

5 Years with the Insolvency Law for Individuals in Romania

Law no. 151 of 2015 on the insolvency of individuals (non-corporate debtors) came into effect, after several delays, on January 1, 2018. This regulation establishes the two types of insolvency procedures for individuals: the one based on a debt repayment plan and the one based on asset liquidation. One requirement for either of the procedures is that the debtor's total outstanding obligations be at least 15 times the national minimum wage, that is RON 2,550 lei x 15 = RON 38,250 (see http://www.mmuncii.ro/j33/images/Data_lunare/salariul_minim_2022.pdf), approximately Euro 7,650 (see <https://www.cursbnr.ro/>).

The above regulation also establishes the simplified insolvency procedure for individuals. The requirements for the debtor to file for insolvency are as follows: total liabilities must not exceed 10 times the national minimum wage, meaning 10 x minimum wage = RON 25,500 lei, that is approximately EURO 5,100; the debtor must not have traceable assets or revenue; and the debtor must be past retirement age or must have lost all or at least half of their ability to work.

The first type of insolvency procedure is based on a debt repayment plan. The competent bodies for carrying out this procedure are the 42 county insolvency commissions that operate within the territorial structures of the NACP. These commissions are coordinated by the NACP's Department for Insolvency Procedures for Individuals. Below is a record of the activities carried out by these commissions. These include carrying out the insolvency procedures themselves, as well as counselling debtors prior to opening the procedure:

- during 2021- they carried out 37 insolvency procedures based on a debt repayment plan, and they counselled 141 debtors (see NACP Activity Report, 2021, p.27, https://anpc.ro/wp-content/uploads/2022/06/RAPORT_ANPC_2021.pdf),

- during 2020 - they carried out 19 insolvency procedures based on a debt repayment plan, and they counselled 73 debtors (see NACP Activity Report, 2020, p.18, https://anpc.ro/wp-content/uploads/2022/06/RAPORT_ANPC_2020.pdf),

- during 2019 - they carried out 3 simplified insolvency procedures and 47 insolvency procedures based on a debt repayment plan, and they counselled an unspecified number of debtors. (see NACP Activity Report, 2019, p.20 https://anpc.ro/wp-content/uploads/2022/06/Raport_ANPC_2019.pdf).

The second type of insolvency procedure is based on asset liquidation. The competent body for carrying out this procedure is the court. Relevant data in this respect is available online from the Ministry of Justice at <https://portal.just.ro/SitePages/acasa.aspx>. This website gives the number and object of all the cases filed with courts throughout Romania. According to the available data, a total of 289 insolvency procedures for individuals were filed between 2019 and 2022. This figure includes insolvency procedures per se, if they are based on asset liquidation, as well as disputes filed against the decisions made by the above-mentioned insolvency commissions.

The number of debtors who resort to the insolvency procedure or who get counselling in this regard is on the rise. However, the need for debt counselling is still not covered, as many Romanian consumers continue to struggle with excessive debt. The NACP has tried to address the issue by providing more counselling to those on the brink of insolvency (see <https://anpc.ro/persoanale-aflata-in-dificultate-financiara-pot-gasi-sprijin-la-anpc-prin-directia-de-insolventa-a-persoanaler-fizice/>).

The main purpose of the insolvency procedure is to aid the debtor, who is acting in good faith, to recover financially, to settle liabilities, and to pay off debt. The individual who resorts to this

procedure does not have the resources to pay their outstanding debt. The debtor is deemed insolvent 90 days after failure to pay one or several creditors.

Insolvency is considered a second-chance procedure for individuals. It entitles the debtor who is at the end of their rope to become free from residual debt. Once the insolvency procedure based on a debt repayment plan has been completed, all debt above the agreed-upon threshold is cancelled.

Furthermore, if the debtor does not have the resources to pay their outstanding debt and a debt repayment plan is not feasible, they may resort directly to the insolvency procedure that is based on asset liquidation. In this case too, the debtor is entitled to become free from residual debt, but only after a supervision period subsequent to the completion of the insolvency procedure.

In any case, debt counselling needs to be developed at a national level, as it aids people before they get into financial trouble because of excessive debt. This is important to help people develop a sense of responsibility with regards to debt, because debt forgiveness is not an everyday tool, but rather a last resort solution.

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