

Challenges for Member States that do not have a preventive restructuring tradition

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INSOLVENCY OF VARNA SHIPYARD AD




from 1999 to 2006



5000 creditors - natural persons



500 corporate creditors



adopted rehabilitation plan, repealed by the Supreme Court of Cassation



realized assets BGN 37501698.42

VARNA SHIPYARD AD



REGION COVERED BY THE COURT OF APPEAL - VARNA



- Area – 21 128 km²
- Population – 1 310 761
- Municipalities - 49
- 6 district courts and 20 regional courts
- Economy - mixed type - services, trade, light industry and agriculture
- internal and external border of the EU

NUMBER OF INSOLVENCY PROCEEDINGS AT THE COURT OF APPEAL - VARNNA 2013 -2017



	2013	2014	2015	2016	2017
■ Number of cases	185	101	97	112	97

**INSOLVENCY PROCEEDINGS
CLOSED WITH REHABILITATION PLAN
2013 –20.04.2018**



STABILIZATION PROCEEDINGS SPECIFICITIES:

- In effect from 01.07.2017
- This is only at the debtor's initiative
- There are 3 phases - opening, consideration of the application and approval of the restructuring plan and termination of the proceedings
- Specific ground for opening the proceedings - art. 762, para. 1 of the Commerce Act (CA)
- Legal definition of "immediate danger of insolvency" - art. 762, para. 2 of the Commerce Act
- New legal actor - quasi-receiver - trustee
- Term - 4 months for adoption of stabilization plan - art. 796, para. 1, item 2 of the Commerce Act
- Validity of the adopted stabilization plan:
 - for the trader - compulsory
 - for the creditors - the receivable is transformed as provided
 - for third persons - no validity

STABILIZATION PROCEEDINGS INADMISSIBILITY OF PROCEEDINGS ART. 762, PARA. 3 OF THE COMMERCE ACT



**Failure to publish
the Annual
Financial
Statements for the
last 3 years**



**Pending
insolvency
proceedings**



**1/5 of the
payables are to
related parties**

**STABILIZATION PROCEEDINGS
SUBMITTED APPLICATIONS
01.07.2017 – 20.04.2018**

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CONCLUSIONS:

Insolvency proceedings are avoided

Saving huge human, financial, economic and social resources

POSITIVES

This option is available only for honest entrepreneurs, for whom the European Commission applies "the second chance" concept

Explicit step to improvement of the legal regulation

CONCLUSIONS:

These proceedings are unknown and are not applied.

Wide awareness raising, information and expert campaign is necessary.

Training for all participants is necessary.

Creating specialized segment of qualified experts

Regulatory changes connected with alignment of the rights of the creditors, relief of procedures and imposing penalty on the trader for failure to comply with the plan (including initiating insolvency proceedings)

Understanding actively and applying the experience gained by other states related to "the second chance".

ISSUES



THANK YOU
FOR YOUR ATTENTION!