

CECA MAGÁN HIGHLIGHTS MAIN NOVELTIES OF NEW INSOLVENCY LAW

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Yesterday, September 1, the consolidated text of the Insolvency Law came into force. Ceca Magán

Abogados Insolvency and Restructuring partner Manuela Serrano (pictured) summarizes for Iberian Lawyer the most important novelties to be taken into account



Refinancing agreements: The concept of "disproportionate sacrifice" is regulated, and it is established that the order that approves them may cancel liens and order the conclusion of executions of creditors affected by the agreement.

Out of court payment agreements: Liabilities without collateral shall be considered non-computable, as well as loans with collateral provided that they have accepted the proposed agreement.

Consecutive Insolvency proceeding: As a novelty, the consolidated text understands as consecutive Insolvency proceeding not only that which starts after an out-of-court payment agreement, but also the one that begins after a refinancing agreement, with common and specific regulations for each case.

Pre-Insolvency period: Necessary bankruptcy proceedings may be filed and will be processed once three months have elapsed since the filing of such communication, in case the debtor is a legal entity, and two if it is a natural person.

Creditors agreement: Judges can't change the content of any creditor agreements. The only exception would be applicable regarding material or arithmetic errors. Lastly, the text of the creditor's agreement proposal will be fully included in the judicial rule approving it.

Productive units' sales: The concept of "productive units" is included for the first time for Insolvency proceeding purposes. On the other hand, the Commercial judge would be the only one who can decide if the purchase contains a business succession. Anyway, even being such a business succession, the buyer will only assume the debt regarding the employees included in its purchase offer.

Seizures and executions: The leftovers from a non-necessary asset in an execution will be refunded to the debtor's assets.

Default interests: The last jurisprudence from the Supreme Court is included in this new Insolvency Law. So on, default interest will no increase once opened the insolvency proceeding.

Credit compensation after the insolvency proceeding opening: It is permitted now to compensate these kinds of interests when they come from the same legal relationship.