

BACKGROUND INFORMATION

DISCUSSION

**“THE RULE OF LAW IN INSOLVENCY PRACTICES:
FOR A HEALTHY ECONOMY”**

**PANEL DISCUSSION I:
INSOLVENCY AND THE RULE OF LAW**

Insolvency proceedings constitute an important part of the overall business environment. Fair, transparent and predictable insolvency proceedings contribute to a secure business environment, as well as promote economic growth and prosperity.

The insolvency system in Latvia has undergone substantial reforms over the past 8 years, ensuring general compliance with international best practices. However, the implementation of the regulatory framework in place is rather challenging, and the insolvency system is frequently abused, as surveys of entrepreneurs and a study conducted by FICIL and Deloitte indicate. The study shows that the abuse of the insolvency system in Latvia has caused losses in the amount of 600 million euros during the past 8 years. The inability of the relevant public institutions to effectively respond to illegal activities by individuals involved in insolvency proceedings is one of the most important aspects that has to be addressed.

The lack of the rule of law in insolvency proceedings seriously undermines Latvia's investment environment and long-term economic development. In order to prevent substantial losses to the economy and to approach the level of wealth of the OECD countries, the implementation of the relevant laws must be improved. This applies to the supervision of insolvency proceedings, the work of the judiciary, as well as the fight against economic crime.

The panel will discuss the following topics:

1. What are the reasons for the wide-spread and systemic abuse of the insolvency system, and why do the relevant public institutions fail to respond adequately?
2. What should be the role of the state in ensuring the rule of law in insolvency proceedings?
3. What are the short-term and long-term measures to be implemented in order to ensure the rule of law in insolvency proceedings?

**PANEL DISCUSSION II:
INSOLVENCY AS AN OPPORTUNITY TO SAVE A BUSINESS**

On restoring solvency:

International practice has shown that bailout of enterprises in financial distress allows creditors to recover a larger part of assets than in case of liquidation (bankruptcy). In order for a bailout to be successful, the following preconditions have to be in place: economic justification, legal tools, as well as mutual trust and close cooperation between company managers and creditors.

In 2008 Latvia introduced the enterprise restructuring procedure as a type of legal protection proceedings. Until now 1249 enterprises have resorted to these proceedings, but less than 1% of these companies have restored their solvency. The rest of enterprises have declared insolvency.

The low rate of successful bailouts can be attributed to wide-spread abuse of the legal protection proceedings, thus undermining the credibility of this tool in the eyes of creditors. The proceedings are often initiated with a delay, and in many cases they lack economic justification. Although the success of a bailout first and foremost depends on the entrepreneur in question, it is equally important to have appropriate state policies and tools in place. For instance, the regulatory framework, the judiciary and law-enforcement efforts in preventing the abuse of the legal protection proceedings, the cooperation of

the State Revenue Service as a creditor with enterprises in financial distress, state support in promoting the legal protection proceedings, and financial support for restructuring consultations for small and medium enterprises.

The panel will discuss the following topics:

1. What are the reasons for the low popularity and effectiveness of the restructuring procedures?
2. Does the existing regulatory framework provide for effective revitalisation of enterprises?
3. What measures should be taken to improve the effectiveness of the restructuring procedures?