

The Challenges of Cross-Border Insolvency for Developing States - ROMANIA

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- The integration in the European Union is, since almost fifteen years now, Romania's main objective. From January 1st 2007, Romania is a member of the European Union.
- Romania has fulfilled the majority of the conditions in order to be accepted in the EU, but the efforts for the alignment to the demands of the European Community must be continued prioritising in the field of justice.



- Romania's efforts to modernize the legislation have begun a long time ago, and have been materialised in a complex program of PHARE programs:
 - **PHARE RO project – 9705(1999-2002) „Program for the development of the judicial system”**
 - **PHARE RO project – 9806.02(1999-2001) “The Ministry of Justice’s Project of institutional development”**
 - **PHARE RO project - 9905.01-01(2001-2002) – „The continuance of the assistance for the development of the National Institution of Magistracy and the Training Centre for Registrars”**
 - **PHARE project 2002/000-586.04.16(2003-2005) - „Assistance for the consolidation of the independency and functionality of the Romanian judicial system”**
 - **Technical assistance project PHARE RO 2002/000- 586.04.17(2004-2006) - „Support for the improvement and implementation of the legislation and jurisprudence regarding bankruptcy”**

- Achievements:

- **Law 85/2006 regarding the Procedure of Insolvency** - became effective July 20th 2006
- **Emergency Order of the Government nr. 86/08.11.2006** - the new regulation allowed practitioners in insolvency from the state members of the European Union and the Economical Space to develop their activity directly on Romanian territory
- **RECOM-online Program** - based on a subscription, offers all the information existent in the data base regarding the commercial societies, their headquarters, associates, administrators, social capital, modifications brought to the constitutional act, etc.
- **The Manual of Good Practices** actually contains two books:
 - Manual of Good Practices in Insolvency
 - Notions of Economics Applied to the Procedure of Insolvency

- **ECRIS program** allows the standardization of the activities and procedures, creating as well the possibility of their efficient administration.

ECRIS offers:

- **Transparency in the justice act** through the automatic publication of the information about the files on the Courts of justice's Web (<http://portal.just.ro>) and random distribution of the files without human intervention.
- **Standardization of the activities and procedures at a national level** using templates of documents, lists and a unique number for one file at national level.
- **Reduces the necessary time for registering the information about the files** standard procedures for registering the information, reusing the information registered and using templates of documents filling them before.
- **It prevents the loss or replacement of the information** through the storage of the electronic content of the documents.
- **Reports and statistics** online generation of standard or ad-hoc reports and statistics.
- **Efficiency, flexibility and optimization of the processes.** standard work screens, web interface, the possibility to integrate an electronic signature.

- 195 courts are publishing information about files on the Court's web.

– The Insolvency Procedures' Gazette :

- is an on-line program www.buletinulinsolventei.ro, accessible only with subscription;
 - from August the 1st 2006, all societies that are in insolvency are published on the Internet;
 - contains the list of economical agents in financial difficulty as well as all the acts of procedure done by the court of justice or by the judicial administrators or liquidators ;
 - facilitates the good running of the judicial and administrative formalities attached to the insolvency procedure, applicable to the debtors which find themselves in this state ;
 - quotes, meetings, notices, and other acts of procedure realized by the courts of justice as well as by the judicial administrators or liquidators are published, after the opening of the procedure of insolvency and it is functional since Law 85/2006 - regarding the insolvency procedure - became effective, respectively 20th of July 2006 ;
 - information contained here can be useful to the business world, investors from the financial-banking field, insurances, real estate values, as well as in the activity of the public institutions and authorities.
- The realization of this Gazette had an overwhelming importance because the creditors of the insolvency procedure may no longer have to study the file in the court's archive from the debtor's headquarters, but can follow on-line:
 - the status of the file ,
 - the notices and reports made by the practitioner in insolvency
 - the solutions pronounced by the syndic judge.

- We do not deny there is a lot more to be done, but the results of these efforts are materializing in figures as well: according to the National Bank of Romania, in the first half of 2007, Romania has attracted direct foreign investments of 2,965 billion euros.
- The fact that foreign investors have avoided us for a long time, due to an instable economical-judicial environment and the slow development of Romanian companies towards the European Union, is no secret.
- The most important component of the direct foreign investments attracted by Romania was represented by the interests at the share capital (over 45%), followed by the component of loans given by the mother company to the affiliated structures in Romania (33%) and the component of reinvested profit (over 20%).
 - The social capital subscribed by the foreign commercial societies was rising, at the end of last year to 2,434 billion euros, rising with 0,5% from last year .
 - In the first semester of this year, the social capital reached the value of 1,14 billion euros.
 - The number of new registered commercial societies with foreign participation at the social capital marked a rise of 31% compared to the similar period of last year.
- Romania, at this date, is prepared in every aspect to face a cross-border insolvency procedure.
- We still have one problem though: even if the law is effective since January 1st 2007, there is no case of cross-border insolvency in Romania.

- Considering Romania as a possible location for the development of their business, the foreign investors can take into consideration the following advantages offered by our country for the stimulation of foreign direct investments :
 - Advantages offered by the market and geographical position
 - Advantages of the resources
 - Political advantages
 - International relations advantages
 - Economical advantages
 - Advantages in the improvement of the infrastructure
 - Social advantages
 - Legislative advantages
- Romanian's transition from the normative stage of the integration - through reporting to the comunitary aquis regulations - to the Europeanization stage, by consolidating it's juridical-social-economic system, represents the biggest challenge of the 2005-2008 period.

We have our bankrupted, but we want yours too !



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