy estate or ex officio, the bankruptcy judge shall order a subsequent distribution. Provisions of Article 128 Paragraph 3 and Articles 129 and 130 of this Law shall apply accordingly.

Article 137 Discontinuation Due to the Absence of Grounds to Institute Proceedings

The bankruptcy proceedings shall be discontinued upon the application of the bankruptcy debtor, if it is guaranteed that the bankruptcy debtor is neither unable to pay its due debts nor at risk of being unable to pay its due debts after the proceedings are discontinued. The application shall only be admissible if the absence of grounds to institute proceedings has been substantiated by prima facie evidence.

Article 138 Discontinuation with the Consent of the Creditors

(1) Bankruptcy proceedings shall be discontinued upon the proposal of the bankruptcy debtor, if the bankruptcy debtor obtains the consent of all of the bankruptcy creditors who have filed claims after the expiry of the latest filing date. In the case of creditors, whose claims are contested by the debtor or the bankruptcy trustee and, in the case of the creditors with the right to separate settlement, the Court shall decide at his own discretion to what extent the consent of these creditors or the payment of a security is required.

(2) Upon the proposal of the bankruptcy debtor, proceedings may be discontinued prior to the expiry of the latest filing date if, apart from the creditors whose consent the debtor obtains, no other creditors are known.

Article 139 Procedure for the Discontinuation

(1) The application to discontinue bankruptcy proceedings in compliance with Articles 137 and 138 of this Law must be announced publicly. The application must be deposited at the court registry for inspection by the parties and, in the case of Article 138 of this Law, the creditors' declarations of consent must be enclosed. Within 8 days after the public announcement, the bankruptcy creditors may submit their objection to the application in writing or have their objection recorded at the registry.

(2) The bankruptcy judge shall decide on the discontinuation of proceedings after the hearing of the applicant, the bankruptcy trustee and the Board of Creditors, if one was appointed. In the event of an objection, the objecting creditor must also be heard.

(3) Prior to the discontinuation, the bankruptcy trustee must pay the uncontested liabilities of the bankruptcy estate and provide security for the contested debts.

Article 140 Public Notification and Effect of the Termination and Discontinuation

(1) The decision through which bankruptcy proceedings are terminated in compliance with Articles 132 and 136, i.e. discontinued in compliance with Articles 137 and 138 of this Law and the grounds for the termination, i.e. discontinuation must be announced publicly. The bankruptcy debtor, the bankruptcy trustee and the members of the Board of Creditors must be notified in advance of the effective date of the termination, i.e. discontinuation in compliance with Article 12 Paragraph 2 of this Law. Provisions of Article 126 of this Law shall apply accordingly.

(2) As from the discontinuation of bankruptcy proceedings, the bankruptcy debtor shall regain the right to freely dispose of the property which enters into the bankruptcy estate. The provisions of Article 127 of this Law shall apply accordingly.

(3) After the decision on the termination of the bankruptcy proceeding becomes legally valid, the bankruptcy judge shall order the removal of the bankruptcy debtor from the commercial register, and after the discontinuation, the bankruptcy judge shall order the removal of the provisional entry.

Article 141 Legal Remedies

1. If bankruptcy proceedings are terminated in compliance with Articles 132 and 136, i.e. discontinued in compliance with Articles 137 and 138 of this Law, each bankruptcy creditor and, if the termination was carried out in compliance with Articles 132 and 136, the bankruptcy debtor, shall be entitled to appeal against the decision of the court.

2. If an application referred to in Articles 137 and 138 is turned down by the Court, the bankruptcy debtor shall be entitled to appeal.

V. REORGANIZATION

1. PREPARATION OF THE REORGANIZATION OF THE DEBTOR

Article 142 Basic Provision

(1) After the opening of a Bankruptcy Proceeding, it is allowed to draft a reorganization plan in which one can stray from the legal provisions concerning the realization and the distribution of the Bankruptcy estate.

(2) A reorganization plan, can, especially, be implemented by:

- letting the bankruptcy debtor keep the whole or a portion of his property in order for the business activities of the Bankruptcy debtor to continue, ,
- transferring all or part of the bankruptcy debtor's property to one or more existing legal entities or legal entities that will be founded,
- merging of the bankruptcy debtor with one or more legal entities,
- selling all or a portion of the bankruptcy debtor's property, subject to or free of any lien,
- distribution of all or part of the bankruptcy debtor's property among the creditors,
- execute the transformation of claims into shares,
- determining the manner of settlement of the bankruptcy creditors,
- settling or changing the rights to separate settlement,
- reducing or postponing the payments of the bankruptcy debtor's liabilities,
- turning the bankruptcy debtor's liabilities into a credit,
- issuing a guarantee or providing other kind of security for the fulfilment of the bankruptcy debtor's liabilities,
- determining the bankruptcy debtor's liability after the conclusion of the bankruptcy proceedings, etc.
- issuing new shares etc.

Article 143 Submitting a plan

(1) The bankruptcy Debtor has the right to submit a reorganization plan together with a proposal for opening of a Bankruptcy Proceeding. After the opening of bankruptcy proceedings the right to submit a reorganization plan to the Bankruptcy Court is given to the bankruptcy trustee and to the bankruptcy debtor. A plan shall not be taken into account if it has been submitted to the Court after the final hearing.

(2) If the Creditors' Assembly has instructed the Bankruptcy Trustee to prepare a reorganization plan, the Bankruptcy Trustee is obliged to submit it to the Bankruptcy Court within 30 days of the creditors assembly. The deadline for submission of the plan may be extended by the court, where appropriate circumstances exist, for an additional 30 days.. The bankruptcy trustee, in a counseling capacity, the Creditors Committee, if established, and the debtor-individual shall co-operate in the preparation of the plan

Article 144 **Contents of the Plan**

Reorganization plan contains preparatory (declarative) and implementation (contents) part. The documents stated in Articles 154 and 155 of this Law are also attached to the plan.

Article 145 Preparatory (Declarative) Part

(1) The preparatory (declarative) part of the plan will describe the measures which were taken prior to the opening of the bankruptcy proceedings and the measures that are yet to be undertaken to create the basis for the planned settling of the claims of the participants

(2) The preparatory (declarative) part of the plan will also contain information on the basis and the effects of the plan which are relevant for the creditors' decision concerning the the plan and its approval by the Court .

Article 146 **Implementation (Contents) Part**

1. The implementation (contents) part of the plan will contain provisions on how the legal positions of the bankruptcy debtor and other participants in the proceedings will be affected by the execution of the plan.
2. The Plan includes a description of: how, when and to which amount the secured creditors and other types of creditors should be paid out or compensated in some other way; conversion of claims of creditors in to a capital of the debtor; creation of a new debt by the debtor and the types of guaranties to be offered to each category of creditors and new investors and the manner in which they will be paid out in full or protected from damage that may arise from the implementation of the plan; the degree to which the debtor will be forgiven for his/her debt; the manner of compensation offered to all categories and the differences in terms of distribution, in case of a liquidation of the debtor; financial projections and the types of measures to be undertaken to restore the profitability of the enterprise of the debtor; the manner of carrying out the reorganisation, especially in reference to the organisational, management, legal, financial and technical measures and the measures for reducing the number of employees; sources of funds and the financial plan for implementation of the bankruptcy plan, including the augmentation of the capital base and the debt as well as other measures undertaken in accordance with ~~the article 125 of this law.~~

Article 147 Grouping of the Creditors in the Reorganization Plan

(1) The plan shall classify the participants into separate groups, when establishing their rights. By the plan, the creditors with different legal status shall be classified in separate groups. The following will be differentiated:

1. creditors with a right to separate settlement, if the plan affects their rights,
2. creditors that are not of lower priority,
3. each group of the creditors of lower rank, if their claims shall not cease to exist according to Article 150 of this law.

(2) Creditors with equal legal positions may be classified into groups according to the similarity of their economic interests. This classification should be grounded in valid reasons. The criteria for classification should be stated in the plan.

(3) The employees will form a separate group, if in the capacity of creditors in the Bankruptcy Proceeding they claim sums which are not negligible. Separate groups can be formed for the smaller creditors.

Article 148 Creditors with a Right to Separate Settlement

(1) Unless the reorganization plan provides otherwise, the plan will not affect the rights of creditors with a right to separate settlement to be settled from the objects included in the relevant right for separate settlement.

(2) If the plan provides otherwise, the implementation (contents) part of the plan will state to what extent their rights will be impaired, for how long their satisfaction shall be postponed, and what other provisions of the plan shall affect them.

Article 149 Rights of Creditors in Bankruptcy Proceedings

For the creditors not of a lower rank, the implementation (contents) part of the plan will state the proportion in which their claims are reduced, the time periods by which their settlement is postponed, the security interest provided, and what other provisions of the plan are to affect them.

Article 150 Rights of Lower Priority Creditors in the Bankruptcy Proceeding

(1) If not otherwise provided in the reorganization plan, it shall be considered that by acceptance of the plan, the claims of creditors of lower priority have ceased to exist.

(2) If the bankruptcy plan proscribes otherwise than the provision of Paragraph 1 of this Article, the implementation (contents) part of the plan will define precisely the details stated in Article 149 of this Law for each group of lower priority creditors.

(3) The plan will not exclude, nor limit the bankruptcy debtor's responsibility for payment of fines and other obligations equal to them, after the conclusion of the bankruptcy proceedings.

Article 151 Principle of Equal Treatment of All Participants

(1) All of the participants classified in a group shall be granted equal treatment in the reorganization plan.

(2) Any different treatment of the participants that form one group will need consent of all interested participants. In such case, statements of consent of all participants with respect to this different treatment will be attached to the reorganization plan.

(3) Any agreement concluded by the Bankruptcy Trustee, by the debtor, by a third person, with specific creditors, which provides some conveniences that are not stated in the plan in exchange for the manner in which they will vote or any other agreements that are in some other way linked to the Bankruptcy Proceeding, will be null and void.

Article 152 Responsibility of the Bankruptcy Debtor

(1) Unless the reorganization plan provides otherwise, after the settlement of the creditors in the Bankruptcy Proceeding in accordance with the provisions of the implementation (contents) part, the bankruptcy debtor will be released of his remaining obligations towards those creditors.

(2) When the bankruptcy debtor is a public economic corporation, a limited partnership, a partnership or an economic interest association, paragraph 1 of this Article will apply to the personal liability of the members of the corporation accordingly.

Article 153 Ownership and other Property Rights

When the implementation of the reorganization plan involves establishing, changing, transferring or suspending the ownership or other property rights over the items of property or rights of the bankruptcy debtor, the implementation (contents) part of the plan must be accompanied by the necessary statements of consent of all participants. The statements which need to be entered into the cadastre or any other relevant public records must be given in compliance with the regulations concerning the entry into the cadastre, i.e. into other relevant public records..

Article 154 Review of the Estate, Financial Plan, and Plan of Results

When the plan proscribes that the creditors' claims will be settled from the revenues resulting from a further continuation of the debtor's business operations, regardless whether the enterprise will continue to be led by the debtor or a third party, the reorganization plan will include an inventory of the property, where the value of each item of the assets and liabilities will be stated, as well as the obligations to be settled, provided the plan is approved. In addition, the plan will define the revenues and expenses expected in the period which is planned for the settlement of liabilities to creditors, and the sequence of inflows and outflows in the course of that period which supports the ability of the enterprise to make payments during this period.

Article 155 **Future Contributions**

(1) When the reorganization plan provides that the debtor will continue to manage his business, i.e. craft, and if the debtor is an individual, a statement that the bankruptcy debtor is willing to continue and run the business operations, i.e. craft, on the basis of the plan, will be attached to the plan. If the debtor is a public economic corporation or a limited partnership, similar statements of all personally accountable members of the corporation will be attached to the plan. Such a statement by the bankruptcy debtor is not necessary where the debtor himself has submitted the plan.

(2) When the plan provides that certain creditors will acquire shares in the debtor who is a legal entity, shall become its members or acquire certain rights concerning the activity of the debtor who is an individual, statements of consent of all such creditors will be attached to the plan.

(3) When a third party agrees to assume the liabilities to the creditors after the approval of the plan, a statement of consent of that third party will be attached to the plan.

(4) If the bankruptcy plan anticipates changes of the debtor's status (consolidation, merger or similar), the statements of the legal entities which would participate in these changes must be attached to the plan.

Article 156 **Rejection of the Plan**

(1) In its official capacity the Bankruptcy Court will reject the plan:

1. if the provisions that regulate the right to submit a plan or the provisions that regulate its contents have not been respected, and the person who has submitted the plan can not remove those shortcomings or did not cure these faults within a reasonable time period set by the Court,
2. if it is quite obvious that there is no prospect that the plan will be accepted by the creditors, or approved by the Court,
3. if the plan is submitted by the bankruptcy debtor and it is quite obvious that it is impossible for the claims to be settled in the manner and conditions set in the implementation (contents) part of the plan.

(2) If, in the course of the Bankruptcy Proceeding, the debtor had already submitted a plan which was not accepted by the creditors, was not approved by the Court, or was withdrawn by the debtor himself after the announcement of the date on which the hearing on the proposed plan was to take place, the Court will decline to accept a new plan submitted by the debtor, if such rejection is requested by the Bankruptcy Trustee, with the consent of the Board of Creditors, if such a Board has been established.

(3) The party that has submitted the plan may appeal the decision for its rejection.

Article 157 **Opinions on the Plan**

(1) If the reorganization plan has not been rejected, the Bankruptcy Court will request that the following participants state their opinion on the plan within thirty days:

1. to the Board of Creditors, if it has been established
 2. to the debtor if the plan has been submitted by the Bankruptcy Trustee, and
3. to the Bankruptcy Trustee, if the plan has been submitted by the bankruptcy debtor.

(2) The Bankruptcy Court can also invite the state institutions responsible for the subject of the activity of the bankruptcy debtor, as well as the chamber of commerce to express their opinion upon the proposed plan.

Article 158 Suspension of the realization and of settlement of the creditors

Upon the request of the bankruptcy debtor or the Bankruptcy Trustee, the Bankruptcy Court may order a cessation of the realization in and the distribution of the Bankruptcy Estate. The Bankruptcy Court will not order the suspension, or shall abolish or terminate this order if it creates a risk of significant damage to the property that comprises the Bankruptcy Estate, or if the Bankruptcy Trustee, with consent of the Creditors Committee, or the Assembly of Creditors, asks for a continuation of the realization and the distribution of the estate.

Article 159 Depositing of the plan

The reorganization plan together with its attachments and all opinions received will be deposited in the Court administration office for inspection by the parties.

2. ACCEPTANCE AND APPROVAL OF THE PLAN

Article 160 Hearing for Discussion and Voting upon the Plan

(1) The Bankruptcy Court will call a hearing at which the reorganization plan will be discussed and voted on. Not more than thirty days may pass from the day the decision on the determination of the hearing, until it is held.

(2) The day of the hearing for discussion and voting must be announced. The announcement will point out that the proposed plan and the received opinions are available for inspection by all parties in the Bankruptcy Court administration office.

(3) The bankruptcy creditors who have submitted claims, the creditors with a right to separate settlement, the Bankruptcy Trustee, the debtor will receive personal notices (invitations) to attend the hearing for discussion and voting. A copy of the plan, or a summary of the basic contents of the plan, which the party which has submitted the plan is under obligation to submit to the Court upon a request of the Court, should be submitted together with the invitation.

Article 161 Integration with the Investigation (Verification) Hearing

The hearing for discussion and voting upon the plan should not be held before the investigation (verification) hearing. These two hearings can be merged.

Article 162 Voting Rights of the Bankruptcy Creditors

(1) In the course of the voting on the reorganization plan, the provisions of this Law on the determination of voting rights apply accordingly to the voting rights of the bankruptcy creditors. Creditors with the right to a separate settlement can vote only as bankruptcy creditors only if the debtor is personally liable to them and if they have relinquished their right to a separate settlement, or if their claims have not been settled through the right of a separate settlement.

(2) The creditors whose rights are not affected by the plan, are not eligible to vote.

Article 163 Voting Rights of the Creditors with the Right to Separate Settlement

(1) If the legal status of the creditors with the right to separate settlement is contained (regulated) in the reorganization plan, the hearing will also discuss the voting rights of each of these creditors separately. The right to vote will be given to each creditor with a right to separate settlement, provided that that right was not contested, neither by the Bankruptcy Trustee, by the creditors with a right to separate settlement, nor by the bankruptcy creditors. The provisions of this Law which concern the voting rights of those creditors apply to the voting rights of the holders of contested and not yet mature rights connected with the postponement condition.

(2) Creditors with rights to separate settlement whose legal positions are not affected by the plan shall have no voting rights.

Article 164 List of Voting Rights

On the basis of the discussion held at the hearing, the bankruptcy judge will compile a list of creditors and voting rights that they are entitled to.

Article 165 Changes of the plan

The party that has submitted the plan has the right to make changes to the contents of certain provisions in the plan, in accordance with the discussion at the hearing. The same hearing can contain voting upon the changed plan.

Article 166 Separate Hearing for Voting

(1) The Bankruptcy Court may also call a separate hearing only to vote on the reorganization plan. In that case, not more than thirty days should elapse between the hearing at which the plan was considered and the hearing at which that plan will be voted upon.

(2) The creditors who are eligible to vote and the debtor will be invited to the hearing for voting. If the plan was changed, such changes will be pointed to, specifically.

Article 167 Voting in Written Form

(1) If a separate hearing for voting is called, the creditors can vote in a written form, also.

(2) After the hearing at which the plan has been considered, the Bankruptcy Court will distribute ballots to the creditors informing them about their eligibility to vote. When the creditors vote in a written form, only the votes that the Court had received at the latest three days before the hearing for voting takes place will be counted. When distributing the ballots, the Court will point that out to the creditors.

Article 168 Voting by Groups

Each group of creditors eligible to vote shall vote separately on the reorganization plan.

Article 169 Necessary Majority

(1) The reorganization plan will be considered accepted, if in each group of creditors the majority of creditors who are eligible to vote voted, and the amount of the claims of the creditors who voted for the plan is bigger than the sum of claims of the creditors that have voted against the plan.

(2) The creditors who up to the emergence of a cause for opening of a Bankruptcy Proceeding jointly possessed certain specific right or whose rights represented one single right, will be considered as one creditor for purposes of voting. The provisions of this Paragraph will also apply to the holders of the right to separate settlement or the rights of usufruct.

Article 170 **Prohibition of Obstruction**

1. If the necessary majority in a group has not been achieved during the voting, it will be considered that the voting group has accepted the plan:
 - if the creditors who form this group do not suffer any losses or damages by accepting the reorganization plan, in comparison to their situation without that plan,
 - if the creditors who form this group, to some reasonable extent, participate in the amount of economic benefits which should be afforded to the participants in the plan,
 - if the majority of voting groups had voted for the plan with the necessary majorities.
1. For the purposes of Paragraph 1 of this Article, it shall be considered that the creditors of a certain group participate adequately in the economic benefits:
 - if, according to the plan, none of the other creditors will receive a benefit or other conveniences that exceed the full amount of their claims,
 - no benefit is received by a creditor which would, if there were no plan, be of a lower rank than the creditors of this group, or by the debtor or a person with an equity interest in the debtor,
 - and none of the creditors that would have the same priority rank, if there were no plan, is placed in a better position than the creditors of this group.

Article 171 **Consent of the Creditors of Lower Rank in the Bankruptcy Proceeding**

(1) It will be deemed that the groups of creditors with claims for interest that has been accumulating since the opening of bankruptcy proceedings and creditors that are claiming compensation for their costs of participating in the bankruptcy proceedings, have accepted the plan if the bankruptcy debtor is, according to the plan, relieved from these obligations, or if, in compliance with Article 150 of this Law, it is considered that the bankruptcy debtor is relieved of those obligations, or if, according to the plan, not even the main claims of these creditors will be settled in full.

(2) It will be deemed that the groups ranked as one rank below the bankruptcy debtor's obligations based on monetary penalties or other obligations have accepted the plan, if none of the bankruptcy creditors is being put in a better position through the plan in comparison to the creditors that form this group

(3) It will be deemed that the respective group has given its consent if none of the creditors that form that group voted.

Article 172 **Consent of the Debtor**

(1) It will be deemed that the debtor has consented to the proposed plan, if he did not oppose the plan in writing or orally at the hearing, at the latest.

(2) Any opposition by the debtor according to Paragraph 1 of this Article will not be taken into consideration and will be considered irrelevant by the Bankruptcy Court if, with the acceptance of the plan the debtor is not put in a less favourable position in comparison to his situation without that plan; and if none of the creditors receives a benefit or any other convenience that exceeds the full amount of his claims.

(3) The provisions of Paragraphs 1 and 2 of this Article are applied to stockholders, share holders and holders of other founders' rights over legal entities, accordingly.

Article 173 Approval of the Plan

(1) After the creditors have accepted the reorganization plan and after the bankruptcy debtor consents to the plan, the Bankruptcy Court is to decide whether it shall approve the plan.

(2) Prior to that, the Bankruptcy Court will hear the Bankruptcy Trustee, the Board of Creditors if such Board has been formed, and the bankruptcy debtor.

(3) The decision which approves the reorganization plan includes the implementation part of the plan that the creditors have accepted.

Article 174 Conditional Plan

When the reorganization plan requires that certain actions must be undertaken or some other measures instituted prior to the approval of the plan, the plan can not be approved until these preconditions have been fulfilled. The Court shall, in its official capacity, refuse to approve the proposed plan if the proscribed conditions have not been fulfilled within a reasonable time period determined by the court..

Article 175 Infringement of Procedural Provisions

The Bankruptcy Court in its official capacity shall refuse to approve the reorganization plan if:

1. during the drafting of the plan the provisions regulating the contents and form of the plan, or the acceptance by the creditors or bankruptcy debtor have been substantially violated, unless these violations may be cured, or
2. the plan was adopted in an illicit way or through illicit means, and especially if the proposed plan places some of the creditors in a more favourable situation.

Article 176 Protection of Creditors

(1) Upon the request of a creditor, the Bankruptcy Court shall refuse to approve the reorganization plan if:

1. the creditor has opposed the plan in a written form or orally, to the minutes, during the hearing for voting, at the latest; and
2. the plan places the creditor in a less favourable situation than he would have been in if there were no plan.

(2) The proposal referred to in Paragraph 1 of this Article is allowed only if the creditor makes it seem probable that in accordance with the provisions of the plan he has been put in a less favourable position.

Article 177 Announcement of the Decision

(1) The decision which approves or rejects the reorganization plan is to be announced at the hearing held for voting, or at a special hearing that will be called within fifteen days.

(2) If the Bankruptcy Court approves the plan, a copy of the plan or a summary of its basic contents will be served by the Court on bankruptcy creditors who have registered their claims, and to the

creditors with the right to a separate settlement, with special indication that the delivered plan has been approved.

Article 178 **Legal Remedy**

The creditors and the bankruptcy debtor can file an appeal against the decision that approves or rejects the plan.

3. LEGAL EFFECT OF THE APPROVED PLAN AND THE SUPERVISION OVER THE IMPLEMENTATION OF THE PLAN

Article 178 **Basic Legal Effects of the Plan**

(1) After the decision approving the plan goes into effect, it becomes binding on all participants. When, it is envisaged that certain rights over the parts of the property are to be created, changed, transferred or cancelled, or when shares in a certain limited liability corporation are to be transferred, the statements of will of the intentions and of the consent of the participants, which represent an integral part of the plan, will be considered to have been given in a form proscribed by the Law. This also applies to those statements which are covered by the decision and which concern the creation, changes, or transfer or cancellation of rights over the parts of the property or transfer of shares and stocks. These provisions also apply to the bankruptcy creditors who have not submitted their claims, as well as to the participants who have opposed the plan.

2. The decision on the approval of the plan will not affect the rights that the bankruptcy creditors have against the debtor's co-debtors and guarantors, nor will it affect the rights of these creditors over the parts of the property that are not a part of the property that comprises the Bankruptcy Estate, or based on a notation that is related to these properties. Nevertheless, based on this decision, the bankruptcy debtor shall be relieved of his obligations to the co-debtors, guarantors and other persons entitled to regress, in the same way as to his creditors.
3. When a creditor's claims have been settled to a higher extent than what he has the right to according to the plan, he is not obliged to return the excess received.

Article 180 **The Cessation of the Provision on the Postponement of the Settlement and the Release of the Debt**

(1) When, on the basis of the decision on the approval of the plan, the settlement of the bankruptcy creditors is postponed or the bankruptcy creditor is partly relieved of the obligation to execute the settlement, the postponement or the release will no longer be binding on those creditors in relation to whom the bankruptcy debtor has been significantly late in fulfilling the approved plan. It shall be deemed that the bankruptcy debtor is significantly late in fulfilling the plan if he has not made payment to settle a mature claim, although the creditor had previously called him to do so with a written notice, leaving him a time period of at least 15 days to fulfil that obligation.

(2) If a new Bankruptcy Proceeding has been opened over the bankruptcy debtor's property prior to a complete implementation of the plan, the postponed deadlines for payment, or the reduced percentage of payments of the claims will no longer be binding on any of the creditors in the Bankruptcy Proceeding.

Article 181 **Disputed Claims and Separate Settlement**

(1) When a claim was disputed at the investigation (examination) hearing, or when the level of the claim of a creditor with a right to separate settlement that will not be settled through separate settlement has not yet been determined, for the purposes of Article 180 of this Law, it will not be assumed that the debtor is late with the fulfillment of the reorganization plan, if the debtor is, by the final determination of the level of the that claim, taking that claim to a degree corresponding to the decision of the Bankruptcy Court in respect to the right to vote of those creditors for the voting on the plan. If the Court has not yet brought a decision regarding the voting rights of the creditors,

upon a request made by the debtor or by a creditor, the Court will also determine the degree to which the debtor will temporarily take into consideration those claims, subsequently.

(2) If the final determination of the amount of the claims shows that the bankruptcy debtor has not paid too small an amount, he shall be bound to pay the rest of his debt. In that case it will be assumed that the bankruptcy debtor is significantly late in the fulfillment of the plan if the debtor has not paid the rest of the debt, although previously the creditor had demanded of him to do so with a written notice, leaving him a time period of at least fifteen days for fulfillment.

(3) If the final determination of the amount of the claim shows that the bankruptcy debtor had paid a larger amount than the amount claimed he can ask for a return (restitution) of the excess amount paid only if this excess exceeds the not yet due amount of the claim that the creditor is entitled to on the basis of the reorganization plan.

Article 182 Execution of the Decision on the Approval of the Reorganization Plan

(1) On the basis of a valid decision on the approval of the reorganization plan, the bankruptcy creditors whose claims have been registered and have not been disputed by the bankruptcy debtor at the investigation (verification) hearing, can initiate an enforcement procedure against the bankruptcy debtor. The claims for which the disputes have been eliminated shall be treated as undisputed claims.

(2) The provision of paragraph 1 of this Article will also be applied to the enforced execution against a third party, if the decision referred to in Paragraph 1 of this Article ascertains that the third party has provided a guaranty regarding the implementation of the reorganization plan except if the third party has retained the right to object to the prior charge.

(3) In case of a considerable delay in the bankruptcy debtor's fulfillment of a plan, a creditor may enforce its rights on the basis of the decision confirming the plan, and the decision establishing his claim in the bankruptcy proceedings, if he makes it plausible that the bankruptcy debtor has received proper notice from him and that the additional period of time has elapsed. The creditor shall not be bound to prove that the bankruptcy debtor is late..

Article 183 **Conclusion of the Bankruptcy Proceeding**

(1) After the decision approving the reorganization plan has gone into effect, the Bankruptcy Court will bring a decision to conclude the Bankruptcy Proceeding.

(2) Prior to the conclusion of the Bankruptcy Proceeding, the Bankruptcy Trustee is under obligation to settle the claims of the creditors of the Bankruptcy Estate, if they have not been disputed and to provide security interest for the disputed claims.

(3) The Court will announce the decision by which it has concluded the Bankruptcy Proceeding, stating the reasons for the conclusion of the proceedings. The bankruptcy debtor, the Bankruptcy Trustee, and the members of the Board of Creditors will be given a notice 15 days in advance of the day on which the conclusion of the Bankruptcy Proceeding will become effective.

Article 184 **Legal Effect of the Conclusion of the Bankruptcy Proceeding**

(1) The authority of the Bankruptcy Trustee and of the members of the Board of Creditors is effective until the conclusion of the Bankruptcy Proceeding, unless otherwise provided in this law. Immediately following the conclusion of the Bankruptcy Proceeding, the bankruptcy debtor reacquires the right to manage the Bankruptcy Estate freely.

(2) The provisions of Paragraph 1 of this Article do not apply to the provisions concerning supervision over the implementation of the reorganization plan.

(3) When the Bankruptcy Trustee or a creditor has filed a lawsuit in compliance with Article 85 Paragraph 2 of this Law for avoidance of any of the bankruptcy debtor's legal actions connected to the Bankruptcy Proceeding, he can continue with the lawsuit after the conclusion of the Bankruptcy Proceeding, if so provided by the reorganization plan. In this case, the lawsuit will be conducted on the debtor's behalf, unless the plan provides otherwise.

Article 185 Supervision over the Implementation of the Plan

(1) The decision on confirmation of the reorganization plan may provide for the supervision over the implementation of the plan.

(2) If supervision has been provided for, after the discontinuation of the bankruptcy proceedings the bankruptcy debtor's fulfillment of its obligations to the creditors shall be supervised according to the decision from Paragraph 1 of this Article.

(3) If provided for by the decision from paragraph 1 of this Article, the supervision will also encompass the claims of the creditors, according to the decision, have against the economic corporation formed after the opening of the Bankruptcy Proceeding in order to take over or continue to run the enterprise or the plant of the bankruptcy debtor - takeover corporation.

Article 186 Rights and Obligations of the Bankruptcy Trustee

(1) The supervision is executed by the Bankruptcy Trustee the Board of Creditors, and the bankruptcy court, in the manner envisaged by the reorganization plan. In that case the authority and the obligations of the Bankruptcy Trustee and of the members of the Board of Creditors, shall not cease after the discontinuation of the bankruptcy proceedings.

(2) During the supervision, at least once a year the Bankruptcy Trustee will submit reports on the fulfillment of the plan to the Board of Creditors, if such Board has been established, and to the Court, describing the expectations regarding the implementation of the plan. That does not affect the right of the The Board of Creditors and the Court to ask for special information and other periodical reports at any time.

Article 187 Submission of the Report

If the Bankruptcy Trustee establishes that the claims whose settlement he is supervising have not been settled yet or can not be settled, he will so inform the Bankruptcy Court and all creditors who in accordance with the decision on the approval of the plan have established rights against the bankruptcy debtor or a takeover corporation without delay.

Article 188 Legal Actions that Require Prior Permission

The implementation part of the reorganization plan may provide that in the course of the supervision, the undertaking of certain legal actions by the bankruptcy debtor, or by the successor company that takes over the debtor's business activity (enterprise), will require a prior permission of the Bankruptcy Trustee. The provisions of this law concerning the legal actions of the bankruptcy debtor taken after the opening of the bankruptcy proceedings without the trustee's consent, shall be applied accordingly to the bankruptcy debtor's legal actions undertaken without the trustee's consent.

Article 189 Credits

(1) The implementation part of the reorganization plan can provide a lower priority for the bankruptcy creditors and higher priority for the creditors whose claims arise from loans or from other credits issued during the supervision to the bankruptcy debtor or of the trading company that takes over the debtor's business activity, or that the trustee of the bankruptcy estate has kept in validity even during the supervision. In such cases it shall be necessary to determine the overall

amount of the credits of that type (the credit framework). That amount should not exceed the value of the objects of property listed in the review of the property.

(2) The bankruptcy creditors referred to in Paragraph 1 of this Article shall be settled only after the creditors with whom it has been agreed that the credit approved by them shall be included in the credit framework, as well as at which level it shall be included, taking into account the principal, the interest and costs and for whom the Bankruptcy Trustee has confirmed that agreement in writing.

Article 190 Lower Payment Rank Status of the Claims of the New Creditors

The creditors whose claims arise from a contractual relationship concluded during the supervision, will also have a lower priority in comparison to the creditors whose claims are based on loans issued in accordance with Article 189, paragraph 1 of this Law. Claims arising from a permanent contractual relationship based on a contract signed before the supervision period, are in the same position during the first period of time in which the creditor was able to state a termination after the beginning of the supervision.

Article 191 **Consideration of the Lower Payment Rank Status**

(1) The later payment rank of the bankruptcy creditors and of the creditors described in Article 190 of this Law will be taken into consideration only in bankruptcy proceedings that are opened after the suspension of supervision.

(2) In such a new Bankruptcy Proceeding, the creditors described in Paragraph 1 of this Article will have priority above other creditors of a later payment rank.

Article 192 **Announcement of the Supervision**

(1) The decision of the Bankruptcy Court which orders supervision over the fulfillment of a reorganization plan will be announced together with the decision on the discontinuation of the Bankruptcy Proceeding. Along with that the list of transactions subject to the prior consent of the trustee, estimated amount of the credit framework, and whether supervision of the successor to the debtor has been ordered, shall also be announced, if the preconditions of this Law concerning those items have been satisfied.

(2) The information referred to in paragraph 1 of this Article will be registered in adequate public registries in the official capacity.

Article 193 **Termination of the Supervision**

(1) The Bankruptcy Court will make a decision by which it will terminate the supervision provided that:

1. the supervision involves claims that have been completely settled, or for which adequate security for settlement has been provided; or
2. three years have passed from the conclusion of the Bankruptcy Proceeding, and there has not been a request for an opening of a new Bankruptcy Proceeding.

(2) The decision stated in paragraph 1 of this Article will be announced. In this decision the inscriptions on supervision and limitations in connection with supervision shall be erased from the public registers.

Article 194 **Expenses of the Supervision**

The bankruptcy debtor will bare the expenses for the supervision. The successor that has taken over the debtor's business activity will bear the expenses for its supervision

VI. INTERNATIONAL BANKRUPTCY PROCEEDINGS

1. INTERNATIONAL AUTHORITY OF THE RS COURTS

Article 195 Exclusive International Authority

(1) The courts of the RS have the exclusive authority over the implementation of the bankruptcy proceedings against bankruptcy debtors whose center of business activity is in the area of RS. It is assumed that the center of business activities of a bankruptcy debtor is in the locality which he has entered as his center. If it is proven that the center of business activities of a bankruptcy debtor is located abroad, while the locality he has entered as his center is within RS, the courts of the RS have exclusive authority over the implementation of bankruptcy proceedings against that bankruptcy debtor if, in accordance with the legal framework of the country in which the center of business activities of the debtor is located, the bankruptcy proceedings can not be opened in that country on the basis of the center of business activity.

(2) The proceedings referred to in Paragraph 1 of this Article covers the entire property of the bankruptcy debtor, regardless of whether it is within RS or abroad (main bankruptcy proceedings).

(3) If the locality the bankruptcy debtor entered as his center is located abroad, while the center of his business activities is within RS, the exclusive local authority in the bankruptcy proceeding is with the bankruptcy court on the area of which the center of business activities of the bankruptcy debtor is located.

Article 196 International Authority Towards Business Units, i.e. Property of Foreign Bankruptcy Debtor in the RS

(1) If the court in the RS does not have the authority in compliance with the provision of Article 195 Paragraph 1 of this Law, than that court has the authority over the implementation of the bankruptcy proceeding if he has a business unit which does not have the status of a legal entity in the RS.

(2) If neither the center of business activities nor a business unit of the bankruptcy debtor are located within the RS, but only the property of the debtor is located in the RS, is it possible to open bankruptcy proceedings in the RS in the following cases:

1. when a bankruptcy proceeding can not be opened in the country in which the center of business activities of the bankruptcy debtor is located, due to the conditions envisaged by the bankruptcy legislation of the country, although there is a reason for bankruptcy,
2. when, according to the legal framework of the country in which the center of business activities of the bankruptcy debtor is located, the bankruptcy proceeding covers only the property of the bankruptcy debtor which is located in that country,
3. when the initiation of the bankruptcy proceedings in the RS is proposed on the basis of Article 233 of this Law,
4. when the initiation of a special bankruptcy procedure in the RS is proposed within the proceedings for the recognition of a foreign decision on the initiation of the bankruptcy procedure.

(3) The implementation of the proceeding referred to in Paragraph 1 and Paragraph 2 Items 1., 2. and 3. of this Article is the responsibility of the bankruptcy court in the area of which the business unit of the bankruptcy debtor is located, and, if the bankruptcy debtor does not have a business unit in the RS, then it is the responsibility of the bankruptcy court in the area of which the property of the bankruptcy debtor is located. If more than one bankruptcy court would be granted local authority, than the proceedings are implemented by the court to which the proposal for the initiation of the bankruptcy proceedings was submitted first.

(4) The procedure referred to in Paragraphs 1 and 2 of this Article covers the property of the bankruptcy debtor which is situated in the RS only (special bankruptcy proceedings).

(5) If a bankruptcy proceeding has already been opened in the country in which the center of business activities of the bankruptcy debtor is located, then, in the event of the initiation of the bankruptcy proceeding on the basis of paragraph 1, i.e. Paragraph 2 of this Article, the court shall not investigate the existence of the reason for bankruptcy.

2. GENERAL PROVISIONS

Article 197 Basic Principle

The bankruptcy proceeding and its legal effects are determined in compliance with the legal framework of the state in which the proceedings are opened, unless the following provisions of this Law stipulate otherwise.

Article 198 Rights to Separate Recovery and Rights **to Separate Settlement**

(1) Concerning the rights to separate recovery and rights to separate settlement of the claims over the items which are located within the state of the recognition of a foreign decision on the initiation of the bankruptcy proceedings, the regulations of the state of recognition shall be applied, if those items were not, at the moment of the opening of the foreign bankruptcy proceeding, located in the area of the state which is opening those proceedings.

(2) If the rights over the items were entered into a public registry, it is considered that the item is located within the state in which the public registry is kept.

Article 199 Labor Contract

Concerning the legal effects of the bankruptcy proceedings on labor contracts and labor relations, the exclusive competency is given to the bankruptcy legislation of the state which has competency over the labor contract.

Article ` 200 Inclusion

A creditor is allowed to keep what he has received in the special bankruptcy proceeding which was opened in another state and which covered the property of the bankruptcy debtor which is located in that other state, only. The received amount shall, after a deduction of the costs which the creditor had when he executed the settlement in that special bankruptcy proceedings, calculated in the bankruptcy quota which belongs to the creditor in the main; bankruptcy proceeding. That inclusion shall not happen if the creditor has achieved a partial settlement of the claims in the special bankruptcy proceeding as a creditor with the right to separate settlement of the claims or on the basis of an allowed Setting off.

Article 201 Cooperation of Bankruptcy Trustees

(1) The bankruptcy Trustee of a bankruptcy proceeding opened in the RS and the bankruptcy Trustee of the bankruptcy proceeding opened in another state over the same bankruptcy debtor shall cooperate with each other. They are under obligation to present each other with all legally allowed information which may be of importance to the implementation of those proceedings.

(2) The bankruptcy Trustee of the main bankruptcy proceeding opened in the RS is under obligation to register a claim, registered in that procedure, in the foreign bankruptcy procedure, too, if that is requested of him by a creditor and if the creditor authorizes him to do so.

3. PREREQUISITES AND PROCEEDINGS OF THE RECOGNITION OF A FOREIGN DECISION ON THE OPENING OF A BANKRUPTCY PROCEEDING

Article 202 Application of General Rules on the Recognition of Foreign Court Decisions

General rules of the legal framework of RS on the recognition of foreign court decisions apply accordingly to the recognition of foreign decisions on the opening of bankruptcy proceedings, unless the provisions of this Law stipulate otherwise.

Article 203 Local Authority and the Composition of the Court

1. The proposal for the recognition is submitted to the commercial court in the area of which the business unit of the bankruptcy debtor in the RS is located, and, if the bankruptcy debtor does not have a business unit within the RS, to the commercial court in the area of which certain property of the bankruptcy debtor is located.
2. If the bankruptcy debtor has business units in the area of various bankruptcy courts or if his property is located in the area of various bankruptcy courts, the local authority for issuing the decision on the recognition is given to the court to which the proposal for the opening of the bankruptcy proceeding was submitted first.

(3) If the property of the bankruptcy debtor in the RS consists of claims, it shall be considered that the claims of the bankruptcy debtor are located in the location which is the center, i.e. place of residence of the debtors of the bankruptcy debtor.

(4) The recognition of a foreign decision on the opening of the bankruptcy proceedings, as well as the opening of a bankruptcy procedure in the RS, on the basis of a foreign decision, is decided on by the bankruptcy court.

Article 204 Proposal for the Recognition of a Foreign Decision on the Opening of a Bankruptcy Proceeding

(1) The proposal for the recognition of a decision of a foreign court or of some other responsible institution on the opening of a bankruptcy procedure can be submitted by the foreign bankruptcy Trustee or a creditor of the bankruptcy debtor.

(2) Along with the proposal for the recognition of a foreign decision on the opening of a bankruptcy proceedings, the following should be attached:

1. the original or an authorized copy of the decision, as well as an authorized translation to one of the official languages,
2. certificate of the enforceability of the decision issued by the responsible foreign institution,
3. the list of known property of the bankruptcy debtor in the RS, as well as the list of his creditor with relevant proofs.

(3) The Court shall refuse any proposal which does not include the attachments referred to in Paragraph 2 of this Article, unless the shortages are eliminated within an adequate period of time.

Article 205 Prerequisites for the Recognition of a Foreign Decision on Opening a Bankruptcy Proceeding

(1) A foreign decision on the opening of a bankruptcy proceeding shall be recognized if:

1. if it was made by a court, i.e. an institution, which, according to the legal framework of the RS, has international authority,
2. if it is enforceable according to the legal framework of the state in which it was made,
3. if its recognition would not be in contrast to the public structure of the RS.

(2) The proposal for the recognition of a foreign decision shall be refused by the court if, in the event of an objection of a bankruptcy debtor or any other participant in the proceedings, it

ascertains that the act which initiated the proceedings was not submitted to the bankruptcy debtor in compliance with the law of the state in which the decision was made and if his fundamental rights to defend himself were infringed in that proceeding.

(3) A foreign decision on the opening of a bankruptcy proceedings shall be recognized even if it is not legally enforceable.

Article 206 Ascertaining Provisional Measures and the Prohibition of Execution and Safeguarding

(1) As soon as the proposal for the recognition is submitted, the bankruptcy court can ascertain measures of safeguarding, i.e. appoint an interim bankruptcy trustee in compliance with the provisions of this Law on the preliminary proceedings.

(2) After the announcement is put on the notice board of the court in compliance with Article 207 Paragraph 1 of this Law it is not possible, while the proceedings for recognition are ongoing, to initiate a law-suit proceeding, or the proceeding of the execution or safeguarding in which the bankruptcy debtor is one of the parties. Law suits, as well as the proceedings of execution or safeguarding which were ongoing are stopped at the point the announcement is made.

(3) As an exception of Paragraph 2 of this Article the preferential rights creditors and the separation creditors referred to in Article 198 of this Law may initiate, i.e. continue an interrupted executive proceeding, even during the procedure of recognition, in order to achieve their requests, i.e. their claims against a foreign bankruptcy debtor, but only under the condition that the foreign bankruptcy trustee is in agreement with that.

(4) The bankruptcy court in its official capacity ensures that the proposal for the recognition of a foreign decision on the opening of a bankruptcy procedure, as well as the decision on provisional measures, i.e. on the appointment of an interim bankruptcy trustee is entered at once into public registries, i.e. in public ledgers.

Article 207 Announcement Concerning the Proposal for Recognition

(1) After it receives a proposal for recognition, the bankruptcy court will, without any delay, publish an announcement in the "Official gazette of the RS", as well as on the notice board of the court, on which the following shall be stated:

1. information on the court which is publishing the announcement, together with the case number,
2. announcement on its subject with an indication of the information about the foreign decision the recognition of which is requested, as well as of its content,
3. information on the foreign bankruptcy trustee as well as information on the decision on his appointment, unless he was appointed through a decision on the opening of the bankruptcy proceedings,
4. an invitation to the creditors, to the foreign bankruptcy trustee and to all other parties who have a legal interest to register their claims with the bankruptcy court within fifteen days from the day the announcement is published in the "Official Gazette of the RS", as well as to submit statement on the existence of the prerequisites for the recognition of the foreign decision, as well as on potential difficulties concerning the settlement of the claims in the foreign bankruptcy proceedings.

1. Written information containing the report on the proposal for recognition which is considered, the information and invitation referred to in Paragraph 1 of this Article shall be submitted by the bankruptcy court to the foreign bankruptcy trustee, as well as to those creditors whose residence, i.e. center in the RS, is known.

Article 208 Examination of the Prerequisites for the Recognition

(1) When deciding on the proposal for the recognition the court shall limit itself to examining whether the prerequisites for the recognition, listed in Article 205, Paragraphs 1 and 2 of this law, are fulfilled. The Court can request necessary explanation from the institutions whose decision is being recognized, as well as from the participants in the proceedings.

(2) The Bankruptcy Court can give a hearing to persons who oppose the recognition within their submission.

(3) The bankruptcy court shall pay special attention to the necessity of urgent decision making on the request for the recognition.

Article 209 Decision on the Recognition

(1) The decision on the recognition of a foreign decision on the opening of a bankruptcy proceeding has the same effect, within the circle of the persons it affects, as a decision of a court within the RS on the opening of bankruptcy proceedings.

(2) Within the decision referred to in Paragraph 1 of this Article, the Court shall state the effects which the recognized foreign decision has.

(3) When, as a legal effect of a the decision on the recognition of a foreign decision on the opening of a bankruptcy proceeding, the opening of a bankruptcy proceeding in the RS is ascertained, the decision on the recognition has the legal effect of the opening of the bankruptcy proceeding at the same time.

(4) Announcement on the recognition of a foreign decision on the opening of a bankruptcy proceeding shall be published in the "Official Gazette of the RS". The Announcement shall also be published through its appearance on the notice board of the court..

(5) The decision on the recognition is submitted to the submitter of the proposal, to the foreign bankruptcy trustee, to the bankruptcy debtor, to legal entities which execute payment system transactions for the bankruptcy debtor, as well as to the state prosecutor's office. The decision shall also be submitted to the institutions responsible for keeping public registers, i.e. public ledgers, which will in official capacity, on the basis of the submitted decision, note the recognition of the foreign decision on opening the bankruptcy proceeding.

Article 210 Appeal Against the Decision on the Recognition

(1) The foreign bankruptcy debtor, the foreign bankruptcy trustee and the creditors have the right to appeal against the decision on the recognition of a foreign decision on the opening of a bankruptcy proceeding.

(2) An appeal against the decision on the recognition does not postpone the execution of that decision.

Article 211 Recognition of a Foreign Decision on the Opening of a Bankruptcy Proceeding as a Prior Issue

(1) If a separate decision has not been made on the recognition of a foreign decision on the opening of a bankruptcy proceeding, each and every court can decide on the recognition of that decision, as a prior issue, within the proceedings, but it has effects on those proceedings only.

(2) The legal effects of the recognition of a foreign decision on the opening of a bankruptcy proceeding enter into force on the day the decision which decided on the aforementioned recognition, as a prior issue, is made. In other instances, the legal effects are ascertained through adequate application of Articles 213 to 218 of this Law.

4. LEGAL EFFECTS OF THE **RECOGNITION OF A FOREIGN DECISION ON THE OPENING OF A BANKRUPTCY PROCEEDING**

4.1. Recognition after the Opening of a Bankruptcy Proceeding in the RS

Article 212 Recognition of a Foreign Decision in Case Bankruptcy Proceedings in the RS were Opened Prior to that

(1) A foreign decision on the opening of a bankruptcy proceedings which fulfils the prerequisites for recognition according to Article 205 of this Law shall be recognized even in, prior to the submission of the proposal for the recognition, a bankruptcy proceeding was opened against the debtor in the RS in compliance with the provision of Article 194 Paragraph 1 or 2 of this Law.

(2) A recognized foreign decision on the opening of a bankruptcy proceeding produces the effects stipulated by the provisions of Articles 221 to 225 of this Law. The foreign bankruptcy trustee can not dispute the claims which were already registered in the proceedings in the RS initiated earlier. If, on the day the proposal for the recognition of a foreign decision on the opening of the bankruptcy procedure was submitted, the deadline of fifteen days from the day of the public announcement of the first distribution list in the bankruptcy proceedings in the RS had already passed, the distribution in the bankruptcy proceeding in the RS shall not be enforced on the basis of the decision on the distribution made in the foreign bankruptcy procedure.

4.2. Recognition without the Consequence of Opening a Bankruptcy Proceeding in the RS

Article 213 General Rule

(1) Legal effects of a foreign decision on the opening of a bankruptcy proceeding are ascertained in compliance with the legal framework of the state in which the procedure was opened, unless they are in contrast with the basic principles of the bankruptcy legislation of the RS and unless this Law stipulates otherwise.

(2) Legal effects of a recognized foreign decision are in force from the day the decision on the recognition is announced on the notice board of the Court in compliance with Article 209 paragraph 4 of this Law.

Article 214 Execution and safeguarding

(1) The settlements which were executed through an executive proceeding in the FBiH / RS during the period between the day the foreign bankruptcy proceeding was opened and the day the announcement on the proposal for the recognition of the foreign decision on the opening of a bankruptcy proceeding was announced on the notice board according to Article 207 paragraph 1 of this Law, as well as the rights to separate settlement of the claims, which incurred through an executive procedure or a safeguarding procedure in the RS during that period, lose their legal effect.

(2) In case the legal effect is lost, in compliance with Paragraph 1, the creditor is under obligation to transfer to the bankruptcy trustee all that he acquired on that basis, after a deduction of the costs which incurred for his in the executive proceeding, i.e. safeguarding proceeding.

(3) Paragraphs 1 and 2 of this Article are not applied to enforceable settlements, i.e. rights to separate settlement of the claims which incurred in the procedure of the execution or in the safeguarding procedure, of the creditors listed in Article 198 and Article 220 paragraph 1 of this Law.

(4) Paragraphs 1 and 2 of this Article are not applied if more than a year has passed between day the foreign bankruptcy proceeding was opened and the day the announcement on the proposal for the recognition of the foreign decision on the opening of a bankruptcy proceeding was announced on the notice board according to Article 207 Paragraph 1 of this Law.

Article 215 Management of the Bankruptcy Debtor

(1) The management activities of the bankruptcy debtor, which were undertaken during the period between the day the foreign bankruptcy proceeding was opened and the day the decision on the recognition of the foreign decision on the opening of a bankruptcy proceeding was announced on the notice board according to Article 209 Paragraph 4 of this Law, lose their legal effect if they are in contrast to the interests of the creditors of the bankruptcy debtor, and it is proven that the opposing party knew or must have known at the moment the management activities of the bankruptcy debtor were undertaken that a bankruptcy proceeding had been opened against him abroad. The opposing party has the right to counter-action from the foreign bankruptcy estate, if it increased the value of the bankruptcy estate.

(2) If the management activities of the bankruptcy debtor followed after the announcement on the proposal for the recognition was published in the "Official Gazette of the RS" in compliance with Article 207 Paragraph 1 of this Law it shall be considered that the opposing party knew or must have known at the moment the management activities of the bankruptcy debtor were undertaken that a bankruptcy proceeding had been opened against him abroad.

(3) The management activities of the bankruptcy debtor undertaken after the opening of a foreign bankruptcy proceeding do not lose their legal effect if general rules on the protection of confidence in public ledgers apply to them. Those management activities can be subject to avoidance according to the legal framework of the state which is competent for avoidance.

Article 216 Actions on Behalf of the Bankruptcy Debtor

(1) A person who has a center of business activities, i.e. residence, in the RS, who is a debtor of a foreign bankruptcy debtor, is under obligation to inform the foreign bankruptcy trustee on the existence of his liability and on the time of its maturity at once, as soon as he finds out of the proceedings abroad.

(2) Such a person is authorized to fulfill his mature liability directly with the foreign bankruptcy debtor, if eight days have passed since the day the information to the foreign bankruptcy trustee was sent, and the court of the RS has not, until that moment, ascertained the safeguarding measures or appointed the interim bankruptcy trustee, in compliance with Article 206 paragraph 1 of this Law. Potential costs of the postponement of the fulfillment of the mature liability are considered as the costs of the bankruptcy estate.

(3) If the liability is fulfilled directly with the foreign bankruptcy debtor during the period between the day the foreign bankruptcy proceeding was opened and the day the decision on the recognition of the foreign decision on the opening of a bankruptcy proceeding was announced on the notice board according to Article 209 Paragraph 4 of this Law, but without informing the foreign bankruptcy trustee of the existence of the liability, the person referred to in Paragraph 1 of this Article shall not be exempt from his liability, if it is proven that at the moment of the direct fulfillment of the liability with the foreign bankruptcy debtor he knew or must have known that a bankruptcy proceeding had been opened against that debtor abroad.

(4) If the liability was fulfilled directly with the foreign bankruptcy debtor after the announcement on the proposal for the recognition was published in "Official Gazette of the RS" in compliance with Article 207 Paragraph 1 of this Law, it shall be considered that the debtor of the bankruptcy debtor knew or must have known that a bankruptcy proceeding had been opened against the debtor abroad.

Article 217 Setting off

(1) Setting off is not allowed, if the claim was ceded during the period of time between the day the foreign bankruptcy proceeding was opened and the day the decision on the recognition of the foreign decision on the opening of a bankruptcy proceeding was announced on the notice board according to Article 209 Paragraph 4 of this Law, and it is proven that the new cession creditor knew

or must have known, at the moment of the ceding, that a bankruptcy proceeding had been opened against the debtor abroad.

(2) If the claim was ceded after the after the announcement on the proposal for the recognition was published in the "Official Gazette of the RS" in compliance with Article 207 Paragraph 1 of this Law, it shall be considered that the new creditor (cession holder) knew or must have known, at the moment of ceding, that a bankruptcy proceeding had been opened against the debtor abroad.

Article 218 Privileged claims, Creditors with the Right to Separate Recovery and Creditors with the Right to Separate Settlement

(1) The recognition of a foreign decision on the opening of the bankruptcy proceeding does not affect the right of the creditors to settle their claims listed in Article 220 Paragraph 1 Items 1. And 2. Of this Law, in the full amount, if the part of the property of the bankruptcy debtor which is not burdened with the rights of third parties, and which, at the moment the decision on the recognition is announced on the notice board, in compliance with Article 209 Paragraph 2, is located in the RS, is sufficient for that.

(2) In order for their rights to be executed and safeguarded, the creditors referred to in Paragraph 1 of this Article are authorized, even after the recognition of a foreign decision on the opening of a bankruptcy proceeding, to initiate law suits, as well as the proceedings of execution and safeguarding, against the debtor's property.

(3) Creditors with the right to separate recovery and creditors with the right to separate settlement referred to in Article 198 of this Law are authorized to initiate law suits, as well as the proceedings of execution and safeguarding the RS, under the conditions they could initiate them under had the bankruptcy proceeding been opened in the RS.

(4) The executive court shall, upon a proposal of the foreign bankruptcy trustee, postpone the executive proceedings referred to in paragraph 2 of this Article if that is necessary for the settlement of the creditors of the bankruptcy debtor to be achieved at a higher bankruptcy quota. The postponement can last up to three months, with a possibility of a new postponement being set, but, until the first distribution in the foreign bankruptcy proceeding at the latest. The executive court can, at any time, upon a proposal of the creditor or of the foreign bankruptcy trustee, revoke the postponement, if there are no conditions for it to exist any more.

4.3. Recognition with the Consequence of Opening the Bankruptcy Proceeding in the RS

Article 219 Recognition of a Foreign Decision with the Consequence of Opening the Bankruptcy Proceeding in the RS

(1) Within the proposal for the recognition of a foreign decision on the opening of a bankruptcy proceeding the foreign bankruptcy trustee or a creditor can request the opening of a bankruptcy proceeding in the RS, as the immediate legal effect. The foreign bankruptcy trustee can also request the opening of a special bankruptcy proceeding in the RS in a submission to the bankruptcy court, too, within 15 days from the day the written information referred to in Article 205 Paragraph 2 of this Law is received. A creditor can also request the opening of that proceeding in a submission which is sent to the bankruptcy court on the basis of Article 207 Paragraph 1 Item 4 of this Law.

(2) In that case the legal effects are ascertained by the bankruptcy legislation of the RS, exclusively, except if the Articles 197 to 201 and 220 to 225 stipulate otherwise, explicitly. Articles 214 to 217 of this Law are applied to that, accordingly.

4.4. Opening a Special Bankruptcy Proceeding in the RS as a Consequence of the Recognition of a Foreign Decision on the Opening of a Bankruptcy Proceeding

Article 220 Opening a Bankruptcy Proceeding in the FBiH / RS upon a Proposal of a Creditor

(1) The court shall open a domestic bankruptcy proceeding on each and every proposal of:

1. the Institute for Health Insurance and the Institute for Pension Insurance, for claims which are, in compliance with the law, obligatorily separated from the earnings, i.e. wages, as well as the institutions of the RS and its units of local self-governance and administration for claims on the basis of taxes and other claims which constitute the revenues for the budget,

2. the employees of the bankruptcy debtor with regular labor positions in the RS.

(2) The court shall open a bankruptcy proceeding in the RS upon a proposal of the creditor, who is not among the creditors referred to in Paragraph 1 of this article, only if the creditor makes it plausible that the settlement of his claim in the foreign bankruptcy proceeding would be connected to special difficulties.

(3) As an exception to the provisions of Paragraphs 1 and 2 of this Article, in order for the as equitable and as full as possible settlement to be achieved at the international level, the bankruptcy court shall not open a bankruptcy proceeding in the RS if it assesses that the opening of that proceeding would be economically inadequate, taking into account the size of the claims of the creditors referred to in Paragraphs 1 and 2 of this Article. In making the assessment the court can consult the foreign bankruptcy trustee.

Article 221 Authorities of the Foreign Bankruptcy Trustee

(1) Besides the bankruptcy trustee of the special bankruptcy proceeding and the creditors which participate in it, the foreign bankruptcy trustee can execute avoidance the registered claims, also.

(2) The right to avoidance of the legal actions of the bankruptcy debtor in bankruptcy proceedings in the RS, according to the rules of the bankruptcy regulation of the RS, belongs to the foreign bankruptcy trustee, also.

(3) The costs of the foreign bankruptcy trustee which incur in connection with performing the authorities referred in Paragraphs 1 and 2 of this Article are not considered as the costs of the bankruptcy proceeding in the RS.

Article 222 Settlement of the Creditors

(1) After the settlement of the costs and other liabilities of the bankruptcy estate, of creditors with the right to separate recovery and creditors with the right to separate settlement, as well as the creditors referred to in Article 220 Paragraph 1 of this Law, the remaining bankruptcy estate shall be distributed between the creditors in compliance with the decision on the distribution which shall be approved by the bankruptcy court on the basis of the decision on the distribution or some other decision, equal to that, made in the foreign bankruptcy procedure. If, in the drafting of the foreign decision or the distribution basis the claims registered in the bankruptcy procedure in the RS were not taken into account, the bankruptcy court shall distribute the remaining bankruptcy estate between the creditors, whose claims were registered in the bankruptcy proceeding in the RS, taking into account, in that, the extent to which they were taken into account, individually, at the distribution of the bankruptcy estate in the foreign bankruptcy proceeding.

(2) When distributing the remaining bankruptcy estate, the bankruptcy court shall not take into account the foreign decision on the distribution if the distribution envisaged in that is the result of the application of the rules which are in contrast to the public structure of the RS. The same applies to the case in which the foreign decision on the distribution is not given to the bankruptcy court within the deadline it has prescribed.

(3) The bankruptcy estate which remains after the settlement of the creditors in compliance with the previous provisions of this Article shall be given to the foreign bankruptcy trustee at once.

(4) If the bankruptcy estate is not sufficient for the settlement of the registered claims in the bankruptcy proceeding in the RS in compliance with Paragraphs 1 and 2 of this Article, the creditors can settle the unsettled part of their claims in the foreign bankruptcy proceeding only, in compliance with the rules of the foreign bankruptcy legislation.

Article 223 Special Bankruptcy Proceeding in a Third Country

(1) If a creditor settles his claims partially in a special bankruptcy proceeding which was opened against the bankruptcy debtor in some third country, and which covered the property of the bankruptcy debtor in that third country only, he can keep what he has acquired. The received amount shall, after a deduction of the costs that the creditor had in the execution of the settlement in that special bankruptcy procedure, be calculated into the bankruptcy quota, which belongs to that creditor in the special bankruptcy proceeding in the RS. That inclusion shall not happen if the creditor has achieved a partial settlement of the claims in the special foreign bankruptcy proceeding as a creditor with the right to separate settlement of the claims or on the basis of an allowed setting off.

(2) The provisions of Paragraph 1 of this Article shall also apply when the creditor has settled his claims partially through an executive proceeding in a third country.

Article 224 Registration of Claims in a Foreign Bankruptcy Proceeding

(1) The bankruptcy trustee of a special bankruptcy proceeding opened in the RS is under obligation to register a claim, registered in that procedure, in the foreign bankruptcy procedure, too, if that is requested of him by a creditor and if the creditor authorizes him to do so.

(2) The domestic bankruptcy trustee is authorized to execute the voting right in the foreign main bankruptcy proceeding on the basis of claims registered in the special bankruptcy proceeding in the RS, if the creditor to whom that claim belongs to is not participating in the voting.

Article 225 Cooperation of Bankruptcy Trustees

(1) Besides the mutual exchange of information in compliance with Article 201 of this Law, the bankruptcy trustee of the special bankruptcy proceeding in the RS is under obligation to enable the bankruptcy trustee of the foreign main bankruptcy proceeding to give an opinion on the method of the realization of the property of the bankruptcy debtor which is covered by the domestic special bankruptcy proceeding.

(2) The reorganization plan of the special bankruptcy proceeding in the RS shall be submitted to the Bankruptcy trustee of the foreign main bankruptcy proceeding. He also has the right to propose the reorganization plan of the special bankruptcy proceeding himself.

5. NON-RECOGNITION OF A FOREIGN DECISION ON THE OPENING OF BANKRUPTCY PROCEEDINGS

Article 226 Refusal of the Proposal for the Recognition

(1) If it refuses the proposal for the recognition, the bankruptcy court shall, upon a proposal of the creditor or of the bankruptcy debtor, open a bankruptcy proceeding in the RS, if it is necessary for the more equitable settlement of all the debtor's creditors.

(2) The proposal referred to in Paragraph 1 of this Article can be submitted within the deadline of eight days from the day the decision on the refusal of the proposal for the recognition is announced on the notice board of the court and in the "Official Gazette of the RS". That proposal can be already contained in the submission which is forwarded to the bankruptcy court on the basis of Article 207 paragraph 1 Item 4 of this Law.

(3) The bankruptcy proceeding referred to in Paragraph 1 of this Article covers the property of the bankruptcy debtor which is located in the RS, only.

Article 227 Appeal

(1) The foreign bankruptcy debtor, the foreign bankruptcy trustee and the creditors have the right to appeal against the decision which refuses the proposal for the recognition of the foreign decision on the opening of a bankruptcy proceedings.

(2) The appeal does not postpone the execution.

Article 228 Proposal for Opening Bankruptcy Procedure when the Foreign Decision on the Opening of the Bankruptcy Procedure can not be Recognized

(1) Each and every creditor, as well as the bankruptcy debtor, is authorized to ask for the bankruptcy proceeding to be open in the RS, regardless of the main bankruptcy proceeding being opened in another state, if the conditions for the proposal for the recognition of the foreign decision on the opening bankruptcy procedure to be refused are fulfilled.

(2) The Court shall allow the opening of a bankruptcy proceeding in the RS in the case referred to in Paragraph 1 of this Article if it is required by the principle of equitable settlement of all the debtor's creditors.

(3) When making the decision on opening the bankruptcy proceeding referred to in Paragraph 1 of this Article, the bankruptcy court shall decide on the lack of the possibility for the foreign decision on the opening of a bankruptcy proceeding to be recognized, as it decides on the previous issue, too.

(4) The Bankruptcy proceeding referred to in Paragraph 1 covers the property of the bankruptcy debtor which is located in the Republic of Srpska, only.

6. FOREIGN COERCIVE AGREEMENT AND OTHER BANKRUPTCY PROCEDURES

Article 229 **Foreign Decision on the Approval of Coercive Settlement or of a Foreign Reorganization Plan**

The provisions of this law related to the recognition of a foreign decision on the opening of a bankruptcy proceeding shall apply accordingly to the recognition of a foreign decision on the approval of coercive settlement or of a reorganization plan, as well as the recognition of a foreign decision made in any other similar proceeding.

VII. PUNITIVE PROVISIONS

Article 230

The responsible person of the bankruptcy debtor shall be fined with a monetary penalty in the amount between 500 KM and 1.500 KM, if:

1. he does not submit the proposal for opening the bankruptcy proceeding (Article 4 Paragraph 2);
2. he does not submit all necessary documentation to the bankruptcy trustee or does not assist him in his work (Article 62 Paragraphs 3 and 4);
3. he does not submit comprehensive and correct data to the stipulated subjects (Article 10 Paragraph 1);
4. he does not enable the bankruptcy judge to review the business documentation or if he does not submit the aforementioned documentation upon a request of the bankruptcy judge (Article 14 Paragraph 2).

Members of the management and of the supervisory board of the bankruptcy debtor shall be fined with monetary penalties of between 200 KM and 1.500 KM for the misdemeanors referred to in Paragraph 1 of this Article, and in connection with Article 63 of this Law,.

Article 231

The interim bankruptcy trustee shall be fined with a monetary penalty of between 500 KM and 1.500 KM, if:

1. he does not secure the assets and the protection of it (Article 16 Paragraph 1);
2. he is not taking care of the execution of the debtor's claims and he is not undertaking measures for the realization of the debtors' property (Article 16 Paragraph 5);
3. he does not render accounts and does not submit the report on his work during the period of the provisional administration (Article 16 Paragraph 8);
4. he does not sign for insurance of accountability with an insurance underwriter (Article 20 and 26 Paragraph 2).

Article 232

The bankruptcy trustee shall be fined with a monetary penalty of between 200 KM and 1.500 KM, if:

1. he does not make a detailed list of the bankruptcy estate, the list of all creditors of the bankruptcy debtor of whom he has been informed from the business documentation (Article 25 Paragraph 2);
2. he does not keep business ledgers, he does not make the initial balance sheet of the property of the debtor (Article 25 Paragraph 3);
3. he does not submit necessary reports to the authorized bodies (Article 25 Paragraph 3);
4. he does not take care of the execution of the debtor's claims, or does not undertake measures to realize the property of the debtor (Article 25 Paragraph 1);
5. he does not submit information on the actual state and management upon a request of the bankruptcy judge (Article 27);
6. he does not sign for insurance of accountability with an insurance underwriter (Article 26 Paragraph 2).

VIII. TRANSITIONAL AND FINAL PROVISIONS

Article 232

Bankruptcy proceedings which were initiated before this Law came into effect shall be concluded in compliance with the regulations which were in effect until the day this Law came into effect, if the decision on the opening of the bankruptcy proceeding has been made and if the bankruptcy trustee has taken over his duty according to the provisions of the previous Law.

Article 234

Legal actions undertaken before this Law came into effect shall be avoidable in compliance with the provisions of this Law, if they were not excluded from avoidance in compliance with the provisions of the Law on Enforced Settlement, Bankruptcy and Liquidation.

Article 235

1. Bankruptcy proceedings initiated upon a proposal of the SPP RS, which were not opened, , in which the interested parties have not undertaken any actions with the objective of the continuation of the proceeding, within the last three (3) years from the day this Law is adopted, the court shall invite, through an announcement which shall be published in the "Official Gazette of the Republic of Srpska", all interested parties to undertake the proceedings within 30 days from the day of the announcement, and the costs of the announcement shall be advanced from the budget.
2. If the interested parties request in written form for the proceedings to be executed, the court shall continue with the proceeding, and it shall consider that the interested parties are the submitter of the proposal in the sense of Article 4 of this Law.
3. If no interested parties submit a proposal for the execution of the proceedings within the term given, the court shall suspend the proceedings..

Article 236

1. The Act on the curriculum and the method of passing the expert exam for bankruptcy trustees, shall be adopted by the Minister of Justice within 60 days of the day this Law is put in effect.
2. The implementation of the provisions of Article 23 Paragraphs 1 and 2 of this Law shall begin six months from the day the Act referred to in Paragraph 1 of this Article is put in force.

Article 237

1. The regulation on the fees and remuneration for the experts, interim bankruptcy trustees, bankruptcy trustees and members of the Board of Creditors shall be adopted by the Minister of Justice within 3 months of the day this Law is put in effect, and the level of the fees, i.e. remuneration, shall be determined by the bankruptcy judge through a decision, taking into account the scope of the activities and the value of the bankruptcy estate in question.
2. The bankruptcy trustee, the bankruptcy debtor, the Board of Creditors, as well as each and every creditor have the right to appeal against the decision referred to in the previous Paragraph.

Article 238

On the day this Law is put in effect, the implementation of the Law on Enforced Settlement, Bankruptcy and Liquidation ("Official Gazette of SFRY", number 84/89), which is implemented in the RS on the basis of Article 12 of the Constitutional Law on the Implementation of the Constitution of the RS ("Official Gazette of the RS", number 21/92), shall be terminated.

Article 239

This Law is put in effect on the eighth day from the day it is published in the ("Official Gazette of the RS", and shall be implemented starting with January 1st 2003.

THE PRESIDENT

OF THE NATIONAL ASSEMBLY

Dragan Kalinic, Ph.D.

EXPLANATION

I. CONSTITUTIONAL BASIS

The constitutional basis for the adoption of this Law is found in Amendment XXII Point 6 of the Constitution of the Republic of Srpska which prescribes that the Republic arranges and ensures property related and obligation related relations, as well as the protection of all form of ownership, legal position of enterprises and other organizations, their associations and chambers, economic relations with the abroad, which have not been transferred to the institutions of Bosnia and Herzegovina, the market and the planning.

II. REASONS FOR THE ADOPTION

It is known that the Republic of Srpska has taken over the Law on Enforced Settlement, bankruptcy and Liquidation of the former SFRY. However, this Law has not been implemented for a very long time, as the authorized submitter of the proposal for the opening of a bankruptcy proceeding was eliminated with the phasing out of the payment system services. the opened cases in the bankruptcy proceedings are, in practice, "waiting" for the new Law to be adopted. With the approval of this Law, the republic of Srpska shall get its own Law, which regulates this extremely important issue in the area of economy and banking, in a completely new way.

III. EXPLANATION OF THE PROPOSED SOLUTIONS

The basic novelty which is offered by this Law is the fact that the institution of the enforced settlement is being left out, and the institution of the reorganization is being established (Articles 140 to 192), and the legal status of the bankruptcy debtor and of his creditors is also changed.

A very important change is reflected in a significant increase of the authorities of the bankruptcy debtor, and in the decrease of the authorities of the court, while the bankruptcy council, which used to have broad authorities in the Law which was applied until now, is being eliminated.

The proposed Law stipulates, in a very detailed way, the conditions for the opening of the bankruptcy proceeding, the bankruptcy proceeding itself and the legal consequences of its initiation and implementation, as well as the reorganization of the bankruptcy debtor who is incapable of making payments on the basis of the reorganization plan.

The bankruptcy proceeding is initiated upon a proposal of an authorized person. The authorization for submitting the proposals is given to the debtor and all the creditors who have legal interest in the enforcement of the bankruptcy proceeding. If the debtor is a legal entity, the institution authorized for representation is, in case the inability to make payments sets in, under obligation to submit, without any delay, a proposal for the opening of a bankruptcy proceeding within 30 days. The debtor is incapable of making payments if he is permanently in position of not being able to fulfill a significant portion of all his accrued liabilities.

The Bankruptcy proceeding is URGENT. Unless this Law stipulates otherwise, the provisions of the Law on Law-suit proceedings are applies in bankruptcy proceedings accordingly.

In bankruptcy proceedings the decrees are adopted in the form of decisions. Appeals against the decisions do not postpone the implementation of the decisions.

The Institutions of the Bankruptcy Proceeding

The institutions of the bankruptcy proceeding are the following:

1. Bankruptcy judge, who runs and manages the bankruptcy proceeding from the submission of the proposal for opening and until the conclusion of the bankruptcy proceeding.
2. Bankruptcy trustee, who is authorized and obligated to take, without any delay, the property which is included in the bankruptcy estate into his possession, to manage it, to continue the business activities until the reporting hearing, if it is possible, and to realize the estate in compliance with the decision of the Creditors' Assembly, as well as to execute other activities which are stipulated by this Law (Articles 24 to 26).
3. Creditors' Assembly, which can be convened by the bankruptcy judge. The Creditors' assembly must be convened if it is requested by the bankruptcy trustee, the Board of Creditors or at least five creditors who together represent at least a fifth of the registered amount of claims. The Creditors' Assembly is presided by the bankruptcy judge. The Assembly decides with the absolute majority of the present creditors.
4. Board of Creditors, which can be elected from the ranks of the creditors by the Creditors' Assembly, in compliance with Article 22 of this Law. The Board supports and supervises the work of the bankruptcy trustee.

Bankruptcy Estate and the Grouping of the Creditors

The bankruptcy estate covers the entire property which has belonged to the debtor at the time of the opening of the bankruptcy proceeding, as well as the property which the debtor obtains during the bankruptcy proceeding. The bankruptcy estate is used for covering the costs of the bankruptcy proceeding, of the creditors who, at the time of the initiation of the bankruptcy proceeding, have had a justified property claim towards the debtor (bankruptcy creditors), as well as of the creditors who acquire the right to claim against the bankruptcy estate during the bankruptcy proceeding which has been opened (creditors of the estate).

Meeting the claims of the creditors from the existing resources of the free bankruptcy estate is executed in accordance with the following priority list:

1. bankruptcy creditors of higher payment ranks in compliance with Article 32 of this Law,
2. bankruptcy creditors of general payment rank in compliance with Article 31 of this Law,
3. bankruptcy creditors of lower payment ranks in compliance with Article 33 of this Law.

A person who has the right to separate recovery of items which do not belong to the debtor (extraction creditor) is not a bankruptcy creditor - Article 36.

After the opening of the bankruptcy proceeding, the right to separate recovery can be executed after the reporting hearing, at the earliest.

Creditors who have the right to separate settlement over certain items of the bankruptcy estate are authorized to a separate settlement from the item of the right to separate settlement for the principal claim, the interest and the costs, in compliance with the provisions of Articles 100 - 105 of this Law.

The creditors with the right to separate settlement are the following:

1. holders of mortgages and land charges
2. creditors who have through the law, confiscation, in-court agreement on legal action acquired some a right of lien
3. creditors to whom the debtor has transferred certain right, with the objective of insurance;
4. Creditors who are entitled to a right of retention.

Opening of the Bankruptcy Proceeding

The bankruptcy judge opens the bankruptcy proceeding through a decision, and, in that case, appoints the bankruptcy trustee. Within the decision on the opening of the bankruptcy proceeding, the creditors are summoned to register their claims with the bankruptcy court within 30 days, in compliance with Article 108.

With the same decision, the bankruptcy judge is to determine the hearings for the following:

1. the creditors' assembly, on which it is, on the basis of the report of the bankruptcy trustee, decided on the subsequent development of the bankruptcy proceeding;
2. the creditors' assembly, on which the registered claims are investigated (investigation hearing).

Legal effects of the Opening of the Bankruptcy Proceeding

Upon the institution of bankruptcy proceedings, the rights of the debtor's bodies are transferred to the bankruptcy trustee. Dispossessions of the bankruptcy debtor over the assets of the bankruptcy estate after the institution of bankruptcy proceedings have no legal effect. The bankruptcy trustee may request for the return of the subject of the dispossession, and the other party has the right to be refunded for the executed counter-action.

In the event of the opening of bankruptcy proceedings, all pending litigation proceedings including arbitrage proceedings will be suspended if the bankruptcy estate is affected.

The bankruptcy creditors may realise their claims towards the bankruptcy debtor within the bankruptcy proceedings only. The obligations of the bankruptcy debtor towards the bankruptcy court, the bankruptcy trustee, the Board of Creditors and the Creditor's Assembly are decidedly stipulated in Article 60 of the Law.

Labor relations of the employees of the bankruptcy debtor are terminated on the day the bankruptcy proceedings are opened. The bankruptcy debtor informs the employees about the termination of the labor relation. The bankruptcy trustee may enter into new labor relations of the employees who are necessary for the continuation of the business activities or for the execution of the bankruptcy proceeding.

Legal transactions of the bankruptcy debtor without a compensation or with a negligible compensation can be avoided, except if they were undertaken four years before the submission of the proposal for the initiation of the bankruptcy proceeding.

Dispossession and Realization of the bankruptcy Estate

After the opening of the bankruptcy proceeding the bankruptcy trustee is under obligation to take over the ownership of the entire property which enters into the bankruptcy estate, and to manage it.

The bankruptcy trustee can request from the court to order that the items of the bankruptcy debtor are transferred to the bankruptcy trustee (Article 86).

On the day of the opening of the bankruptcy proceeding the account of the bankruptcy debtor shall be closed and the rights of the persons who were authorized to manage the property of the bankruptcy debtor shall cease. The bankruptcy trustee shall open new accounts of the bankruptcy debtor.

The bankruptcy trustee is under obligation to compile an inventory of the items of the bankruptcy estate, as well as to compile the list of all creditors of the bankruptcy debtor. The list of the creditors must be grouped in accordance with the payment ranks.

With the initiation of the bankruptcy proceeding a new business year is initiated

At the reporting hearing, the bankruptcy trustee must report on the economic situation of the bankruptcy debtor and its causes. The bankruptcy trustee is, especially, under obligation to state whether there is any likelihood of the business activities of the debtor to be continued, either partially or fully. The Creditor's Assembly decides whether the business activities of the debtor are going to be discontinued or temporarily continued. The creditors may require the bankruptcy trustee to make a proposal for the reorganization.

After the reporting hearing, the bankruptcy trustee must immediately realize the assets belonging to the bankruptcy estate, unless this is precluded by the resolutions of the creditors' assembly.

The rules which apply to the realization of immobile property are stipulated by Article 100 of this Law, and the rules which apply to the realization of mobile objects are stipulated in Article 101 of this Law. The bankruptcy trustee is under obligation to acquire the consent of the Board of Creditors for all legal action which are of special importance for the bankruptcy proceeding, Article 106.

Settlement of the Creditors

The creditors shall submit their claims to the bankruptcy court in writing. The notice contains the data referred to in Article 108 of the Law.

The bankruptcy trustee shall compile a list of all the claims of the employees and previous employees of the bankruptcy debtor, as well as all other creditors. Claims submitted after the expiry of the submission period can be examined at the examination hearing, if it is proposed by the bankruptcy trustee.

The bankruptcy trustee must declare whether he officially recognizes the claim or contests the claim., and, in the later case, the creditor is referred to a law suit which is to ascertain the contested claim. A legally valid decision which ascertains the claim and its payment rank has effect on the bankruptcy trustee and the creditors.

The satisfaction of the bankruptcy creditors can only begin after the examination hearing. Creditors may submit an objection to the distribution schedule to the bankruptcy court within the deadline stipulated in Article 177 Paragraph 1 of the Law.

The distribution proposal is discussed by the creditors and the bankruptcy trustee at the hearing for the main distribution.

On the basis of the proposal of the bankruptcy trustee, the bankruptcy judge shall approve the draft of the decision for the main distribution, the contents of which are stipulated in Article 122.

As soon as the main distribution has been carried out, the bankruptcy judge shall order the closing of the bankruptcy proceedings, and it is being publicly announced. After the bankruptcy proceedings are concluded, bankruptcy creditors may assert its remaining claims without restriction, Article 125. A subsequent distribution is also possible, under the conditions stipulated in Article 126.

Reorganization

After the opening of a Bankruptcy Proceeding, it is allowed to draft a reorganization plan in which one can stray from the legal provisions concerning the realization and the distribution of the Bankruptcy estate. The activities which can be undertaken within a reorganization plan are ascertained in Article 140 Paragraph 2 which stipulates the following:

A reorganization plan, can, especially, be implemented by:

- letting the bankruptcy debtor keep the whole or a portion of his property in order for the business activities of the Bankruptcy debtor to continue, ,
- transferring all or part of the bankruptcy debtor's property to one or more existing legal entities or legal entities that will be founded,
- merging of the bankruptcy debtor with one or more legal entities,
- selling all or a portion of the bankruptcy debtor's property, subject to or free of any lien,
- distribution of all or part of the bankruptcy debtor's property among the creditors,
- execute the transformation of claims into shares,
- determining the manner of settlement of the bankruptcy creditors,
- settling or changing the rights to separate settlement,
- reducing or postponing the payments of the bankruptcy debtor's liabilities,
- turning the bankruptcy debtor's liabilities into a credit,
- issuing a guarantee or providing other kind of security for the fulfilment of the bankruptcy debtor's liabilities,
- determining the bankruptcy debtor's liability after the conclusion of the bankruptcy proceedings, etc.

Reorganization is implemented on the basis of the reorganizatoion plan which is the expression of the will of all the participants in the proceeding, and which is approved by the bankruptcy judge.

Reorganization plan contains preparatory (declarative) and implementation (contents) part. The documents stated in Articles 153 and 154 of this Law are also attached to the plan. If the plan envisages that the debtor who is an individual is to continue to manage the enterprise, i.e. craft, the statement of the bankruptcy debtor stating that he is ready to continue with the management of the enterprise has to be attached to the plan.

If the reorganization plan envisages status changes of the bankruptcy debtor (merger, acquisition etc.), the statements of the legal entities which are to participate in the status changes have to be

attached to the plan. The bankruptcy judge will, in his official capacity, reject the reorganization plan in the cases stipulated by Article 145 of the Law.

If the reorganization plan has not been rejected, the Bankruptcy Court will request that the following state their opinion on the plan within 30 days:

- the Board of Creditors
- the debtor, who is an individual
- the Bankruptcy Trustee

The reorganization plan is, together with all its attachments, presented in the court for review. The bankruptcy judge shall convene a hearing for the voting on the reorganization plan. The hearing has to be held within 30 days. The party that has submitted the plan has the right to make changes to the contents of certain provisions in the plan, in accordance with the discussion at the hearing.

The bankruptcy court can ascertain a separate hearing for the voting on the bankruptcy plan. The necessary majority for the adoption of the reorganization plan has been stipulated in Article 167 of the Law. It will be deemed that the debtor has consented to the proposed plan, if he did not oppose the plan in writing or orally at the hearing.

After the procedure connected to the approval of the reorganization plan has been implemented, the bankruptcy judge shall decide on whether the plan will be approved.

Prior to that, the Bankruptcy Court will hear the Bankruptcy Trustee, the Board of Creditors and the bankruptcy debtor.

The creditors and the bankruptcy debtor can file an appeal against the decision that approves or rejects the plan.

The effects of the approved plan and the supervision over the implementation of the plan are regulated by Articles 177 to 192 of the Law.

The decision on the approval of the plan is binding for all the participants.

International bankruptcy is regulated in Chapter 6, Articles 193 to 227.

Punitive provisions are regulated by Articles 228 to 230.

Transitional and final provisions are regulated by Articles 231 to 237. These provisions regulate the method concerning the bankruptcy proceedings before this Law is put into effect, and, at the same time, the alternative to Article 233 is being given.

I. FINANCIAL RESOURCES

(3) The implementation of this Law shall require financial resources from the Budget of the RS which are impossible to ascertain at this moment.

CHANGES INCLUDED IN THE PROPOSAL

IN COMPARISON WITH THE DRAFT

After the discussion held at the 18th session of the national assembly, the discussion held in the RS Association of the Unions, the suggestions, proposals and comments provided by the World bank and the International Monetary Funds, In comparison with the Draft Law, besides some terminological and editing related adjustments of certain provisions, as well as more precise definitions and systematization of the aforementioned provisions, the following changes were made in the Proposal of the Law in comparison with the Draft of the Law:

The deadlines in the Proposal are adjusted with the provisions of the Law on Legal Proceedings. Article numbers were changes because of the introduction of two new articles in the proposal (13 and 44).

In Article 4 of the Proposal, newly added paragraphs 3 and 4 define the obligation of the court to consider the proposal for the opening of the bankruptcy proceedings, the deadline in which the court has to consider that proposal and the deadline in which the court is under obligation to issue a decision pertaining to the amount of resources for the financing of the preliminary proceedings.

In Article 6 of the Proposal, paragraphs 2 and 3, the issue of the inability of the debtor to make payments is defined in a more precise way.

Article 13 of the Proposal (newly added article) defines the obligation and the deadline given to a bankruptcy creditor to pay the advance for covering the costs of the preliminary proceedings, as well as the consequences of the failure to fulfil that obligation. The aforementioned Article defines the option given to the court, i.e. that the court may exempt the bankruptcy debtor, as the applicant of the proposal for the opening of the bankruptcy proceedings, of the obligation to pay the advance, under the condition that the bankruptcy debtor proves that it has enough resources for the financing of the preliminary proceedings.

Article 28 of the Proposal Paragraph 1 (Article 27 of the Draft) defines the obligation and the method for convening the first creditors' assembly by the bankruptcy judge, as well as the situations in which the creditors' assembly has to be convened in the later course of the proceedings.

Article 29 of the Proposal in paragraph 4 (newly added paragraph) prescribes the number of the Board of creditors' members, precisely, and paragraph 6 stipulates the institutions authorized for issuing consents for significant legal affairs of the bankruptcy debtor. Paragraphs 7,8,9 and 10 of this Article are included on the basis of the suggestions of the World Bank and the International Monetary Fund.

Article 44 of the Proposal (newly added article) defines the option of opening a bankruptcy proceedings without the execution of a preliminary proceeding.

In Article 58 of the proposal (Article 56 of the Draft) newly added paragraphs 4 and 5 define the rights of creditors with the right to separate settlement to initiate a litigation against the debtor, after the opening of the bankruptcy proceeding, in order to realize their rights of enforcement according the rules of the enforcement proceedings, as well as the protection of the creditors with the right to separate settlement during the period for which the opening of the enforcement proceeding is postponed.

Article 105 of the Proposal defines the distribution of the amount realized through the sale of movables which are subject to right to separate settlement.

Article 125 of the Proposal defines the issue of the rights the bankruptcy creditors have against the debtor who is an individual after the conclusion of the bankruptcy proceedings.

In Article 146 of the Proposal the newly added paragraph 2 defines the contents of the reorganization plan more precisely.

In Articles 183 and 184 of the Proposal a technical error is removed - the aforementioned articles define the issue of the conclusion of the proceedings, instead of the issue of the termination of the proceeding.

In Articles 235 and 236 of the Proposal (Articles 233 and 234 of the Draft) - TRANSITORY AND FINAL PROVISIONS, the issue of bankruptcy proceedings initiated upon the proposals of the ZPP RS, which were not opened until now, as well as the issue of the deadline for the adoption of the Manual on passing expert exams for bankruptcy trustees.

Article 239 proposes the implementation of this Law starting with January 1st 2003.