



Republika e Kosovës
Republika Kosovo - Republic of Kosovo
Kuvendi - Skupština - Assembly

Law No. 05/L - 083

ON BANKRUPTCY

Assembly of the Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves:

LAW ON BANKRUPTCY

CHAPTER I
GENERAL PROVISIONS

Article 1
Purpose

1. This Law regulates the all matters related to bankruptcy and insolvency of business organizations, provisions for the protection, liquidation and distribution of the assets of a bankrupt debtor to its creditors, and for the reorganization and discharge of debt for qualified business organizations.

2. This Law sets forth the conditions and provisions for:

2.1. initiating and opening a bankruptcy proceeding for insolvent debtors;

2.2. bankruptcy proceedings and the conduct of bankruptcy proceedings;

2.3. the legal consequences of the opening and closing of a bankruptcy proceeding;

2.4. reorganization of a debtor in financial difficulties when there is likelihood of insolvency; and

2.5. the consequences of a discharge of debt for the debtor upon the successful completion of reorganization and liquidation as provided for by this Law.

3. This Law is partially in accordance with the EU Regulation 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings.

Article 2

Scope

1. This Law applies to all Business Organizations, as defined in the Law on Business Organizations or any other future Law.

2. This Law does not apply to:

2.1. institutions of the Republic of Kosovo;

2.2. any governmental unit;

2.3. financial institutions as defined in Law regulating Banks, Microfinance Institutions And Non-Bank Financial Institutions; and

2.4. insurance companies and insurance intermediaries as defined in the law regulating the Licensing of Insurance Companies and Insurance Intermediaries;

2.5. pension funds or providers of pension schemes licensed and regulated by the Central Bank of the Republic of Kosovo;

2.6. socially owned enterprises under the administration of Privatization Agency of Kosovo;

2.7. publicly owned enterprises as defined by the Law on Publicly Owned Enterprises or any other future Law.

Article 3

Terms and Definitions

1. Terms and definitions used in this Law shall have the following meaning:

1.1. **Administrative expense** - those claims which are incurred by the bankruptcy estate from and after the opening of the case, and which were actual and necessary costs and expenses of operating or preserving the estate;

1.2. **Administratively insolvent** - an insolvency proceeding in which there are insufficient assets to pay all administrative expenses and priority claims in full;

1.3. **Administrator** - an entity appointed under Chapter VII of this Law as the representative of the bankruptcy estate;

1.4. **Affiliate:**

1.4.1. any entity in which the debtor owns, directly or indirectly, at least twenty percent (20%) of the equity interests; or

1.4.2. any entity which owns, directly or indirectly, at least twenty percent (20%) of the debtor's equity interests.

1.5. **Bankruptcy estate** - all of the property, entitlements, and privileges held by the debtor as of the commencement of insolvency proceedings, and all property acquired by the bankruptcy estate from and after the commencement of insolvency proceedings, including all property interests held regardless of whether they are tangible or intangible, contingent or fixed, liquidated or unliquidated, movable or immovable, including the debtor's interests in encumbered property and in property in which third-parties also hold an interest. Such property includes but shall be not limited in:

1.5.1. all movable, immovable, tangible or intangible property, wherever located, whether in the custody of the debtor or third parties;

1.5.2. claims and legal actions of the debtor against third persons;

1.5.3. benefits from the actions that include the revenues collected from the dishonest or privileged transfers;

1.5.4. inheritance and other funds received within six (6) months of the petition submission date;

1.5.5. rent, income and proceeds generated from the use of the property of the estate or operation of the debtor's business; and

1.5.6. contractual rights, licenses, or other rights created or granted defined by the legal provisions into force;

1.6. **Burdensome property** - property that may have no value or an insignificant value to the bankruptcy estate or that are burdened in such a way that retention would require expenditures that would exceed the likely proceeds of realization of the property;

1.7. **Business activity** - any type of regular or repeated activity involving the offering, providing or producing of goods, services, property and/or works to or for any person or organization in return for or in expectation of any type of payment or compensation; provided, however, that an employee who provides services to his or her employer shall not be considered to be conducting “business activity” to the extent such services are required by and compensated pursuant to the employee’s contract of employment with the employer;

1.8. **Business organization** - a general terms which includes any type of business organization established in Kosovo in accordance with the law regulating the establishment and functioning of business organizations, such as a an individual business, general partnership, limited partnership, limited liability company, joint stock company and branches of foreign businesses;

1.9. **Claim** - a petition or a right to payment, whether arising from a debt, a statutory liability, a contract, or any other type of legal obligation, regardless of whether such obligation is liquidated or unliquidated, matured or unmatured, disputed or undisputed, secured or unsecured, fixed or contingent:

1.9.1. a liquidated debt is a debt that has an amount not subject to reasonable dispute. A debt as determined by a court decision is presumptively liquidated;

1.9.2. a matured debt is a contractual debt that by its terms has become presently due, whether by the passing of time or by selection of parties. Matured debts include demand obligations for which demand has been made and is an installment debt for which a party has accelerated all installments to become presently due;

1.9.3. a disputed debt includes a debt subject to litigation or arbitration;

1.9.4. a secured debt is the debts secured with pledge or mortgage;

1.9.5. a contingent debt includes a debt for which all aspects of liability have not yet occurred. Contingent debts include a debt on a guaranty for which the principal debtor is not in default, and a claim on a product warranty for a product that has not yet malfunctioned. A debt subject to litigation or arbitration is not contingent; it is unliquidated until the court renders its decision;

1.10. **Close relative** - any individual related by consanguinity or affinity within the second degree;

1.11. **Commencement of bankruptcy proceeding:**

1.11.1. in cases when the debtor voluntarily commenced the bankruptcy proceeding, the date the debtor has filed a petition at the court regarding the commencement of bankruptcy proceeding; or

1.11.2. in any other case, the date two or more creditors submit a petition to commence a case against a debtor qualified according to this Law;

1.11.3. in a voluntary case, the date of the commencement of bankruptcy proceeding is considered the date in which the court shall commence the bankruptcy proceeding;

1.12. **Consumer activity** - any use or acquisition of goods or services primarily for personal, family or household purposes. Investing or saving money or other valuable property is not consumer activity;

1.13. **Contact information** - at a minimum, sufficient information to allow written or electronic communication to an entity. Contact information includes valid mailing addresses, email addresses, or a telephone number. For legal persons, contact information includes the name, title or capacity of a person whom the legal person has identified (either in court proceedings or in a method easily ascertainable by the general public) as authorized to receive notices, or, if no such person has been identified, the name, title or capacity of a person who has authority to respond to the content of the communication. Whenever an entity is required to provide contact information in this Law, it must provide whatever information it has, and refrain from providing information it knows to be obsolete or incomplete. The obligation to provide contact information with a court order is also valid towards public entities, especially for the Kosovo Civil Registration Agency and any other public entity which may have in its disposal any contact information for the party;

1.14. **Court:**

1.14.1. the Commercial Department of Pristina Basic Court; or

1.14.2. if the context indicates otherwise, such a reference shall be to any court in the Republic of Kosovo;

1.15. **Creditor**- an entity that has a claim against the debtor that arose on or before the commencement of the bankruptcy proceeding;

1.16. **Creditors committee** – the representative body of creditors appointed in accordance with this Law, and having consultative and other powers as specified in this Law;

1.17. **Day**- any calendar day;

1.18. **Debtor** - the entity towards which there is initiated the bankruptcy proceeding under this Law;

1.19. **Debtor in possession** - the debtor in reorganization proceedings in cases when the court has not appointed a Bankruptcy Administrator;

1.20. **Disinterested person** - an entity that:

1.20.1. is not a creditor, an owner or member of the debtor; or a insider of the debtor;

1.20.2. is not and has not been a director, officer, or employee of the debtor within last two (2) years from the date of the filing of the petition for initiation of the bankruptcy proceeding;

1.20.3. does not have any direct material interest towards bankruptcy estate or through creditors or owners or shareholders of the debtor, and no other relation, for any reason, with the debtor;

1.21. **Entity** – a natural or legal person, government and independent agencies of the Republic of Kosovo;

1.22. **Equity holder** - the holder or title holder of property rights on shares or other similar property rights in a business organization, that may be shareholder, owner, partner or similarly;

1.23. **Equity Interest** - the property on the capital or other property right to shares or parts of a legal person or other business organization, holder of which there may be shareholder, owner, partner or similarly;

1.24. **Governmental body** – only the government, ministries, municipalities, independent agencies and any other unit established according to the Constitution and Laws into force in the Republic of Kosovo;

1.25. **Insider:**

1.25.1. an affiliate;

1.25.2. a individual who is a member of the management or governing body of the debtor or who is in the position of substantial control of the debtor;

1.25.3. a person with access to information which in general is not available to the general public, concerning the decision making and financial condition of the debtor; or

1.25.4. a close family member or close relatives of persons mentioned in subparagraph 1, 2 and 3 of this paragraph;

1.26. **Insolvency and/or “inability to pay”** - the financial state in which an entity is generally unable to pay its claims as they mature or when its probable liabilities exceed the likely value of its assets;

1.27. **Bankruptcy proceeding** - voluntary or obligatory bankruptcy proceeding commenced pursuant to this Law;

1.28. **Individual** - any physical person that is registered in accordance with legal provisions on business organizations;

1.29. **Lien** - any right in property, whether full or partial, whether in rem or otherwise, and whether owned by the debtor or otherwise, held by a creditor to secure payment or other performance of one or more of the debtor's obligations. Liens include mortgages, pledges and security interests;

1.30. **Liquidation** - proceedings designed to sell and dispose of the debtor's property for distribution to creditors in accordance with this Law;

1.31. **Legal person** - any organization, including any business organization that has, as a matter of law, a legal identity that is separate and distinct from its members, owners or shareholders;

1.32. **Opening the case:**

1.32.1. in a voluntary case, the date upon which the debtor voluntarily filed its insolvency petition with the court; or

1.32.2. in an involuntary case, the date upon which the court enters its decision on a creditors' involuntary petition;

1.33. **Ordinary course of business** - transactions and action that:

1.33.1. have been regular for the debtor prior to the filing of the bankruptcy claim; and

1.33.2. ordinary business terms in which the debtor does the business;

1.34. **Pari passu** - the principle according to which similarly situated creditors are treated and satisfied proportionately to their claim out of the bankruptcy estate available for distribution to creditors of their rank;

1.35. **Party in interest** - debtors, bankruptcy administrators, creditors, equity holders, creditor committees, and government units. Entities with remote or diffuse non-pecuniary interests are not considered parties in interest. Party in interest means any party:

1.35.1. whose pecuniary or monetary rights, obligations and other interests are affected by bankruptcy proceeding or particular matters in the bankruptcy proceeding; or

1.35.2. whose legal duties include monitoring or administering bankruptcy proceeding;

1.36. Protection of value - measures ordered by the court and directed at maintaining the economic value of encumbered property or property in which the debtor and a third party both hold an interest during the bankruptcy proceeding. The court may order the following relief as protection of value:

1.36.1. compensation by means of regular cash payments to the secured creditor equal to the decline in collateral value since the commencement of the bankruptcy proceedings, as well as compensation for actual or anticipated losses to the value of such collateral;

1.36.2. granting additional collateral of sufficient value to compensate for the decline in property value or compensation for losses;

1.36.3. delivery of proceeds generated from a sale, use, or lease of the collateral to the secured creditor, to the extent of its secured claim;

1.36.4. repair, maintenance, insurance coverage or physical security, as needed to remedy the problem;

1.36.5. other protective or compensatory measures as the court sees fit to protect the value of the secured creditor's collateral;

1.37. Prove or proof - when used in connection with a potential fact or state of affairs, means that the entity who bears the burden of proof must establish, by competent evidence, that it is more likely than not that the fact or state of affairs is true;

1.38. Reorganization - the process by which the financial well-being and viability of a debtor's business can be restored, jobs preserved, and the business continue to operate. Reorganization may use many take many different forms, including debt forgiveness, debt rescheduling, debt-equity conversions and sale of the business or parts of it as a going concern;

1.39. Secured claim - a claim for which the creditor has a lien registered at competent institutions (mortgage, pledge, lien);

1.40. Secured creditor - a creditor holding a secured claim;

1.41. Transfer - every manner, direct or indirect, of alienation, sale, exchange, grant, collection of means, availability, granting the pledge or mortgage, or other rights;

1.42. Unsecured claim:

1.42.1. a claim for which the creditor has no lien; or

1.42.2. if a creditor has a lien for its claim, that part of the claim representing the difference between:

1.42.3. the total amount of the claim; and

1.42.4. the value of collateral at the moment of the opening of the case;

1.43. **Unsecured creditor** - a creditor who holds an unsecured claim.

2. For the purpose of implementing Chapter IX of this Law, terms and notions in this Chapter shall have the following meaning:

2.1. **Foreign Court** - judicial bodies or other authority competent to control and supervise a foreign proceeding;

2.2. **Foreign proceeding** - a judicial or administrative proceeding in a foreign state, including an interim measure proceeding, pursuant to a Law treating the bankruptcy in which proceeding the assets and affairs of the debtor are subject to control or supervision by the foreign court with the purpose of reorganization or liquidation;

2.3. **Foreign main proceeding** - a foreign proceeding taking place in the foreign state where the debtor has the main centre of its activity;

2.4. **Foreign non-main proceeding** - a foreign proceeding, other than a foreign main proceeding, taking place in the state where the debtor has an establishment within the meaning of paragraph 1.6 of this Article;

2.5. **Foreign representative** - a person or body, including that one appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or to act as a representative of the foreign proceeding;

2.6. **Establishment** - any place where the debtor operates and carries out a non-transitory economic activity in selling the products or providing services.

Article 4

General principles of the Law on bankruptcy

1. In implementing and interpreting this Law, the court shall apply the general principles of the Law on bankruptcy, defined in this Article.

2. In liquidation proceedings, the court shall take steps to ensure that:

2.1. the bankruptcy estate representative seeks to maximize the overall return to all creditors;

2.2. all creditors of equal priority share in all distributions *pari passu*;

2.3. the debtor a legal person, shall not be the owner of its assets at the conclusion of the liquidation proceeding and shall be removed as active business from the registry of businesses with the designation “liquidated”;

2.4. the individual debtor shall not be the owner of its business assets administered in the bankruptcy proceeding, at the conclusion of the liquidation proceeding. The fact that the individual debtor has bankrupted shall be noted in the business registry in every new registration of a business by the debtor and close family members for five (5) years from the day of conclusion of the bankruptcy proceeding and the fact that the individual debtor has bankrupted shall be noted in the Credit Registry of the Central Bank of the Republic of Kosovo;

2.5. bankruptcy proceeding shall be an urgent proceeding;

2.6. there is not allowed any kind of suspension or interruption of bankruptcy proceeding.

3. In reorganization proceedings, the court shall take steps to ensure that the reorganization procedure, if successful will:

3.1. preserves or creates jobs; and

3.2. maintains or preserves asset values to the extent consistent with the reorganization.

4. In all proceedings, the court shall take steps to ensure that:

4.1. the obligations of debtors, and the rights and privileges of creditors, are not impaired or altered except as provided for in this Law;

4.2. the rights in rem of secured creditors or creditors with separate satisfaction shall not be impaired or altered except as provided for in this Law;

4.3. the bankruptcy estate representative, except as specifically provided for in this law, shall take all assets, tangible or intangible, subject to all rights, claims or obligations towards those assets, created as a result of other Laws;

4.4. in the case of a debtor who is an individual, only those assets used in, or pledged in support of, the debtor’s business may be liquidated to satisfy creditors’ claims;

4.5. subject to the provisions on reorganization, the opening of a case shall accelerate the maturity of all claims against the debtor which were unmaturing as of the date of the opening of the case; and

4.6. the principle of limited liability of shareholders of the limited liability company, limited partners in the limited partnerships and shareholders in the joint stock companies shall be respected in every case and owners, partners and shareholders shall not be liable for

the obligations of their companies except in cases when there exists a legal work, a guaranty or a special Law that regulates otherwise this matter.

Article 5

Rules of interpretation

1. When interpreting the words and definitions in this Law:

1.1. the word “includes” or “including” means “includes, without limitation,” and thus indicates an illustrative list, and not a complete list;

1.2. when the plural of a term defined in the singular appears, it takes the same meaning as the singular term; and

1.3. when there is mentioned the entity in feminine, masculine or neutral, it does not present any change and has the same meaning.

Article 6

Debtor of bankruptcy

1. Subject to paragraph 2 of this Law any Business Organization may be a debtor.

2. The following entities may not be a debtor under this law:

2.1. the Republic of Kosovo;

2.2. public Institutions;

2.3. any “Financial Institution” as defined in Law regulating Banks, Microfinance Institutions And Non-Bank Financial Institutions;

2.4. any “Insurance company” or “Insurance intermediary” licensed and regulated by the Central Bank of the Republic of Kosovo;

2.5. any “Pension fund” or pension fund provider licensed and regulated by the Central Bank of the Republic of Kosovo;

2.6. socially owned enterprises and enterprises under the administration of the Kosovo Privatization Agency;

2.7. publicly owned enterprises as defined by the Law on Publicly Owned Enterprises or a future Law.

Article 7
Bankruptcy Estate Representative

1. The bankruptcy estate representative shall:
 - 1.1. administer with all property of the bankruptcy estate;
 - 1.2. have the power to sue and be sued in the estate's name; and
 - 1.3. perform all duties specified in this law required to be performed by the bankruptcy estate representative.
2. In liquidation procedure, the bankruptcy Administrator shall be the bankruptcy estate representative.
3. In reorganization procedure, the debtor shall be the bankruptcy estate representative when acting as debtor in possession. In cases when the court appoints a bankruptcy Administrator, the Administrator should be the bankruptcy estate representative in reorganization.

Article 8
Jurisdiction of the court and legal remedies

1. Basic Court in Prishtina, Department for Commercial Matters shall be competent for the proceedings and review of the bankruptcy case and for all matters related to this Law.
2. The Court shall be composed of a single judge when proceeding a bankruptcy case.
3. Only one party in interest that is affected or aggrieved by a decision issued by the competent court shall have the right to appeal to the Court of Appeals of the Republic of Kosovo, Department for Commercial Matters.
4. Each party in interest shall have the right to appeal against the final decisions of the court that relate to final issues of the administration of the bankruptcy case, within seven (7) days from the day of receipt of the decision.
5. Unless the Court of Appeals decides otherwise, an appeal against a decision of the competent court does not interrupt any procedural action ordered by the competent Court.
6. Court of Appeals shall decide on the appeal within fifteen (15) days.
7. Use of extraordinary legal remedies shall not be allowed.

Article 9
Implementation of the Law on Contested Procedure

Provisions of the Law on Contested Procedure shall be applicable even to the bankruptcy proceeding, as long as they are not in contradiction with the provisions of this Law.

Article 10
Administration of Case

1. The court shall conduct the administration of the case through hearings, which shall be conducted on no more than seven (7) days from the day of the receipt of notice by the parties.
2. The court shall conduct a hearing when a party requests a decision, or when it is necessary for the administration of the case.
3. If a party receives notice of a hearing, and does not object to the hearing or to the relief requested by a party, or does not appear at any hearing, that party shall be deemed to have consented to the relief requested to the extent that the notice of the hearing includes notice of the type of relief requested.

CHAPTER II
EXPEDITED PROCEEDINGS FOR FACILITIES TO SMALL AND MEDIUM
ENTERPRISES (SME) AND FOR PRE-AGREED PLANS

Article 11
SME Definition

For purposes of this Law, Small and Medium Enterprise (hereinafter SME) shall be considered a business organization which has in annual turnover up to one million (1,000,000.00) Euro or has up to twenty-five (25) employees.

Article 12
SME Procedure

1. A case involving an SME debtor shall, unless specified in this Law to the contrary, be treated in all respects as a reorganization case.
2. In each SME case, the SME should file a reorganization plan within thirty (30) days from the day of initiation of bankruptcy proceeding.

3. If the debtor is an individual, then only the debtor may file the reorganization plan. If the debtor in a SME case is a legal person, then only the debtor may file a plan for the first thirty (30) days after the initiation of bankruptcy proceeding.

4. If a SME debtor's case does not produce a confirmed plan within sixty (60) of the opening of the case, the court shall dismiss the case upon the request of a party in interest.

Article 13 Monitor

1. In each case when an SME is a bankruptcy debtors, the court shall appoint a monitor.

2. The court may select the monitors from any eligible panel or listing of Administrators.

3. The court shall consider the monitor a professional person, and the monitor may apply for compensation from the estate as provided in Chapter IV of this Law.

4. After appointment, the monitor shall consult with the debtor regarding the debtor's business, its prospects, and its ability to formulate a plan that creditors will accept.

5. A monitor shall review each plan a SME debtor files to determine whether it proposes an economically feasible plan. The review may occur before or after the debtor files the plan with the court.

6. If the debtor intends to solicit votes on any plan, it shall inform the monitor of that decision, and the monitor shall then have ten (10) days in which it may file with the court a report containing the monitor's opinion on the feasibility of the plan.

7. If a monitor does not file a report according to paragraph 4 of this Article, the court shall consider that the monitor has agreed for the plan.

Article 14 SME Relief

1. An SME debtor may confirm a plan without meeting all the requirements of Chapter VI of this Law if the court finds each of these conditions are satisfied:

1.1. within ten (10) days from the initiation of bankruptcy proceeding, it files at the court a written request for the implementation of Chapter II of this Law;

1.2. the monitor appointed under this Chapter has filed at the court a report on the feasibility of the plan and the report has been delivered to all parties in interest before the commencement of voting procedure;

1.3. it has been delivered to all creditors affected by the plan for voting, and that the plan has been approved by:

1.3.1. seventy-five percent (75%) of all classes of secured creditors; and

1.3.2. at least 33.33% of all unsecured creditors vote in favour of plan;

1.4. The court concludes the plan is feasible when:

1.4.1. if the monitor has not submitted a report, then Article 13 of this Law applies;

1.4.2. at least fifty percent (50%) of all unsecured creditors voting on the plan accept the plan;

1.4.3. in all other cases, the debtor must prove that the plan is feasible;

1.4.4. or when all secured creditors who vote for reorganization approve the plan.

1.5. the debtor proves that the plan will pay all impaired creditors no less than they would have received had the debtor filed a liquidation case.

Article 15 SME Discharge

A SME debtor shall receive a discharge upon confirmation of its plan. A discharge under this Article shall have the same effect on claims against the SME debtor as would a discharge under Chapter VI of this Law.

Article 16 Pre-Agreed Plan Definition

A debtor may solicit its creditors for debt relief before commencement of bankruptcy proceedings. If the information given creditors in any such solicitation would have complied with the disclosure requirements of Chapter VI of this Law then that debtor may use the provisions of Article 17 of this Law to confirm its plan.

Article 17 Procedure for Approval of Pre-Agreed Plan

1. A debtor which has provided the votes of its creditors on a plan of reorganization before the filing of the bankruptcy claim may, at its choice, immediately request from the court the confirmation of the plan in hearing session. The request for confirmation of the plan shall be done immediately with the request on commencement of bankruptcy proceeding.

2. If a debtor makes such a request, the court shall hold an expedited hearing at which it shall determine whether the debtor's pre-filing solicitation of votes was accompanied by disclosure of information that would have been required by Chapter VI of this Law.

3. If the court determines that during the procedure before the initiation of the bankruptcy case, the debtor have given the required information to the creditors according to Chapter VI of this Law, and the conditions are fulfilled, the court shall immediately proceed with the confirmation of the plan if there is determined that the conditions on the confirmation of the plan according to Chapter VI of this Law have been fulfilled.

4. If the court determines that during the procedure before the initiation of the bankruptcy case, the debtor has not given the information required by Chapter VI of this Law, the court shall issue the ruling on denying the confirmation of the reorganization plan and the debtor shall proceed with its bankruptcy proceeding as there would not have existed at all the pre-agreed plan.

CHAPTER III INITIATION OF THE PROCEDURE AND OPENING OF A CASE

Article 18 Opening of a Case

1. A case is opened when:

1.1. the debtor files a voluntary petition for either liquidation or reorganization; or

1.2. an involuntary petition is filed against the debtor and, after a hearing on notice to the debtor; the court shall issue a ruling finding that the petition meets all of the requirements of this Law.

Article 19 Voluntary Cases Opened by a Debtor

1. For voluntary initiation of a case, a debtor files either a petition in reorganization or a petition in liquidation.

2. A debtor does not need to be insolvent to be eligible to be a debtor under this law.

3. If a debtor files a petition for an improper purpose or in a manner intended to deceive, defraud or subvert the creditors, the court may fine the debtor or individual members of the debtor's management or governing body.

4. It is considered that a debtor has filed its petition for an improper purpose or with the intent to deceive or cause damage to creditors according to paragraph 3 of this Article, if a debtor:

4.1. files a case without listing its name properly;

4.2. does not list all prior material names under which it has conducted business;

4.3. does not list a material creditor and that creditor does not therefore receive knowledge of the proceeding; or

4.4. provides fraudulent information in any phase of the procedure or tries to manipulate the procedure in any way.

5. The Court shall impose fines to the debtor for cases foreseen in paragraph 4 of this Article, amounting from five hundred (500) to ten thousand (10,000) Euro, and such fines shall be paid to the Budget of the Republic of Kosovo.

Article 20

Involuntary Cases May Be Commenced by Creditors

1. Two (2) or more creditors may submit a petition to commence a case against an eligible debtor when:

1.1. that debtor has failed to pay a debt due to each of the petitioning creditors, and

1.1.1. each debt has been due and payable for at least ninety (90) days;

1.1.2. the total amount of the debt due is at least three thousand (3,000) Euro in amount; and

1.1.3. each debt is not conditional or subject to pending court proceeding or an ongoing arbitration; and

1.2. The debtor is generally not paying its debts as they become due, and the total of unpaid debts exceeded five thousand (5,000) Euro.

2. The court should promptly notify the debtor within three (3) days of the filing of the petition for initiation of the bankruptcy proceeding. The court should also set the term by which the debtor may respond to the petition and a hearing session on acceptability of the petition. The court should present all these information in the notice delivered to the parties. In the interim, the court shall issue and order to the parties with the purpose of protection of the petitions of debtor and creditors. Such order should be required and proved as necessary by the parties.

3. If the debtor responds to the petition for initiation of the procedure and its response does not object to the petition, the court shall promptly issue a ruling on the acceptability of the petition and orders the opening of the case.
4. If the date set for a hearing on the admissibility of the request to initiate bankruptcy proceedings:
 - 4.1. if the debtor has not responded to the petition, the court shall promptly enter a decision opening the case;
 - 4.2. if the debtor has objected to the petition, the petitioning creditors shall bear the burden of proving that:
 - 4.2.1. the claims owed to them by the debtor qualify them as petitioning creditors;
and
 - 4.2.2. that the debtor is not generally paying its valid claims as they become due.
5. If the petitioning creditors succeed in bearing their burden of proof as set forth in the preceding Article, the court shall promptly enter a decision opening the case.
6. If a court does not order the opening a case after creditors have filed a petition for initiation of the bankruptcy proceeding, and the court separately finds that the creditors, or any of them, submitted the petition in bad faith or for an improper purpose, the court shall order the creditors, jointly and severally, to pay damages to the debtor to compensate it for any loss. The court in the justification of the ruling shall ascertain the reasons of non-opening of the case and eventual order for compensation. With the purpose of interpreting this paragraph, the purpose of creditors to provide a payment towards their petition can not be considered an improper purpose or their action in bad faith.

Article 21

Rejection of Petition

1. The court rejects as unacceptable the request to initiate bankruptcy proceedings if:
 - 1.1. the court lacks jurisdiction;
 - 1.2. the debtor is not eligible to be a debtor under this Law;
 - 1.3. the debtor is already subject to bankruptcy proceeding;
 - 1.4. any entity filing the petition lacks the capacity to act, unless creditors filed the petition, and there are at least two (2) remaining competent petitioning creditors after removing the disqualified petitioning creditor; or

1.5. the entity filing the case has not paid the filing fees required by applicable law, or is not subject to an exception provided by the Court or under rules promulgated by the Kosovo Judicial Council.

Article 22

Form and Registration of Petition

1. Petitions under this Chapter may be on forms promulgated according to Chapter I of this Law, but if there are no such forms, such petitions must contain at least the following information:

1.1. the debtor's name, and all names under which the debtor has conducted business in the five years preceding the date on which the petition is filed;

1.2. the debtor's contact information, which at a minimum must include its address, telephone number or numbers, fiscal identification number, business registration number, email addresses and any web site address for any web site it maintains; and

1.3. if the debtor is a legal person, all known officers, directors, members, managers or any other entity with managerial or other control over the debtor's property, along with the contact information for each such entity required by the previous sub-paragraph.

2. Petitions filed by a creditor or a group of creditors shall include as much information about the debtor as is known by such creditor or creditors, but at a minimum shall include the debtor's name and sufficient contact information to give the debtor notice of the proceeding.

3. The court shall register a petition immediately upon its receipt. The court shall register the petition regardless of any defect and shall indicate the time and date of receiving the petition on its face.

4. The court shall notify the business registry, the pledge registry, commercial banks, credit registry of the Central Bank and the tax administration regarding the initiation of a bankruptcy proceeding.

Article 23

Treatment of Cases Involving Related Entities – Consolidation

1. The court shall order a joint administration of cases, in those cases when two (2) or more petitions are filed at the court by or against:

1.1. a husband and wife;

1.2. a general or limited partnership and one or more of its general partners;

1.3. two (2) or more general partners; or

- 1.4. a debtor and an affiliate, then the court may order a joint administration of the estates.
2. A joint administration decision of the court may contain such provisions as the court may consider necessary or desirable to ensure the efficient administration of the bankruptcy proceeding, provisions for common dockets, joint hearings, combined notice lists and any other provision that the court believes will tend to avoid unnecessary cost or delay.
3. Prior to entering a decision of joint administration, the court shall consider ways to protect creditors of different estates against potential conflicts of interest.

Article 24 Filing Fees

Each entity submitting a petition to the court shall, unless otherwise provided for in a court decision or by court rule, also provide the clerk of the court with the filing fee established by Law. If no filing fee is provided, and no valid exemption applies, the Court shall act in accordance with the applicable laws.

CHAPTER IV LEGAL CONSEQUENCES UPON OPENING A CASE

Article 25 Legal Consequences of Opening a Case

1. The opening of a case:
 - 1.1. creates the bankruptcy estate;
 - 1.2. confers the court with exclusive jurisdiction over the bankruptcy estate and over the debtor;
 - 1.3. operates as a stay of proceedings, as set forth in the next Article;
 - 1.4. in a liquidation case, divests the debtor of control of all its property;
 - 1.5. in a reorganization case in which an Administrator is not requested, vests in the debtor all of the powers and duties of a debtor in possession; and
 - 1.6. in a reorganization case in which an Administrator is requested, divests the debtor of control of all of its property and vest control in the Administrator.
2. Upon opening of a case, the court shall:

- 2.1. within two (2) days notify the business registry, the pledge registry, commercial banks, the credit registry at the Central Bank and the tax administration of the case's opening. The form of notice must be in writing. Upon receipt of notification, the business registry, pledge registry, commercial banks, credit registry and tax administration shall note the opening of the case in the registries;
 - 2.2. publish the notification in Court's table of notices and in at least two (2) daily newspapers.
 - 2.3. if a liquidation case, appoint an Administrator in accordance with this law;
 - 2.4. set the time, date, and place of the first meeting of creditors for a date not later than fifteen (15) days after the opening of the case; and
 - 2.5. issue a notice of the Administrator's appointment and of the date, time, and place of the first meeting of creditors.
3. The court may set a preliminary court hearing ten (10) days after the scheduled first meeting of creditors to determine the case status and the results of the meeting of creditors. The court orders the debtor, or its authorized representative, to attend.

Article 26

Imposition of a Stay of All Actions against Debtor

1. Except as provided in this Law, a petition filed for initiation of bankruptcy procedure initiated under Chapter III of this Law shall operate as a stay and injunction, without notice, applicable to all entities, of each of the following:
 - 1.1. the commencement or continuation of any aspect of a judicial, administrative, or other action or proceeding related to the debtor's business activities against the debtor or its property including any freezing or locking of any bank accounts and that was or could have been commenced before the opening or commencement of the case;
 - 1.2. the enforcement, against the debtor or against property of the bankruptcy estate, of a judgment obtained before the opening or commencement of the case to the extent related to the debtor's business activities;
 - 1.3. any act to obtain possession of property of the bankruptcy estate or of property from the estate or to exercise control over property of the bankruptcy estate;
 - 1.4. any act to create, perfect, or enforce any lien against property of the bankruptcy estate;
 - 1.5. any act to create, perfect, or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before the commencement of bankruptcy proceeding, and to the extent it relates to the business activities of the debtor;

1.6. any act to collect, assess, or recover a claim against the debtor to the extent that it relates to the debtor's business activities and to the extent that such claims arose before the commencement of bankruptcy proceedings; and

1.7. the setoff of any claim owing to the debtor and related to the debtor's business activities that arose before the commencement of bankruptcy proceeding against any claim against the debtor.

Article 27 Exemptions from Stay

1. The commencement of bankruptcy proceedings under this Law does not operate as a stay or injunction against any of the following:

1.1. the commencement or continuation of a criminal action or proceeding against the debtor;

1.2. the commencement or continuation of any action or proceeding against an individual debtor related to any domestic or family matter, including, without limitation, any proceedings in or related to divorce except to the extent such action seeks to divide or allocate property used for business activities to satisfy or pay nonsupport debt or to effectuate a property settlement, for paternity, or for child or spousal support;

1.3. regulatory proceedings or actions with regard to the prevention or remediation of violations of health, safety, and the environment;

1.4. an audit or financial control by the tax administration to determine but not enforce a tax liability;

1.5. actions or proceedings filed against third parties which relate to any claim against the debtor, including, without limitation, actions against any entity which guaranteed any claim against the debtor or its property or against a general partner of a debtor that is a general or limited partnership;

1.6. the presentment but not the payment of a negotiable instrument and the giving of notice of and protesting dishonor of such an instrument;

Article 28 Limited Duration

1. The stay provided by this Law shall expire one hundred and twenty (120) days after the opening of a case, or after the debtor receives a discharge, whichever first occurs, unless extended as provided by this law.

2. The stay may be extended beyond one hundred and twenty (120) days, but only if the court finds that the bankruptcy estate representative has met the burden of establishing, by proof, the need for further time to effectuate the purposes of this law. In no event, however, may the stay extend beyond one (1) year after the opening of a case.

3. During the pendency of the stay provided by this Law, all limitation periods for legal actions against the debtor that are prohibited by the stay shall be suspended. The running of such periods of limitations shall resume when the stay no longer applies.

Article 29 Termination or Modification of Stay

1. At the request of a party in interest, the court may terminate, modify, condition, annul, or amend the stay provided by this Law before it expires in any of the following circumstances:

1.1. the debtor fails to provide any protection of value that the creditor proves was validly and reasonably requested by the creditor to protect its lien; or

1.2. the creditor proves that the amount secured by the lien exceeds the value of the property subject to the lien, and that either:

1.2.1. the case is a liquidation case; or

1.2.2. the bankruptcy estate representative fails to prove that the property subject to the lien is necessary to an effective reorganization under the law.

2. Upon request of a party in interest, the court, with or without a hearing, shall grant such relief from the stay provided by this Law as is necessary to prevent irreparable damage to the interest of an entity in property, if such interest will suffer such damage before there is an opportunity for notice and a hearing under this Article.

Article 30 Duties of Debtor

In addition to the specific disclosure requirements pursuant to Article 32 of this Law and cooperation requirements set in this law, the debtor shall have an overriding duty of good faith and complete disclosure when undertaking compliance with this law. The debtor shall not be allowed to provide any information to the court or to creditors that is false or misleading, or omit to provide any information if the omission of that information would tend to make the information provided misleading or inaccurate.

Article 31
Presentment of information

1. If a debtor files the petition in bankruptcy, the debtor shall also concurrently file:
 - 1.1. a list of all known creditors, together with their contact information for each of them;
 - 1.2. a list of all known claims against the debtor, together with the amount of the claim, the approximate date it was incurred, and whether the claim is disputed, contingent, or unmatured;
 - 1.3. a list of all the debtor's assets, together with a good faith estimate of the value of each such asset. If an asset is tangible, the debtor shall indicate where the asset can be found; if the asset is intangible, the debtor shall indicate the obligor, if any, related to the asset and the obligor's contact information;
 - 1.4. a list of all transactions out of the ordinary course of business, to which the debtor was a party or from which the debtor benefited, made or transacted within the two years preceding the commencement of bankruptcy proceedings. With respect to each such transaction, the debtor shall also indicate the date of the transaction, and the identity and contact information of all parties to the transaction (along with an indication of whether any such party is an insider); and
 - 1.5. a list of all transactions involving the exchange of value more than nine hundred and ninety-nine (999) Euro , to which the debtor was a party or from which the debtor benefited, made within the year preceding the commencement of bankruptcy proceeding. With respect to each such transaction, the debtor shall also indicate the date of the transaction, and the identity and contact information of all parties to the transaction along with an indication of whether any such party is an insider.
2. If creditors file a bankruptcy petition, they must also file with the petition as much of the information required by the previous paragraph of this Article as they know or can reasonably ascertain.
3. If a creditors' bankruptcy petition for opening of a bankruptcy case is accepted by the Court, the debtor is obliged shall provide the Court with all the information in paragraph 1 of this Article within ten (10) days of the opening of the case.
4. In case the reasonable consequences exist, the court may extend the term foreseen in paragraph 3 of this Article for another ten (10) days.
5. All lists and information required to be filed by this Article shall be a matter of public record and available to the public, although the court may, upon request of the debtor, seal or prevent the disclosure of such information as the debtor may prove to be:

- 5.1. trade secret or other confidential research, development, or commercial information, the disclosure of which would tend to reduce the value of property of the bankruptcy estate;
- 5.2. scandalous or defamatory materials; or
- 5.3. should be kept confidential according to an applicable Law.

Article 32 Cooperation

The debtor shall cooperate with the Administrator in all matters, and shall provide without delay access to all documents and information concerning the debtor's activity and resources, including all information regarding the claims, property, and transactions disclosed in the previous Article.

Article 33 Sale and Use of Assets

1. The bankruptcy estate representative may not make any transfer on account of or in satisfaction of any claim that arose before the commencement of bankruptcy proceedings except as may be authorized by the court or this Law.
2. According to the conditions set paragraph 1 of this Article, the bankruptcy estate representative may sell, use, or lease property which is part of the bankruptcy estate in the ordinary course of business, if the sale, use or lease of that property is a part of ordinary course of business, without the need to obtain court approval.
3. With court approval, the bankruptcy estate representative may sell, use, or lease property of the bankruptcy estate out of the ordinary course of business.
4. Subject to the provisions of this paragraph, the bankruptcy estate representative may sell estate property in which an entity other than the estate has an interest:
 - 4.1. any sale of property of the bankruptcy estate in which an entity other than the debtor or the estate holds an interest is conditioned upon the estate's proof that it has provided protection of value to such non-debtor;
 - 4.2. unless the court for cause orders otherwise, if the bankruptcy estate representative proposes to sell estate property in which another entity holds a lien, the estate must permit the entity holding the lien to bid at such sale, and, if the holder of such claim purchases such property, such holder may offset such claim against the purchase price of such property.

5. The bankruptcy estate representative may sell property of the bankruptcy estate so that the buyer takes it free and clear of any interest in such property of an entity other than the estate, but only if the bankruptcy estate representative proves:

- 5.1. applicable legislation permits sale of such property free and clear of such interest;
- 5.2. such entity consents;
- 5.3. such interest is a lien and lien holder's interest in such property attaches to the proceeds of sale; or
- 5.4. such interest is in bona fide dispute.

Article 34 **Post-Filing Financing of the Bankruptcy Estate**

1. Unless the court orders otherwise, the bankruptcy estate representative may obtain unsecured credit and incur unsecured debt in the ordinary course of business allowable as an administrative expense.

2. The court may authorize the bankruptcy estate representative to obtain unsecured credit or to incur unsecured debt other than under paragraph 1 of this Article which is allowable as an administrative expense.

3. If the bankruptcy estate representative is unable to obtain unsecured credit allowable as an administrative expense, the court may authorize the obtaining of credit or the incurring of debt as an administrative expense:

- 3.1. with priority over any or all administrative expenses;
- 3.2. secured by a lien on property of the bankruptcy estate that is not otherwise subject to a lien; or
- 3.3. secured by a lien on property which is part of the bankruptcy estate that is secured previously a lien, provided that the new lien not to have priority towards the existing lien.

4. Any credit extended in accordance with this Article shall not be declared void, voidable or unenforceable as an act detrimental to the general body of creditors at any later time.

Article 35 **Contracts with Performance Still Due by Both Parties**

1. Unperformed contracts referred to in this Article are those contracts of the debtor which, at the time of the opening of the case, have been unperformed by both the debtor and non-debtor party

to the contract that the non-performance by either party would constitute a breach according to applicable Law in Kosovo.

2. The bankruptcy estate representative shall accept, reject, or assign an unperformed contract.

3. The bankruptcy estate representative must obtain court approval of its decision to accept, reject, or assign any unperformed contract. The court shall approve the bankruptcy estate representative's decision if the bankruptcy estate representative proves that the decision was made in the exercise of the bankruptcy estate representative's good faith business judgment, and that all other requirements of this article have been met.

4. If the bankruptcy estate representative:

4.1. accepts an unperformed contract, the estate becomes liable for all performance obligations under the contract, and any liability under the contract shall be an administrative expense; and

4.2. rejects or assigns an unperformed contract, the bankruptcy estate is no longer liable for any future performance obligations under the contract, and any liability under the contract shall be treated as if it arose immediately before the opening of the case. A rejection is only a breach of the unperformed contract; it does not rescind or otherwise invalidate it.

5. The estate may assume or assign an unperformed contract under which the debtor was in default only if the estate promptly:

5.1. cures the default;

5.2. compensates the non-debtor party for any damages or injury that party sustained due to such default; and

5.3. provides proof of adequate assurance of any future unperformed obligations under the contract.

6. The estate may not assume or assign a contract if:

6.1. the contract was, or contained as a material part, a promise to make a loan or other financial accommodation;

6.2. an applicable law excuses a party, other than the debtor, from accepting performance from or rendering performance to an entity other than the debtor or the debtor in possession, and the non-debtor party does not consent to the assumption or assignment.

7. Any provision in an unperformed contract or applicable law that provides that a non-debtor party to the unperformed contract may terminate or modify it solely because of a provision in such unperformed contract that is conditioned on

7.1. the insolvency or financial condition of the debtor at any time before the closing of the case or

7.2. the commencement of bankruptcy proceedings under this law, shall not be effective against the estate or the bankruptcy estate representative.

8. Any provision in an unperformed contract or applicable law that prohibits, restricts, or conditions the debtor's assignment of the unperformed contract shall not be effective against the bankruptcy estate representative.

9. If the unperformed contract is a lease of real property or a license of intangible property, and the debtor is the lessor or licensor, then the non-debtor party, upon any rejection, shall have the option to continue in possession, or continue to use, the object of the unperformed contract.

10. Continued use or possession, however, shall be conditioned on the non-debtor's performance of its obligations under the rejected contract, such as the obligation to pay rent or a license fee.

11. The bankruptcy estate representative, however, shall be not be required to perform any unperformed obligations under such rejected unperformed contract, and the non-debtor party may offset any damages it may incur due to the rejection against any obligations it retains under the unperformed contract.

12. The bankruptcy estate representative shall make the determination to accept or reject an unperformed contract by the earlier term after the confirmation of a reorganization plan until the latest deadline that is the time before the closing of the case.

Article 36

Abandonment of Burdensome Assets to bankruptcy estate

1. Upon request of the bankruptcy estate representative, the court may allow the bankruptcy estate representative to abandon, to any party with an interest, any burdensome property.

2. On request of a party in interest, the court shall order the bankruptcy estate representative to abandon any burdensome property to bankruptcy estate.

3. Unless the court orders otherwise, any property scheduled by the debtor under Chapter IV of this Law and which is not otherwise administered at the time of the closing of a case is abandoned to the debtor.

4. Unless the court orders otherwise, property of the bankruptcy estate that is not abandoned under this Article and is not otherwise subject to disposition under the terms of this law remains property of the bankruptcy estate.

Article 37
Avoiding Power

The bankruptcy estate representative shall have the power to avoid transactions made, and recovery property transferred, before the commencement of bankruptcy proceeding in accordance with Articles 38,39,40,41,42,43,44 of this Law. For purposes of this law, avoidance is the setting aside or nullification of a transaction such that it is retroactively ineffective and that the transferee legally acquired nothing as a result of the transfer.

Article 38
Turnover

1. The bankruptcy estate representative shall have to power to recover by action, or to demand and receive the turnover of, any property of the bankruptcy estate held as of the opening of the case by an entity other than the debtor.
2. Any entity in possession or control of property of the bankruptcy estate shall deliver to the bankruptcy estate representative, and account for, such property or the value of such property, subject to the representative of the estate providing protection of value.
3. An entity that owes a debt that is property of the bankruptcy estate and that is matured, payable on demand, or payable on order, shall pay such debt to, or to the order of, the bankruptcy estate representative.

Article 39
Preferences

1. Subject to the defenses set forth in paragraph 3 of this Article, the bankruptcy estate representative may avoid a transfer to the extent it:
 - 1.1. was made before commencement of bankruptcy proceeding;
 - 1.2. was made to a creditor or for the benefit of a creditor such as payment that had the effect of reducing the exposure on a guaranty on account of a debt that was incurred before the transfer;
 - 1.3. was made while the debtor was insolvent;
 - 1.4. was made within one hundred and twenty (120) days of the commencement of bankruptcy proceeding, however, that if the transferee was an insider, it was made within three hundred and sixty-five (365) day period of the commencement of bankruptcy proceeding; and

- 1.5. enabled the transferee to receive more from the debtor and bankruptcy estate than it would have had the transfer not been made and the transferee had received only a dividend in a liquidation case.
2. The transfer shall not be qualified according to paragraph 1 sub-paragraph 1.5 of this Article, if it was made:
 - 2.1. to a secured creditor at a time when the value of its collateral was more than the amount of the secured creditor's claim;
 - 2.2. to a creditor holding a secured claim whose collateral is worth less than its total claims, but only to the extent that the amount of the transfer exceeded the value of the difference between the creditor's total claims and the value of the creditor's collateral; and
 - 2.3. to a creditor with priority of payment over general unsecured creditors to the extent that the estate is not administratively insolvent.
3. A creditor has a complete defense to an action seeking to avoid a transfer under paragraph 1 of this Article to the extent that:
 - 3.1. the transfer was made in the debtor's ordinary course of business;
 - 3.2. the transfer was a lien, and lien was given to enable the debtor to acquire the property subject to the lien; or
 - 3.3. the transfer was in the nature of court-ordered or approved child or spousal support, or court-ordered restitution.
4. For purposes of this Article:
 - 4.1. the debtor shall be presumed to be insolvent during the one hundred and twenty (120) day period before the commencement of bankruptcy proceeding; and
 - 4.2. the bankruptcy estate representative must prove the existence of all of the elements of paragraph 1 of this Article.
5. The creditor must prove the entitlement to a defense under paragraph 3 of this Article in order to establish its defense.

Article 40
Fraudulent or Uncommercial Transfers

1. The bankruptcy estate representative may avoid a transfer or an obligation of the debtor to the extent that it:

1.1. was made by the debtor with the intent to hinder, delay, or defraud creditors within two (2) years from the commencement of bankruptcy proceedings.

1.2. was made for less than reasonably equivalent value while the debtor:

1.2.1. was insolvent; or

1.2.2. had insufficient capital or reserves to pay reasonably anticipated obligations; and

1.2.3. was made within two (2) years of the commencement of the bankruptcy proceeding.

2. A transferee of a transfer or an obligee on an obligation that takes for value and in good faith has a lien on or may retain any interest transferred or may enforce any obligation incurred, as the case may be, to the extent that such transferee or obligee gave value to the debtor in exchange for such transfer or obligation.

3. For purposes of this Article, “value” means property, or satisfaction or securing of a present or antecedent debt of the debtor, but does not include an unperformed promise to furnish support to the debtor or to a close relative of the debtor;

Article 41

Improper or Incomplete Security Interests or Mortgages

1. The bankruptcy estate representative may avoid any creditor’s lien if:

1.1. an applicable law requires the registration of the lien in any public registry; and

1.2. the creditor had not, as of the commencement of bankruptcy proceeding, taken all steps necessary to provide such notice.

Article 42

Status of Execution Creditor

The bankruptcy estate representative shall have the status of a supposed execution creditor from the moment of commencement of the bankruptcy procedure, and shall have the supposed priority with respect to the claims of all creditors to the same extent as the debtor would have if he would not have commenced the bankruptcy proceeding.

Article 43
Unauthorized Transfers after the Filing of the petition for bankruptcy

1. Except as provided in sub-paragraph 1.2 of this Article, the bankruptcy estate representative may avoid a transfer of property of the bankruptcy estate:

1.1. that occurs after the commencement of bankruptcy proceeding; and

1.2. that was not authorized under this Law or by the court;

1.3. in a case commenced by creditors, the bankruptcy estate representative may not avoid a transfer made after the commencement of bankruptcy proceeding but before the case is opened to the extent the transferee gave any value in exchange for such transfer.

Article 44
General Defenses

1. To the extent that a transfer is avoided under this law, the bankruptcy estate representative may recover, for the benefit of the estate, the property transferred, or, if the court so orders, the value of such property, from:

1.1. the initial transferee of such transfer or the entity for whose benefit such transfer was made; or

1.2. any transferee of such initial transferee, or anyone whose title to the property traces to or derives from the transfer to initial transferee.

2. The bankruptcy estate representative may not recover under sub-paragraph 1.2 of paragraph 1 of this Article from:

2.1. a transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith, and without knowledge that the transfer could be avoided under this Law; or

2.2. any good faith transferee of such transferee.

3. A good faith transferee from whom the bankruptcy estate representative may recover under paragraph 1 of this Article has a lien on the property recovered to secure the lesser of:

3.1. the cost, to such transferee, of any improvement made after the transfer, less the amount of any profit realized by or accruing to such transferee from such property; and

3.2. any increase in the value of such property as a result of such improvement, of the property transferred.

4. The bankruptcy estate representative is entitled to only a single satisfaction under paragraph 1 of this Article.

Article 45 Compensating Professionals

1. After notice to the parties in interest the court may award to a professional person employed under this Law:

1.1. reasonable compensation for actual, necessary services rendered by the professional person, or by any paraprofessional person employed by any such person; and

1.2. reimbursement for actual, necessary expenses.

2. The court may, on its own motion or on the motion of any party in interest, award compensation that is less than the amount of compensation requested by the professional person.

3. In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including:

3.1. the time spent on such services;

3.2. the rates charged for such services;

3.3. whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a bankruptcy proceeding;

3.4. whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed; and

3.5. whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this Law. The compensation of professionals may not be reduced because creditors may not be paid in full.

4. The court shall not allow compensation for:

4.1. unnecessary duplication of services; or

4.2. services that were not reasonably likely to benefit the bankruptcy estate or were not necessary to the administration of the case.

5. If the court grants the professional person's request for fees and reimbursements, the amounts so approved shall be administrative expenses.

CHAPTER V CREDITORS' CLAIMS

Article 46 Acceleration of Maturity of All Claims

The opening of a case shall accelerate the maturity of all unmatured claims to the date the case was opened.

Article 47 Definition of Secured Claim

1. A claim is a secured claim only to the extent of the value of the collateral securing its repayment.
2. To the extent that a creditor's claim exceeds the value of the creditor's collateral, the creditor holds an unsecured claim for the excess.
3. If a party in interest disputes the amount of a secured claim the court:
 - 3.1. shall value a creditor's collateral as of the opening of the case;
 - 3.2. shall determine such value in light of the purpose of the valuation and of the proposed disposition or use of such collateral;
 - 3.3. may determine the value in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest.

Article 48 Setoff of claims

1. After the commencement of bankruptcy proceedings, a creditor may set off a claim against the debtor with a claim it owes the debtor only as provided in this Article.
2. Other than for setoffs involving bank accounts, a creditor may setoff a mutually held claim against the debtor if that claim:
 - 2.1. was in existence within the six (6) months prior to the opening of the case; and

2.2. the creditor provides written notice of the setoff to the bankruptcy estate representative before the expiration of the period to file proofs of claim.

3. With respect to bank accounts:

3.1. a bank may not setoff, after the opening of the case, any claim the bank owes the debtor such as a bank account against any claim the debtor owes the bank;

3.2. if the bank set off any balance in a bank account against any claim owed to it by the debtor during the six (6) months prior to the opening of the case, the bank shall return to the estate the difference between:

3.2.1. the deficiency existing six months prior to the opening of the case defined as the amount by which the claim owed to the bank exceeded the account balance after setoff; and

3.2.2. the deficiency calculated as in the prior paragraph immediately after the setoff.

4. Claims that have arisen prior to the opening of the case shall not be set off against claims that have arisen after the case is opened.

Article 49 **Creditors' Duty to File Proofs of Claim**

1. Each creditor must file a proof of claim with the court to establish the validity and amount of its claim.

2. The court provides the parties with a specific form for registration of the claim and proves on existence of the claim. In absence of a specific form, the creditors shall file at the court a written statement which is considered statement under oath:

2.1. describing the claim, including whether it is claim as unsecured, priority, or secured;

2.2. setting forth its amount as of the date of the opening of the case;

2.3. appending, if available, accurate and complete copies of the documents related to the claim or to any security related to such claim.

3. Unless the creditor files a proof of claim, it will not be able to:

3.1. share in any distribution of property of the bankruptcy estate to creditors;

3.2. serve on any creditors' committee; or

- 3.3. vote on any plan of reorganization.
4. In a liquidation case, a creditor must file a proof of claim within sixty (60) days of the date of the notice of the opening of the bankruptcy proceeding.
5. In a reorganization case, unless the court orders otherwise according to the needs of the reorganization, a creditor must file a proof of claim within thirty (30) days of the date of the notice of the opening of the bankruptcy proceeding.
6. Within thirty (30) days of the deadline for filing proofs of claim as provided in paragraphs 4 and 5 of this Article has passed, the bankruptcy estate representative may file a proof of claim on behalf of any creditor. Such filing must be made in good faith.
7. The claims register shall be open to the public when the court is open, and the court shall allow for reasonable procedures for the inspection and copying of all documents contained in the register.

Article 50 Claim Procedure

1. A proof of claim filed in accordance with this law shall constitute presumptive proof of the validity and the amount of a creditor's claim, and of any security for that claim. If there is no objection to the claim, the creditor needs to take no further action to establish any part of the claim, and the claim shall be deemed allowed.
2. A party in interest may object to a proof of claim.
3. If a party in interest objects to a proof of claim, the court shall determine the validity and amount of the claim in euros according to applicable Laws, as of the date of the opening of the bankruptcy case. The objecting party shall prove its objection. Unless otherwise requested by the party objecting to a claim or as ordered by the court, the presumption of validity of a proof of claim persists until a court ruling to the contrary.
4. The court shall not allow a claim in addition to the grounds for objection of the claim defined in paragraph 3 of this Article that is based on:
 - 4.1. unmatured interest as of the date of the opening of the case; or
 - 4.2. a proof that has not been filed within the legal deadlines foreseen by this Law.
5. The court shall estimate for purpose of allowance under this Article:
 - 5.1. any contingent or unliquidated claim, the fixing or liquidation of which, as the case may be, would unduly delay the administration of the case; or

5.2. the value of any right of performance arising from a right to a remedy for breach of performance.

6. The court shall disallow any claim for reimbursement or contribution of an entity that is liable with the debtor on or has secured the claim of a creditor, to the extent that:

6.1. such creditor's claim against the estate is disallowed;

6.2. such claim for reimbursement or contribution is contingent as of the time of allowance or disallowance of such claim for reimbursement or contribution; or

6.3. such entity asserts a right of subrogation or assignment at law to the rights of such creditor.

7. The court shall disallow any claim of any entity from which property or damages are recoverable under Chapter IV of this law, or that is a transferee of a transfer avoidable under Chapter IV of this Law, unless such entity or transferee has paid the amount, or turned over any such property, for which such entity or transferee is liable.

Article 51 Final Claims List

1. In a liquidation case, no later than ten (10) days after resolution of all claim objections, the Administrator shall compile and submit to the court a final list of claims, indicating their amount and status.

2. The Administrator shall also transmit the final claims list to the debtor and the creditors' committee, if one has been formed.

3. If no objection to the list is filed within thirty (30) days of submission to the court, then the list shall be deemed to be final for all purposes.

4. As a plan of reorganization deals with all claims, the confirmed plan of reorganization shall constitute the final list of claims and the bankruptcy estate representative does not need to file any additional final list of claims in a reorganization case.

Article 52 Distributions of Property of the Bankruptcy Estate to Creditors

1. The bankruptcy estate representative shall distribute property of the bankruptcy estate to creditors in respect of the claims as soon as the bankruptcy estate representative believes it to be prudent and cost effective to do so.

2. The bankruptcy estate representative may, with court approval, make such interim distributions as may be prudent and cost effective. In making such interim distributions, the bankruptcy estate representative shall maintain such reserves as it believes are reasonably necessary to provide for all claims that have or may be objected to, but for which there is no final court resolution.

3. The bankruptcy estate representative shall make all distributions in accordance with the priorities set forth in this Article.

Article 53 **Distribution towards allowed claims**

Only allowed claims may be fulfilled from the bankruptcy estate.

Article 54 **Secured Claims and In Rem Claims of Other Entities**

1. Subject to the provisions of this Article or court decision, the bankruptcy estate representative shall transfer any property of the bankruptcy estate in which another entity has an interest or a lien to the appropriate entity. If the bankruptcy estate has positive interests in that property, the bankruptcy estate representative may recover such positive value according to the applicable Laws in Kosovo.

2. In a reorganization proceeding, the reorganization plan shall govern the distribution of any property in which an entity other than the debtor has an interest.

3. If more than one (1) entity claims an interest in property of the bankruptcy estate, the bankruptcy estate representative may request that the court direct the transfer of the property to the appropriate party.

4. The bankruptcy estate representative may, in appropriate circumstances, request that the court order the sale or other disposition of property in which the estate and another entity has an interest, with the bankruptcy estate representative distributing the proceeds of such sale in accordance with the respective interests of the various entities in the property, or as the court may direct. Under this paragraph, “appropriate circumstances” include, but are not limited to, property which has a value in excess of the value of the interests of the entities other than the estate.

Article 55 **Unsecured Claims**

Unsecured claims have priority in liquidation over equity interests, and the Administrator may make a distribution for such unsecured claims after it has satisfied or reserved adequately against all secured claims.

Article 56
Priorities among Unsecured Claims

1. All unsecured claims are presumed to have the same priority for purposes of distribution in any case unless otherwise specified in this law. The following are the only priorities among unsecured creditors recognized by this Law:

- 1.1. administrative expenses are paid first;
- 1.2. second, Domestic Relations and Restitution of Victims Claims are paid;
- 1.3. third, employment claims are paid;
- 1.4. fourth to receive payment are tax claims;
- 1.5. the last, any other unsecured claim is paid

Article 57
Administrative Expenses

1. The Administrator shall pay administrative expenses as first priority claims among unsecured claims.

2. Administrative expenses may include, but are not limited to, claims for:

- 2.1. wages accrued after the opening of the case;
- 2.2. taxes accrued from the moment of the opening of the bankruptcy case;
- 2.3. claims related to loans or for credit for which the bankruptcy estate representative has received court approval; and
- 2.4. the fees and costs of professionals employed with court approval including, without limitation, the compensation of any Administrator or any professional whose employment the court approved to the extent that such fees or costs were incurred after the opening of the case;

3. The Administrator shall pay administrative expenses without court approval unless the bankruptcy estate is administratively insolvent.

Article 58
Domestic Relations and Restitution Claims

1. The Administrator shall pay domestic relations debts and debts arising from a domestic relation of a debtor or a restitution claim as second priority among unsecured claims.
2. Domestic relations claims shall be considered all those claims arising before the initiation of bankruptcy procedure related to the divorce, custody, alimentionation or other issues regulated by the Law on Family.
3. Claims for restitution of victims shall be considered all those claims arising before the initiation of bankruptcy procedure and that relate to the restitution of victims of a criminal activity of the debtor.
4. The administrator may pay domestic relations or restitution claims without court approval unless the bankruptcy estate is administratively insolvent.

Article 59
Employment Relationship Claims

1. The Administrator shall pay labor claims as third priority claims among unsecured claims.
2. Employment relationship claims shall be considered all the claims employees raised before the initiation of bankruptcy procedure, for the employees that have been engaged for the debtor through the employment contract, in compliance with the provisions of the Law on Labour in Kosovo.

Article 60
Tax Claims

The Administrator shall pay tax claims which arose or accrued before the opening of the case as fourth priority claims among unsecured claims.

Article 61
Payment of General Unsecured Claims

After the Administrator has paid or reserved for all secured claims and all unsecured claims with priority, it shall make a distribution to remaining unsecured claims.

Article 62
Interests in Equity

1. Holders of the interests in equity have the last priority during the distribution, and the bankruptcy estate representative will not make any distribution until there are not paid fully the allowed claims and legal interests or fixed by the court towards those secured or unsecured claims.
2. The bankruptcy estate representative shall, before the distribution towards the bearers of equity, pay even those claims that are not allowed for the single reason that they are not registered in the court on time.
3. Only after the realization of all the conditions defined in this Article, the bankruptcy estate representative shall make the distribution towards the holders of equity.

Article 63
Making Distributions - Pari Passu Principle

1. No distribution to any class of unsecured claims or equity interests shall be made unless creditors holding allowed claims in all classes with a higher priority have been paid in full.
2. A realized distribution shall be considered any kind of payment a creditor has received on an obligation of a debtor from any other source towards the bankruptcy estate.
3. If there are insufficient funds to pay a class of creditors in full, the distribution shall be pari passu among class members.

CHAPTER VI
REORGANIZATION

Article 64
Debtor in Possession

1. The debtor shall serve as the debtor in possession in a reorganization case unless:
 - 1.1. the debtor requests the appointment of an Administrator, either at the time of the commencement of the bankruptcy proceeding or later; or
 - 1.2. if the court removes the debtor in possession as provided for in this Law.

Article 65
Engagement of Professionals by the Debtor in Possession

1. The debtor in possession, with the court's approval, may employ one or more lawyers, accountants, appraisers, auctioneers, or other professional persons to represent or assist the debtor in possession in carrying out its duties under Chapter VI of this Law.
2. To be eligible to be employed as a professional person under paragraph 1 of this Article the applicant must prove that it:
 - 2.1. does not hold or represent an interest adverse to the estate; and
 - 2.2. is a disinterested person.
3. If two or more debtors are affiliates, the court may approve the employment of common professional persons provided that the court is satisfied that the benefits of common employment outweigh any harm or injury that might result from any potential or actual conflicts of interest.

Article 66
Removal of Debtor in Possession

1. The court may remove the debtor in possession on its own motion or upon the request of a party in interest if there is proof that:
 - 1.1. the debtor committed fraud, dishonesty or other malfeasance before or after the opening of the case;
 - 1.2. the debtor cannot manage its financial affairs in a profitable manner;
 - 1.3. a majority of creditors active in the case indicate that they wish the debtor removed as debtor in possession.
2. Upon removal, the court shall appoint an Administrator as bankruptcy estate representative. This Administrator shall promptly investigate the business affairs of the estate and make a recommendation to the court and any creditors' committee of the desirability of continuing the case as a reorganization case.
3. In the hearing session on determining the Administrator, according to paragraph 2, the court shall issue a ruling by which it:
 - 3.1. authorizes the Administrator to continue the case as a reorganization case; or
 - 3.2. ordering the case to be converted to a liquidation case.

Article 67
Creditors' Committee in the reorganization case

1. Within five (5) days of the filing of a reorganization case, the court shall solicit indications of interest from unsecured creditors to serve on a creditors' committee.
2. The court shall decide on the establishment of a creditors' committee if at least three (3) unsecured creditors indicate a willingness to serve in the creditors' committee.
3. The rights and duties of the creditors' committee are:
 - 3.1. to receive a copy of the any report of the debtor in possession at the same time as the court;
 - 3.2. to employ professional persons on the same basis and with the same restrictions as are binding upon the debtor in possession's employment of such persons;
 - 3.3. to receive notice of motions and other requests for court action that are likely to substantially affect the rights of creditors;
 - 3.4. to convene in a session the debtor or its representative that are obliged to answer questions of the creditors' committee regarding the case. Every answer of the debtor or its representative shall be considered declaration under oath;
 - 3.5. to share access to information it has obtained with creditors who are not members of the committee;
 - 3.6. to formulate a recommendation on any plan of reorganization upon which creditors will be asked to vote; and
 - 3.7. any other rights and duties as the court may specify, so long as such rights are consistent with the provisions of this Law.

Article 68
Proposal of Reorganization Plan

1. A party in interest may propose a plan of reorganization only if authorized by this Article.
2. The debtor in possession has the exclusive right to file a plan of reorganization within one hundred and twenty (120) days after the opening of the case. This time limit is interrupted if the debtor in possession files a plan before the expiration of the time limit.
3. The court may shorten or extend the debtor's exclusive period under paragraph 2 of this Article on request of a party in interest if that party in interest proves that such shortening or extension will likely enhance the debtor's prospects for reorganization.

4. After the expiration of the term foreseen in paragraph 2 of this Article or extension or shortening of the term according to paragraph 3 of this Article, each party in interest shall file a plan of reorganization of the debtor.

Article 69
Mandatory and Permissible Contents of the Reorganization Plan

The court may consider for confirmation only those plans which comply with Articles 70 until 76 of this Law.

Article 70
Proposer of the Plan

The person, entity who proposes the reorganization plan of the debtor in compliance with this Law shall be known as “the plan proposer”.

Article 71
Specification and Classification of Claims

1. A plan must classify creditors and holders of equity interests.
2. The plan must separate creditors and holders of equity interests into different classes according to their rights and obligations under applicable legislation, subject to the following:
 - 2.1. a plan may place a claim or an interest in a particular class only if such claim or equity interest is substantially similar to the other claims or equity interests of such class. A plan may not place a secured claim in the same class as an unsecured claim or an equity interest, even if the holder of the secured claim also holds an unsecured claim or an equity interest;
 - 2.2. a plan may place unsecured creditors in more than one (1) class so long as there is a business justification for such separate classification. Such a justification may include, but is not limited to, separately classifying a secured creditor’s unsecured deficiency claim from the unsecured claims of creditors who supplied or supply the debtor or the estate with goods or services on credit; and
 - 2.3. the proposer of the plan may designate a class.

Article 72
Uniform Treatment of Claims within Same Class

Within a class, all class members must receive the same treatment unless the plan proponent proves that a particular class member has consented to less favorable treatment than other class members.

Article 73
Claim Impairment

1. A plan of reorganization impairs a claim if it alters or affects any aspect of the claim, including, without limitation, by extending any maturity date, by lowering or eliminating interest or principal, or by providing that it should be exchanged for another claim or type of property.
2. A plan of reorganization leaves a claim unimpaired if it:
 - 2.1. does not purport to alter or affect the claim in any way; or
 - 2.2. pays the claim in full in cash, with any interest to the date of the case's opening; or
 - 2.3. if the plan proponent:
 - 2.3.1. cures any default existing as of the date the case was opened;
 - 2.3.2. reinstates the original maturity date of the claim if the maturity date had been accelerated; and
 - 2.3.3. compensates the holder of for any damages or injuries the creditor incurred as a result of any default.

Article 74
Mandatory Provisions that the Reorganization Plan should content

1. The provisions of a plan of reorganization must specify:
 - 1.1. any class of claims or equity interests that is not impaired under the plan;
 - 1.2. the proposed treatment for each class of claims that is impaired;
 - 1.3. the debtor's proposal on appointment of its managements and proposal on compensation to be paid to that management;
 - 1.4. the changes necessary to any organic documents of the debtor if the plan is confirmed.

Article 75
Optional provisions of the reorganization plan

1. The provisions of a plan of reorganization may:
 - 1.1. impair or leave unimpaired any class of claims, secured or unsecured, or of equity interests;

1.2. provide for the assumption, rejection, or assignment of any unperformed contract on the same terms and conditions as under Chapter IV of this Law, to the extent that such contract was not previously rejected under such Chapter;

1.3. provide for the following treatment of claims held by the debtor:

1.3.1. the settlement or adjustment of any claim or interest belonging to the debtor or to the estate; or

1.3.2. the enforcement of such claim or interest by the bankruptcy estate representative;

1.4. provide the opportunity of the sale of all the property of the bankruptcy estate and the distribution of the proceeds collected from the sales to the creditors and holders of equity;

1.5. modify the rights of holders of secured claims, or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims; and

1.6. include any other appropriate provision not inconsistent with the applicable provisions of this Law.

Article 76

Adequate Means to Implement Plan's Fiscal Elements

1. All plans of reorganization must provide for adequate means for their implementation so that the debtor is not likely to require further financial relief after plan confirmation. Adequate means of implementation include, but are not limited to any one or more of the following:

1.1. retention by the debtor of all or any part of the property of the bankruptcy estate;

1.2. transfer of all or any part of the property of the bankruptcy estate to one or more entities, whether organized before or after the confirmation of such plan;

1.3. merger or consolidation of the debtor with one or more persons;

1.4. sale of all or any part of the property of the bankruptcy estate, either subject to or free of any lien, or the distribution of all or any part of the property of the bankruptcy estate among those having an interest in such property of the bankruptcy estate;

1.5. satisfaction or modification of any lien;

1.6. curing or waiving of any default;

1.7. extension of a maturity date, change in interest rates, other terms of financial instrument of credits, other credit securities; or

1.8. issuance of securities of the debtor, or of any entity referred to:

1.8.1. for cash;

1.8.2. for property;

1.8.3. for existing securities;

1.8.4. for newly issued securities; or

1.8.5. for any other appropriate purpose.

Article 77
Procedure for Plan Proposal Disclosure

1. A plan proponent must file a disclosure statement with any plan of reorganization filed.

2. The disclosure statement must contain sufficient information to allow creditors and holders of equity interest to make an informed vote on the plan. Such information will include, but not be limited to, short descriptions or summaries of:

2.1. why the debtor or the bankruptcy estate representative requested reorganization;

2.2. how the changes to be made by the plan of reorganization will benefit the reorganized debtor;

2.3. why distributions to creditors under the plan will exceed the distributions such creditors could reasonably expect in a liquidation; and

2.4. the reorganized debtor's prospective cash flow for the five (5) year period following the anticipated confirmation, or if creditors will receive all distributions under the plan before the passing of five (5) year period, a summary of prospective cash flow until the last proposed distribution under the plan.

3. Before the plan proponent may distribute the plan of reorganization to creditors for a vote, or solicit any votes on the plan of reorganization, the court must approve the disclosure statement. The court shall approve a disclosure statement if the plan proponent proves that it contains all material information necessary for a reasonable creditor to make an informed decision on whether to accept or reject the plan.

4. The court shall not count votes on a plan of reorganization that were solicited before the approval of a disclosure statement.

5. If the court approves the disclosure statement, it will then order the plan proponent to distribute the plan of reorganization, disclosure statement, and ballot to all creditors or equity holders who

are entitled to vote on the plan. The decision regarding distribution shall set the date for the return of ballots, the date for any objections to be filed, and the hearing on plan confirmation.

6. The plan proponent need not solicit votes, and need not provide a disclosure statement and plan of reorganization, to any class that is deemed to accept or to reject a plan.

Article 78 The Level Necessary for Acceptance of Plan

1. A class accepts a plan of reorganization if creditors holding at least fifty percent (50%) of all claims voting in that class accept the plan of reorganization.

2. A class is deemed to accept the plan of reorganization without the need to solicit it if it leaves the claims or equity interests in that class unimpaired.

3. A class is deemed to reject the plan of reorganization without the need to solicit it if it eliminates the claims or equity interests in that class.

Article 79 Requirements for Consensual Plan Confirmation

1. Except for confirmation of plans of reorganization in which all classes do not accept, covered in the next Article, a court may confirm a plan of reorganization only if the plan proponent proves:

1.1. the plan of reorganization complies with this Law, and the plan proponent has complied with all provisions of this Law;

1.2. the plan proponent proposed the plan of reorganization in good faith;

1.3. the plan of reorganization provides that each impaired creditor or equity holder will receive or retain at least as much under the plan as the creditor would have received if the case been a liquidation case;

1.4. the means for implementing the plan of reorganization are adequate, a showing which shall include, but not be limited to, proof that:

1.4.1. confirmation of the plan of reorganization is not likely to be followed by the need for the filing of a subsequent case under this Law; and

1.4.2. all payments and distributions under the plan of reorganization will be timely made; and

1.4.3. all classes of claims and equity interests have accepted the plan of reorganization or are unimpaired under the terms of the plan of reorganization.

Article 80
Requirements for Non-Consensual Plan Confirmation

1. A court may confirm a plan of reorganization that is not accepted by all classes only if the plan proponent proves that the plan of reorganization:

1.1. complies with all confirmation requirements set forth in the prior Article except for acceptance by all impaired classes;

1.2. does not pay any creditor more than in full;

1.3. does not provide for any distribution to a class of creditors or equity holders unless all classes of claims or equity holders which have priority are either paid in full or have accepted the plan.

2. For purposes of this Article, payment in full need not be in cash. A creditor is paid in full if the plan proponent proves that the plan of reorganization provides for distribution of property to a creditor that has a value, as of the date of confirmation, equal to the allowed amount of its claim. Property may be any of the following, or a combination of any of the following:

2.1. cash;

2.2. allowed securities;

2.3. moveable or immovable property; or

2.4. equity interests in the debtor or any other entity.

3. If a plan of reorganization proposes to distribute property to a secured creditor in payment in full of the secured creditor's claim, and some or all of the property consists of a note, then payment in full as anticipated by this Article requires that the secured creditor must retain the lien on the collateral securing its claim, or must have a lien on all sales proceeds of its collateral.

Article 81
Legal Consequences of the Plan Confirmation

1. The provisions of a confirmed plan of reorganization bind the debtor, any entity issuing securities under the plan, any entity acquiring property under the plan, and any creditor or equity holder, whether or not the claim or interest of such creditor or equity holder is impaired under the plan of reorganization and whether or not such creditor or equity holder has accepted the plan.

2. Except as otherwise provided in the plan of reorganization or the decision confirming the plan, the confirmation of a plan of reorganization vests all of the property of the bankruptcy estate in the debtor.

3. Except as otherwise provided in the plan, after confirmation of a plan of reorganization the property dealt with by the plan of reorganization is free and clear of all claims and equity interests of creditors and equity holders in the debtor.

4. Except as otherwise provided in the plan, the confirmation of a plan:

4.1. discharges the debtor from any claim that might arise before the plan confirmation without taking into consideration:

4.1.1. if there is filed a proof under this Law;

4.1.2. if it is filed, it is accepted as allowed or it declared as disallowed under this Law;

4.1.3. the holder of such claim has accepted the plan; and

4.2. terminates all rights and equity interests of equity holders provided for by the plan.

5. A discharge under this Chapter does not discharge a debtor who is an individual who is denied a discharge under Chapter VIII of this Law, or from any debt excepted from discharge under Chapter VIII of this Law.

Article 82

Legal Consequences in Case of Failure to Perform the Plan

1. A party in interest may bring an action to revoke confirmation of the plan, but such an action may be brought only if the party in interest:

1.1. proves that the plan proponent committed fraud or deceit in obtaining the votes for a confirmed plan or in requesting confirmation of the plan; and

1.2. brings such action within six (6) months of the confirmation of the plan.

2. If a reorganized debtor or other party does not perform any of the material terms of a confirmed plan of reorganization, any party in interest may bring an action in the court to:

2.1. compel the defaulting party to perform or pay damages as if the plan of reorganization and damage compensation as the reorganization plan were a contract according to the provision of the Law on Obligational Relationships.

2.2. cancel the remaining unperformed obligations under the plan, revoke the debtor's discharge, and request the court to convert the case to a liquidation case; or

2.3. cancel the remaining unperformed obligations under the plan, revoke the debtor's discharge, and dismiss the case.

Article 83
Conversion of Reorganization into Liquidation

1. A court shall issue a ruling on conversion of a reorganization into a liquidation if a party in interest proves:

1.1. substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation;

1.2. gross mismanagement of the bankruptcy estate;

1.3. that more than one (1) year has elapsed since the opening of the case, unless the court finds that additional time is necessary to accomplish an effective reorganization, but in no even may such additional time extend beyond eighteen (18) months from the date the case was opened;

1.4. the debtor in possession's failure to maintain appropriate insurance policy that poses a risk to the estate or to the public;

1.5. the debtor in possession's failure to comply with a decision of the court;

1.6. the debtor in possession's failure timely to pay taxes owed after opening of the case or to file tax returns due after the opening of the case; or

1.7. the debtor in possession's failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by a decision of the court.

Article 84
Closing of Case

The court shall decide by ruling to close a reorganization case when all obligations under a plan of reorganization have been performed or excused.

CHAPTER VII
LIQUIDATION

Article 85
Appointment of an Administrator

1. The court appoints an Administrator no later than in three (3) days, in the following cases:

- 1.1. after the filing of a liquidation case by a debtor;
- 1.2. after the opening of a liquidation case following the filing of a bankruptcy petition by creditors;
- 1.3. after the conversion of reorganization into liquidation;
- 1.4. after the court decides to remove the debtor in possession or a serving Administrator.

Article 86
Qualification, training and licensing of administrators

1. As a bankruptcy administrator there can be assigned the person that:
 - 1.1. at least has completed the studies in the four (4) years system or Master in the field of justice or economy;
 - 1.2. has knowledge in the operation, management or winding-up of businesses;
 - 1.3. has completed professional trainings on operation of businesses, their management and winding-up;
 - 1.4. at least has five (5) years working experience in the profession;
 - 1.5. has knowledge about this Law; and
 - 1.6. is provided with certificate by a competent institution regarding the knowledge about this Law and any sub-legal act issued for implementation of this Law.
2. A candidate for an Administrator shall be considered qualified according to this Law if he is a member of a professional association in Kosovo or a professional association in the European Union or in the United States of America, and such association should have bankruptcy and bankruptcy procedures as its focus.
3. A candidate for an Administrator is not needed to be a Lawyer or a licensed Accountant.
4. The register of bankruptcy administrators shall be maintained by the Ministry of Justice.
5. Candidates that fulfill the conditions to become part of the registry of bankruptcy administrators pursuant to paragraph 2 of this Article shall file a request together with evidence of membership in a professional association to the Ministry of Justice which is obliged that after verification of such request, to include the candidate in the registry of bankruptcy administrators.

6. Candidates that do not fulfill the requirements set in paragraph 2 of this Article will have to undergo a qualifying examination in order to prove the knowledge in the field of bankruptcy, organized by the Ministry of Justice.

7. The procedures for organization, content and holding of the exam shall be regulated by a sub-legal act issued by the Ministry of Justice.

8. As a bankruptcy administrator cannot be assigned:

8.1. persons that have family or business relations with the judge who is developing the bankruptcy procedure;

8.2. persons that have family or business relations with the debtors or officials, directors, employees, shareholders or creditors of the debtors;

8.3. persons that are officials, directors, employees, shareholders of the direct competitors of the business of debtor;

8.4. persons that have bankrupted at the time of appointment;

8.5. persons that, in compliance with other Laws of the Republic of Kosovo, cannot be appointed as directors of a business organization.

Article 87 **Removal of an Administrator**

1. If the court finds it as necessary and reasonable, it decides on removal of the Administrator upon the concrete case.

2. Cause for removal according to this Law shall be considered, but is not limited to:

2.1. proof that the Administrator does not meet the qualifications according to Article 86 of this Law; or

2.2. proof that the Administrator has conducted any criminal offence or fraud during the administration of the case, that calls into question the honesty and integrity of the Administrator;

2.3. by a majority vote of all creditors, with such vote being made at a meeting called specifically for the purpose of removing the Administrator, or if he does not have a satisfactory performance.

Article 88
General Duties of an Administrator

1. The Administrator shall:

- 1.1. collect income from the property of the bankruptcy estate which are under his administration and collect income from the bankruptcy estate as expeditiously as possible, in the interest of all parties in interest;
- 1.2. be accountable for all property received;
- 1.3. convene and preside over all creditor committee meetings;
- 1.4. investigate the financial affairs of the debtor;
- 1.5. if a purpose would be served, examine proofs of claims and object to the allowance of any claim that is improper;
- 1.6. if advisable, oppose the discharge of the debtor;
- 1.7. unless the court orders otherwise, furnish such information concerning the estate and the estate's administration as is requested by a party in interest; and
- 1.8. make a final report and file a final account of the administration of the estate with the court.

2. An Administrator shall not be held personally liable for losses incurred by a creditor, the debtor, any shareholder or partner, the bankruptcy estate, or any other party for consequences or damages flowing from decisions made or actions taken or not taken within the scope of his duties if it has exercised ordinary care and diligence in the timely performance of those duties.

Article 89
Engagement of the Professionals by the Administrator

1. The Administrator, with the court's approval, shall engage one or more lawyers, accountants, appraisers, auctioneers, or other professional persons to represent or assist the Administrator in carrying out its duties under the Law.

2. In order to be eligible to be engaged as a professional, the person should prove that:

- 2.1. does not hold or represent an interest adverse to the estate; and

3. The court may authorize the Administrator to act as lawyer or accountant for the estate if such authorization is in the best interest of the estate.

4. If two (2) or more debtors are affiliated entities, the court may approve the engagement of common professional persons provided that the court is convinced that such engagement will be more beneficial for the bankruptcy estate than harm as a result from any conflict of interests.

Article 90 Administrator Compensation

1. An Administrator shall be paid based on the distributions actually made to creditors. Such payments shall be an administrative expense.

2. The court must approve the Administrator's fees and expenses before the Administrator is paid.

3. The court shall allow compensation to an Administrator for the Administrator's services, payable after the Administrator renders such services. Such compensation shall be:

3.1. twenty-five percent (25%) of the amount up to five thousand (5,000) Euro, in compliance with paragraph 4 of this Article;

3.2. ten percent (10%) of the amount from five thousand and one (5,001) Euro up to fifty thousand (50,000) Euro, in compliance with paragraph 4 of this Article;

3.3. five percent (5%) of the amount from fifty thousand and one (50,001) Euro up to one million (1, 000,000) Euro, in compliance with paragraph 4 of this Article;

3.4. three percent (3%) of the amounts over one million (1,000,000) Euro, in compliance with paragraph 4 of this Article.

4. The court shall make the payments according to paragraph 3 of this Article in compliance with the total value of distributions the Administrator makes to parties in interest, excluding the debtor, but including holders of secured claims.

5. An Administrator shall receive a minimum fee of one hundred (100) Euro for each case in which the Administrator serves and performs his duties.

Article 91 Creditors' Committee in the liquidation case

1. Within five (5) days of the filing of a liquidation case, the court shall solicit indications of interest from unsecured creditors to serve on a creditors' committee.

2. There shall be included at least three (3) and not more than five (5) creditors in the creditors' committee. The court shall give priority to the creditors with the largest unsecured claims that want to serve in the creditors' committee. If there are less than three (3) such creditors that want to serve in the committees, then the committee shall not be established.

3. The rights and duties of the creditors' committee are:

3.1. to receive a copy of all letters addressed to the court by the debtor in possession, at the same time with the court;

3.2. to employ professional persons on the same basis and with the same restrictions as are binding upon the Administrator's employment of such persons;

3.3. to receive notices from the Court and decisions of the Court which affect the rights of creditors;

3.4. to convene in a session the debtor or its representatives that are obliged to answer questions of the creditors' committee regarding the case. Every answer of the debtor or its representative shall be considered as a declaration under oath;

3.5. with court approval, after the Administrator indicates it will not do so, initiate an action to avoid a transaction under Chapter IV of this Law;

3.6. to share access to information it has obtained with creditors who are not members of the committee; and

3.7. any other rights and duties as the court may specify, so long as such rights are consistent with the provisions of this Law.

Article 92

Special Rules for Liquidation of Different Types of Business Organizations

1. In addition to the duties specified in Article 88 of this Law, an Administrator shall ensure that after the debtor receives a discharge in accordance with Article 105 of this Law, the formal existence of each debtor other than a debtor who is an individual is terminated through the closing of the business organization, no later than the closing of the case.

2. Such termination shall be accomplished by compliance with the applicable provisions of this Chapter of this Law.

3. If an Administrator is still serving after the entry of a discharge for a debtor, that Administrator shall have the exclusive power and authority to pursue claims and to take actions on behalf of the debtor until the closing of the case.

Article 93

Joint Stock Companies

1. If the debtor is a joint stock company under the Law on Business Organizations, then on or before the closing of the case, and subject to the provisions of this Chapter, the Administrator shall

take all steps and actions necessary under such law to dissolve and terminate the existence of that joint stock company:

1.1. such actions related to dissolution and termination shall not include any actions which include or involve any equity security holders of the debtor, each of which is hereby exempted. The exempted actions include the calling of any required meetings of the equity security holders or the giving of any notices to such equity security holders;

1.2. such actions related to the dissolution and termination include giving notice to the business and tax registries of the termination of the entity no later than the closing of the case.

2. Only the Administrator, shall have the right to file claims arising from another Law except the Law on Bankruptcy, on behalf of creditors towards the promotors, shareholders, officers, directors, agents or senior managers of the joint stock company.

3. The right to file claims according to paragraph 2 of this Law shall expire at the moment of the closing of the bankruptcy case or at latest two (2) years from the date the bankruptcy case was opened.

Article 94 Limited Liability Companies

1. If the debtor is a limited liability company under the Law on Business Organizations, then on or before the closing of the case the Administrator shall take all steps and actions necessary, under this Chapter and Law on Business Organizations, to dissolve and terminate the existence of that limited liability company:

1.1. such actions related to dissolution and termination shall not include any actions which include or involve any equity security holders of the debtor, each of which is hereby exempted. The exempted actions include the calling of any required meetings of the equity security holders or the giving of any notices to such equity security holders;

1.2. such actions undertaken by the Administrator related to the termination of limited liability company shall include giving notice to the business and tax administration registries regarding the closing of the case.

2. Only the Administrator, shall have the right to file claims arising from another Law except the Law on Bankruptcy, on behalf of creditors towards the promotors, shareholders, officers, directors, agents or senior managers of the limited liability company.

3. The right to file claims according to paragraph 2 of this Law shall expire at the moment of the closing of the bankruptcy case or at latest two (2) years from the date the bankruptcy case was opened.

Article 95
General Partnerships

1. In cases when the debtor is a general partner in a general partnership established under the Law on Business Organizations, then at the moment of the closing of the case, in accordance with the provisions foreseen in this Chapter and according to the Law on Business Organizations, the Administrator shall take all actions necessary to terminate the existence of the general partnership.

1.1. such actions related to dissolution and termination shall not include any actions which include or involve any equity holders of the debtor, each of which is hereby exempted. The exempted actions include the calling of any required meetings of the equity security holders or the giving of any notices to such equity security holders;

1.2 actions undertaken by the Administrator related to the termination of the partnership include giving notice to the business and tax registries regarding the closing of the case;

2. Only the Administrator, shall have the right to file claims arising from another Law except the Law on Bankruptcy, on behalf of creditors towards the promoters, shareholders, officers, directors, agents or senior managers of the general partnership.

3. The right to file claims according to paragraph 2 of this Law shall expire at the moment of the closing of the bankruptcy case or at latest two (2) years from the date the bankruptcy case was opened.

Article 96
Limited Partnerships

1. In cases when the debtor is a limited partnership established under the Law on Business Organizations, then at the moment of the closing of the case, in accordance with the provisions foreseen in this Chapter and according to the Law on Business Organizations, the Administrator shall take all actions necessary to terminate the existence of the limited partnership.

1.1. such actions termination shall not exclude all claims on calling the meetings of the partners in limited partnership. The exempted claims shall include the exclusion of the claims on calling of any required meetings or holding any kind of meeting related to the termination of limited partnership;

1.2 actions undertaken by the Administrator related to the termination of the limited partnership include even giving notice to the business and tax registries regarding the closing of the case;

2. Only the Administrator, shall have the right to file claims arising from another Law except the Law on Bankruptcy, on behalf of creditors towards the promoters, shareholders, officers, directors, agents or senior managers of the limited company.

3. The right to file claims according to paragraph 2 of this Law shall expire at the moment of the closing of the bankruptcy case or at latest two (2) years from the date the bankruptcy case was opened.

Article 97

General Partners of General Partnerships and of Limited Partnership

1. The Administrator shall file a claim against the general partner in a general partnership or limited partnership, in cases when:

1.1. the debtor is a general or limited partnership; and

1.2. the properties of the partnership or limited partnership after being converted into cash, are insufficient to pay all claims of creditors in full; and

1.3. the general partner of the debtor would otherwise be personally liable for the payment of creditors' claims over and above the ability of the debtor to pay such claims.

2. The amount of such claim shall be limited to the amount for which the general partner has an unlimited personal liability for payment in compliance with other applicable Laws in Kosovo.

3. To the extent practicable, the Administrator shall first seek recovery of payment of the amount of creditors' claims from any general partner of the general partnership or limited partnership. Pending determination of such amount which needs to be paid for the creditors' claims and which can not be paid from the estate of the general partnership or limited partnership, the court may order the general partner to provide the estate as a security measure or to order the general partner not to dispose of property.

4. The Administrator has a claim against the estate of each general partner in such partnership that is a debtor in a case under this title for the full amount of all claims of creditors allowed in the case concerning such partnership. The claim of the Administrator under this subsection is entitled to distribution in such partner's case the same as any other claim of a kind specified in such section.

5. If the amount that the Administrator recovers from the estates of general partners under paragraph 4 of this Article is greater than any deficiency not recovered under paragraph 3 of this Article, the court, after notice and a hearing, shall determine an reasonable distribution of the surplus so recovered, and the Administrator shall distribute such surplus to the estates of the general partners in such partnership according to such determination.

Article 98

Cases with Assets of Small Value

If the Administrator determines that the property of the estate, when liquidated and reduced to cash, will not exceed two hundred (200) Euro, and such amount will not pay all allowed claims in

full, the Administrator shall notify creditors of this determination and shall make a motion to abandon all property of the estate under Article 37 of this Law. If the court approves the abandonment, the Administrator shall promptly take all steps necessary to close the case, including all steps required by this Chapter. In this case, the Administrator enjoys the right on his remuneration, if he would have sold the abandoned properties and realized the distribution.

Article 99 Individual Businesses

1. Individual Businesses who are debtors are eligible for a discharge of claims related to their business activity under Article 105 of this Law.
2. Upon obtaining a discharge or closing of a case, whichever first occurs, unless the court shall order otherwise after notice and a hearing, an individual debtor who is an individual business shall cease trading under any assumed, fictitious, or “doing business as” names, or from using any trade dress or trade name similar to that used before obtaining a discharge.
3. After notice and a hearing, the court for cause may permit an Administrator to sell to the debtor or to any other entity the right to trade or do business under any trade name or style or dress the debtor used before discharge.

Article 100 Sale of the assets in the liquidation procedure

1. Administrator shall be responsible for organizing the sale of assets of business organization in the liquidation procedure.
2. During the procedure of sale of assets, the administrator may organize a public auction, may engage a house of auctions or may organize other methods of public offerings for the sale of assets of organization.
3. When fixing the minimum price of sale of assets of the organization, the Administrator shall take as basis the assessment of those assets by a professional engaged in compliance with this Law and shall make maximum attempts that the initial price of the assets to be at the level or close to the sum of the debts of the organization in the bankruptcy.
4. If the provisions of paragraph 3 of this Article can not be implemented, the Administrator shall require a permit from the Court to sale the assets in the highest price offered in the market, and without the procedures of public offering.
5. The Court shall decide on the request of the Administrator with a ruling in compliance with paragraph 4 of this Article.

Article 101

Winding up and Termination of Business Organizations after the Completion of the Case

1. The Administrator shall wind up and terminate all the debtor's business operations, after the completion of the case.
2. The Administrator shall, upon completion of the case, take steps to ensure that the termination of the debtor's business has been noted in the registry of businesses.

Article 102

Conversion of Case to Reorganization

1. Upon court approval, the Administrator may convert a liquidation case to a reorganization case if the Administrator can prove that it such a conversion would likely result in larger distributions to unsecured creditors.
2. Upon conversion in reorganization, the Administrator shall continue as the bankruptcy estate representative.
3. Court issues a decision to transform a liquidation case to reorganization case.

Article 103

Closing of Case

1. The court may close a case when either:
 - 1.1. the Administrator proves that it has reduced all property of the bankruptcy estate to cash, or reduced all property of the bankruptcy estate to cash that can be reduced to cash, and has distributed all property of the bankruptcy estate to creditors; or
 - 1.2. the Administrator proves that no further administration of the case will yield any material increase in distributions to unsecured creditors.
2. The Court shall decide with a ruling for the closing of the liquidation procedure.

CHAPTER VIII
DISCHARGE FROM DEBTS AND CLOSING OF THE CASE

Article 104
Discharge

1. A discharge shall mean paying off debts and under this Law:

1.1. voids and invalidates any judgment at any time obtained, to the extent that such judgment is a determination of the personal liability of the debtor with respect to any claim discharged under this Law;

1.2. has the effect of a final court decision and operates as an injunction and prohibition against the commencement or continuation of an action, the employment of process, or an act, to collect, recover or offset any such claim as a personal liability of the debtor, whether or not discharge of such claim is waived.

Article 105
Timing of Discharge

1. Besides the exceptions set forth in Chapter VIII of this Law, a debtor who is an individual shall receive a discharge of all claims which existed on or before the commencement of the bankruptcy proceedings until when there has commenced the bankruptcy proceeding. The debtor that is an individual shall receive a discharge to all debts created until:

1.1. the moment of confirmation of a plan of reorganization; or

1.2. the moment of the closing of a liquidation case.

2. A debtor which is not an individual shall receive a discharge of all claims which existed until:

2.1. the moment of the confirmation of a plan of reorganization; or

2.2. the moment of the closing of a liquidation case or the notification of the business registry and the tax administration of the closing of the case, depending on which of these happens the last.

Article 106
Exceptions from Discharge Generally; Non-Disclosure; Lack of Cooperation

1. A debtor shall not receive a discharge if a party in interest proves that the debtor, or in the case of a debtor that is not an individual, any insider of the debtor:

- 1.1. did not cooperate with the Administrator;
- 1.2. concealed any material amount of property from creditors, the court, or the Administrator;
- 1.3. filed any document in the case that was materially false or misleading;
- 1.4. altered or in any way modified its books and records during the one (1) year period before the case was commenced in a manner that made such books and records materially misleading or inaccurate;
- 1.5. failed to keep books and records of the debtor's business activities in a manner that would permit a reasonable person to examine and review the debtor's transactions during the one-year period prior to the commencement of bankruptcy proceeding; or
- 1.6. if an individual debtor, has received a discharge at any time during the ten (10) year period prior to the commencement of bankruptcy proceeding.

Article 107
Exceptions from Discharge for Specific Creditors' Claims

1. According to this Law an individual debtor shall not be discharged from any of the following:
 - 1.1. claims not related to the debtor's business activity;
 - 1.2. domestic relations claims according to Article 58 of this Law;
 - 1.3. claims arising from restitution of victims according to Article 58 of this Law;
 - 1.4. tax claims accrued for the period of one (1) year from the day of the opening of the case;
 - 1.5. claims not listed in the list of claims filed as required by Chapter IV of this Law;
 - 1.6. claims for which the creditor has not received a regular notice and as a result could not file to the court the claim and proofs on time;
 - 1.7. claims that have arisen as a result of debtor's fraud;
 - 1.8. claims that have arisen as a result of the debtor's breach of a duty for good trust;
 - 1.9. claims that do not result from contracts but which have incurred as a result of the intentional injury caused by the debtor to another entity or to the property of another entity;

Article 108
Exempted Property of Individual Debtors

1. Property that is exempted from the mandatory execution according to the provisions of the Law on Enforcement Procedure shall be exempted from the bankruptcy estate.

Article 109
Non-Discrimination against Discharged Debtors

1. A governmental unit may not deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under this Law, or another person with whom such debtor has been associated, solely because such debtor:

1.1. is or has been a debtor under this Law;

1.2. has been insolvent before the commencement of a case under this Law, or during the case but before the debtor is granted or denied a discharge; or

1.3. has not paid a debt that is dischargeable in the case under this Law.

1.4. no private employer may terminate the employment of, or discriminate with respect to employment against, an individual who is or has been a debtor under this Law, or an individual associated with such debtor, primarily because such debtor:

1.4.1. is or has been a debtor under this Law;

1.4.2. has been insolvent before the commencement of bankruptcy proceeding under this Law, or during the case but before the grant or denial of a discharge; or

1.4.3. has not paid a debt that is dischargeable in a case under this Law.

Article 110
Effect on Co-Obligors

Discharge granted to the debtor related to a claim of an entity does not affect the obligation of one debtor, other co-obligator that may have towards that entity or its properties.

Article 111
Effect on Voluntary Repayment

No provision of this Law prevents a debtor from voluntarily repaying any discharged claim at any time after the closing of the case.

Article 112
Enforcement of Discharge after Case Closed

1. If a party in interest makes any direct or indirect attempt to collect a claim discharged under this Law from an individual, the individual shall have a claim for relief against that party in interest for:

1.1. an immediate interruption of any attempt on realization of discharged claim; and

1.2. any damage or injury caused, which in no event shall not be less than the lesser of:

1.2.1. one thousand (1,000) Euro; or

1.2.2. three times the amount of the claim sought to be collected.

2. Damages for violation of the discharge include, but are not limited to, any attorneys' fees expended to remedy the violation, and compensation for intangible injury such as pain, embarrassment, or loss of reputation.

CHAPTER IX
CROSS BORDER BANKRUPTCY

Article 113
General Provisions of Chapter IX- Scope of application

1. Chapter IX of this Law applies where:

1.1. a foreign court or a foreign representative of bankruptcy estate seeks assistance from the competent court in Kosovo regarding the foreign bankruptcy proceeding; or

1.2. assistance is sought in a foreign state in connection with a proceeding under this Law;
or

1.3. a foreign proceeding and a proceeding under this Law in respect of the same debtor are taking place concurrently; or

1.4. creditors or other interested persons in a foreign State have an interest in requesting the commencement of, or participating in, a proceeding under this Law.

2. Chapter IX of this Law does not apply to a proceeding concerning entities not eligible to be a debtor under this Law.

Article 114
International obligations of Kosovo

To the extent that this Law conflicts with an obligation of Kosovo arising out of any treaty or other form of agreement to which it is a party with one or more other States, the requirements of the treaty or agreement prevail.

Article 115
Competent court

The functions referred to in this Law relating to recognition of foreign proceedings and cooperation with foreign courts shall be performed by the same court that hears all bankruptcy proceeding.

Article 116
Authorization of Bankruptcy Estate Representative to act in a foreign State

An bankruptcy estate representative is authorized to act in a foreign State on behalf of a proceeding under this Law, as permitted by the applicable foreign law.

Article 117
Public policy exception

Nothing in this Law prevents the court from refusing to take an action governed by this Law if the action would be manifestly contrary to the public policy of the Republic of Kosovo.

Article 118
Additional assistance under other laws

Nothing in this Law limits the power of a court or a bankruptcy estate representative to provide additional assistance to a foreign representative under other laws of Kosovo.

Article 119
Interpretation

In the interpretation of Chapter IX of this Law, regard is to be had to its international origin and to the need to promote uniformity in its application and the observance of good faith.

Article 120
Right of direct access

A foreign representative is entitled to apply directly to the court in Kosovo.

Article 121
Limited jurisdiction

The sole fact that an application pursuant to this Law is made to a court in Kosovo by a foreign representative does not subject the foreign representative or the foreign assets and affairs of the debtor to the jurisdiction of the courts of Kosovo for any purpose other than the application.

Article 122
Application by a foreign representative to commence a proceeding under this Law

A foreign representative is entitled to apply to commence a proceeding under this Law if the conditions for commencing such a proceeding are otherwise met.

Article 123
Participation of a foreign representative in a proceeding under this Law

Upon recognition of a foreign proceeding, the foreign representative is entitled to participate in a proceeding regarding the debtor under this Law.

Article 124
Access of foreign creditors to a proceeding under this Law

1. Subject to paragraph 2 of this Article, foreign creditors have the same rights regarding the commencement of, and participation in, a proceeding under this Law as creditors in Kosovo.
2. Paragraph 1 of this Article does not affect the ranking of claims in a proceeding under this Law, except that the claims of foreign creditors shall not be ranked lower than unsecured creditors without priority.

Article 125
Application for recognition of a foreign proceeding

1. A foreign representative may apply to the court for recognition of the foreign proceeding in which the foreign representative has been appointed.
2. An application for recognition shall be accompanied by:
 - 2.1. a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative; or
 - 2.2. a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or
 - 2.3. in the absence of evidence referred to in paragraph 2.2 and 2.3 of this Article, any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.
3. An application for recognition shall also be accompanied by a statement identifying all foreign proceedings in respect of the debtor that are known to the foreign representative.
4. The court may require a translation of documents supplied in support of the application for recognition into an official language of Kosovo.

Article 126
Presumptions concerning recognition of a foreign proceeding

1. If the decision or certificate referred to in paragraph 2 of Article 125 of this Law indicates that the foreign proceeding is a proceeding within the meaning of the definitions of this Law and that the foreign bankruptcy estate representative is a person within the meaning of the definitions of this Law, the court shall presume that those data are accurate.
2. The court shall presume that documents submitted in support of the application for recognition are authentic, whether or not they have been legalized.
3. In the absence of proof to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the centre of the debtor's main interests.

Article 127
Decision to recognize a foreign proceeding

1. The Court decides to recognize a foreign proceeding if:

- 1.1. the foreign proceeding is a proceeding within the meaning of paragraph 2.1 of Article 3 of this Law;
 - 1.2. the foreign representative applying for recognition is a person or body within the meaning of paragraph 2.4 of Article 3 of this Law;
 - 1.3. the application meets the requirements of paragraph 2 of Article 125 of this Law;
 - 1.4. the application has been submitted to the court referred to in Article 115 of this Law.
2. The foreign proceeding shall be recognized:
- 2.1. as a foreign main proceeding if it is taking place in the state where the debtor has the centre of its main interests; or
 - 2.2. as a foreign non-main proceeding if it is taking place as a procedure in the state where the debtor has an establishment within the meaning of Article 3, paragraph 2, subparagraph 2.6 of this Law.
3. An application for recognition of a foreign proceeding shall be decided upon seven (7) days after the submission of complete application to the Court.
4. The provisions of Article 125, 126, 127, 128 of this Law do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist.

Article 128 **Subsequent information**

1. From the time of filing the application for recognition of the foreign proceeding, the foreign representative shall inform the court promptly of:
 - 1.1. any substantial change in the status of the recognized foreign proceeding or the status of the foreign representative's appointment; and
 - 1.2. any other foreign proceeding regarding the same debtor that becomes known to the foreign representative.

Article 129 **Relief that may be granted upon application for recognition of a foreign proceeding**

1. From the time of filing an application for recognition until the application is decided upon, the court may, at the request of the foreign representative, where relief is urgently needed to protect

the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including:

- 1.1. staying execution against the debtor's assets;
 - 1.2. entrusting the administration or realization of all or part of the debtor's assets located in Kosovo to the foreign representative or another person designated by the court, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy;
 - 1.3. any relief mentioned in paragraph 1.3, 1.4, and 1.7 of Article 131 of this Law.
2. Unless extended under paragraph 1.6 of Article 131 of this Law the relief granted under this article terminates when the application for recognition is decided upon.
 3. The court may refuse to grant relief under this Article if such relief would interfere with the administration of a foreign main proceeding.

Article 130
Effects of recognition of a foreign main proceeding

1. Upon recognition of a foreign proceeding that is a foreign main proceeding:
 - 1.1. commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities is stayed;
 - 1.2. execution against the debtor's assets is stayed; and
 - 1.3. the right to transfer, encumber or otherwise dispose of any assets of the debtor is suspended.
2. The scope, and the modification or termination, of the stay and suspension referred to in paragraph 1 of this Article are subject to the provisions of Chapter IV of this Law.
3. Paragraph 1.1 of this Article does not affect the right to commence individual actions or proceedings to the extent necessary to preserve a claim against the debtor.
4. Paragraph 1 of this Article does not affect the right to request the commencement of a proceeding under this Law or the right to file claims in such a proceeding.

Article 131

Relief that may be ordered upon recognition of a foreign proceeding

1. Upon recognition of a foreign proceeding, whether main or non-main, where necessary to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including:

1.1. staying the commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities, to the extent they have not been stayed under paragraph 1.1 of Article 130 of this Law;

1.2. setting the moratorium towards the execution actions against the debtor's assets to the extent it has not been stayed under paragraph 1.2 of Article 130 of this Law;

1.3. suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under paragraph 1.3 of Article 130 of this Law;

1.4. providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

1.5. entrusting the administration or realization of all or part of the debtor's assets located in Kosovo to the foreign representative or another person designated by the court;

1.6. extending relief granted under paragraph 1 of Article 130 of this Law;

1.7. granting any additional relief that may be available to bankruptcy estate representative under the laws of Kosovo.

2. Upon recognition of a foreign proceeding, whether main or non-main, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in Kosovo to the foreign representative or another person designated by the court, provided that the court is satisfied that the interests of creditors in Kosovo are adequately protected.

3. In granting relief to a representative of a foreign non-main proceeding, in accordance with this Article, the court should be ensured that the relief relates to assets that, under the laws of Kosovo, should be administered in the foreign non-main proceeding or concerns information required in that proceeding.

Article 132

Protection of creditors and other interested persons

1. In granting or denying relief under Article 125 or Article 131 of this Law, or in modifying or terminating relief under paragraph 3 of this Article, the court must be satisfied that the interests of the creditors and other interested persons, including the debtor, are adequately protected.

2. The court may condition the granting of the relief under Article 129 and Article 131 of this Law under the conditions it considers appropriate.

3. The court may, at the request of the foreign representative or a person affected by relief granted under Article 129 or Article 132 of this Law, or at its own motion, modify or terminate such relief.

Article 133

Actions to avoid acts detrimental to creditors

1. Upon recognition of a foreign proceeding, the foreign estate representative has standing to initiate avoiding powers actions under Chapter IV of this Law.

2. When the foreign proceeding is a foreign non-main proceeding, the court must be satisfied that the action relates to assets that, under the law of Kosovo, should be administered in the foreign non-main proceeding.

Article 134

Intervention by a foreign representative in proceedings in Kosovo

Upon recognition of a foreign proceeding, the foreign representative may, provided the requirements of the law of Kosovo are met, intervene in any proceedings in which the debtor is a party.

Article 135

Cooperation and direct communication between the court of Kosovo and foreign courts or foreign representatives

1. In matters referred to in Article 113 of this Law the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through a bankruptcy estate representative.

2. The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives.

Article 136

Cooperation and direct communication between the bankruptcy estate representative in Kosovo with foreign courts or representatives

1. In matters referred to in Article 113 of this Law a bankruptcy estate representative shall, in the exercise of its functions and subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

2. The bankruptcy estate representative is entitled, in the exercise of its functions and subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

Article 137

Forms of cooperation

1. Cooperation referred to in Article 135 and Article 136 of this Law may be implemented by any appropriate means, including:

- 1.1. appointment of a person or body to act at the direction of the court;
- 1.2. communication of information by any means considered appropriate by the court;
- 1.3. coordination of the administration and supervision of the debtor's assets and affairs;
- 1.4. approval or implementation by courts of agreements concerning the coordination of proceedings;
- 1.5. coordination of concurrent proceedings regarding the same debtor; and
- 1.6. joint hearings between the court of Kosovo and courts of another state conducted by appropriate electronic means.

Article 138

Concurrent Proceedings-Commencement of a proceeding under this Law after recognition of a foreign main proceeding

After recognition of a foreign main proceeding, a proceeding under this Law may be commenced only if the debtor has assets in Kosovo; the effects of that proceeding shall be restricted to the assets of the debtor that are located in Kosovo and, to the extent necessary to implement cooperation and coordination under all articles contained in Article 135 till 137 of this Law, to other assets of the debtor that, under the law of Kosovo should be administered in that proceeding.

Article 139

Coordination of a proceeding under this Law and a foreign proceeding

1. Where a foreign proceeding and a proceeding under this Law are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under all Articles contained in Articles 135 till 137 of this Law, and the following shall apply:

- 1.1. when the proceeding in Kosovo is taking place at the time the application for recognition of the foreign proceeding is filed:

1.1.1. any relief granted under Article 129 or Article 131 of this Law must be consistent with the proceeding in Kosovo; and

1.1.2. if the foreign proceeding is recognized in Kosovo as a foreign main proceeding, Article 126 of this Law does not apply;

1.2. when the proceeding in Kosovo commences after recognition, or after the filing of the application for recognition, of the foreign proceeding:

1.2.1. any relief in effect under Article 129 or Article 131 of this Law shall be reviewed by the court and shall be modified or terminated if inconsistent with the proceeding in Kosovo; and

1.2.2. if the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in paragraph 1 of Article 130 of this Law shall be modified or terminated pursuant to paragraph 2 of Article 130 of this Law if inconsistent with the proceeding in Kosovo;

1.3. in granting, extending or modifying relief granted to a representative of a foreign non-main proceeding, the court must be satisfied that the relief relates to assets that, under the law of Kosovo, should be administered in the foreign non-main proceeding or concerns information required in that proceeding.

Article 140

Coordination of more than one foreign proceeding

1. In matters referred to in Article 107 of this Law, in respect of more than one foreign proceeding regarding the same debtor, the court shall seek cooperation and coordination under all Articles contained in Articles 131 and 132 of this Law, and the following shall apply:

1.1. any relief granted under Article 129 or Article 131 of this Law should be consistent with the foreign proceeding being developed in Kosovo;

1.2. when the proceeding in Kosovo commences after the recognition of the foreign proceeding, or after the filing of an application for recognition of a foreign proceeding, any relief in effect under Article 129 or Article 131 of this Law shall be reviewed by the court and shall be modified or terminated if inconsistent with the proceeding being developed in Kosovo; and

1.3. if, after recognition of a foreign non-main proceeding, another foreign non-main proceeding is recognized, the court shall grant, modify or terminate relief for the purpose of facilitating coordination of the proceedings.

Article 141

Presumption of insolvency based on recognition of a foreign main proceeding

In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a proceeding under this Law, proof that the debtor is insolvent.

Article 142

Rule of payment in concurrent proceedings

Without prejudice to secured claims or rights in rem, a creditor who has received part payment in respect of its claim in a proceeding pursuant to a law relating to insolvency in a foreign state may not receive a payment for the same claim in a proceeding under this Law regarding the same debtor, so long as the payment to the other creditors of the same class is proportionately less than the payment the creditor has already received.

CHAPTER X

TRANSITIONAL AND FINAL PROVISIONS

Article 143

Implementation of the provisions of this Law towards the bankruptcy cases opened in the court

After the entry into force of this Law, the Court shall implement the provisions of this Law, for all cases that are opened at the court before entry into force of this Law and that are still under procedure before the Court.

Article 144

Repeal of Prior Laws

This Law repeals the Law No. 2003/4 on Liquidation and Reorganization of Legal Persons in Bankruptcy and the Law No. 02/L-115 on amending and supplementing the Law No.2003/4 on Liquidation and Reorganization of Legal Persons in Bankruptcy and any provision of other Laws that are contrary or that are differently regulated by this Law.

Article 145
Entry into force

This Law shall enter into force fifteen (15) days after publication in the Official Gazette of the Republic of Kosovo.

Law No.05/L - 083
9 June 2016

President of the Assembly of the Republic of Kosovo

Kadri VESELI