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Irina APETREI[1]*

Abstract

This paper aims to present the particularities of insolvency proceedings for individuals and to analyse the manner this matter was regulated in Romania through Law no. 151/2015 on insolvency proceedings for individuals, published in the Official Gazette, Part I, no. 464 of 26 June 2015, and whose entry into force has been delayed until the 1st of August 2017. Since 1989, up to the adoption of this new law, Romania has had no legal rules on bankruptcy of individuals. The current Romanian regulation - Law no. 85/2014 on insolvency prevention and insolvency proceedings, published in the Official Gazette, Part I, no. 466 of 25 June 2014, applies to legal entities and to individuals registered with the National Trade Register and who must meet the requirement of being a professional, as defined by Article 3 of the Romanian Civil Code. Article 1 of the new law stipulates its purpose as follows: "... the establishment of collective proceedings for the recovery of the financial situation of a debtor - an individual, acting in good faith -, the coverage of his/her liabilities to the greatest extent and his/her debt discharge ...". Article 5 of the law introduces the three forms of insolvency proceedings for individuals: administrative insolvency proceedings based on a repayment plan, judicial insolvency proceedings through liquidation of assets and the simplified procedure of insolvency. The debtor may choose one of the three forms, after considering their financial situation.

Keywords: insolvency proceedings for individuals, insolvency procedural forms.

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1. Introductive Considerations

In the history of Romanian law, the first regulations regarding the bankruptcy of individuals were included in the Codices of Ioan Caragea from Muntenia (1818) and the Callimah Code from Moldavia (1817), drawing their inspiration from the French Civil Code from 1804 and the Austrian Civil Code from 1811. Fraudulent bankruptcies had multiplied in that period, so that the market and the country's relationships with the foreign states were threatened. In this context, Ioan Caragea instituted a commission to look into the causes of the bankruptcy and the extent of damage suffered by the individuals who declared themselves bankrupt following a complaint, a way in which Caragea thought he could prevent fraudulent bankruptcies [6]. For the over-debt condition of an individual, the archaic terms of *mofluz* (bankrupt) and *deconfitura* (bankruptcy) were used. The term *mofluz* referred both to the trader and the non-trader in a state of bankruptcy.

The organic regulations from Tara Romaneasca (1831) and Moldova (1832) failed to include new provisions pertaining to bankruptcy, setting up in exchange courts for the settlement of commercial disputes [4].

From the wording of the Romanian Civil Code from 1864 it is understood that *deconfitura* refers to the non-trader while the bankruptcy refers to the trader. The debtor in a state of *deconfitura* was treated as any other debtor, their tangible and intangible assets being subject to forced execution, the legislator of the time being unconcerned about the fate of the debtor who thus remained in state of subsistence [2].

The Romanian Commercial Code from 1887, moving away from the tradition of Romanian law and of the old Italian and French law, regulated a procedure that only applied to traders (but not for the cessation of payment for their civil debts as well), while non-traders were not included.

In the period following 1989, in the matter of insolvency in Romania, the following regulations have been adopted: Law no. 64/1995 regarding the procedure of judicial reorganization and bankruptcy, law no. 86/2006 regarding the procedure of insolvency and Law no. 85/2014 regarding the prevention procedures for insolvency and bankruptcy, but none of these regulated the insolvency of individuals.

In the aftermath of the loan crisis from 2007 – 2008, the recession has brought this issue again to the attention of European states. Under these circumstances, most EU member states have adopted regulations in the field of insolvency for individuals. For harmonization purposes, the European Commission elaborated a set of Guidelines regarding the procedure of insolvency for enterprises, without excluding, however, the possibility of

applying it in case of individuals. In this context Romania adopted Law no. 151/2015 pertaining to the procedure of insolvency for individuals, whose enforcement has been postponed until August 1st, 2017, a regulation which constitutes the object of this paper.

In the current economic and social background of Romania, a good knowledge of the regulations of Law no. 151/2015 will allow individuals in a state of insolvency to redress their financial condition by recourse to one of the procedures stipulated by this normative act, depending on their situation. Meanwhile, we appreciate that the new regulation will constitute a way of warning debtors in an imminent state of insolvency about the possibility of actually becoming insolvent and about its legal effects.

On an international level, the promotion of the Romanian law provisions in the field may constitute an opportunity for future comparative approached for specialists and, in the end, a model to follow or not for the legislators of other states.

2. Theoretical Background

Considering the absolute novelty of the detailed regulation of the insolvency procedure for individuals in Romania, the Romanian literature in the field has analysed the phenomenon of over-indebtedness of individuals, capturing the historical evolution of the regulation of personal bankruptcy, the conditions in which a regular individual debtor (whose obligations do not derive from the exploitation of an enterprise, in the meaning of art. 3 Civil Code) can have access to one of the three procedures regulated by Law no. 151/2015, as well as the forms of the insolvency procedure for individuals regulated by this normative act in Romania, as compared to the legislation in other countries.

In the context of the papers that have already been published in this field, by outlining the pros and cons of this long-expected regulation, this paper aims at a clear, comparative and synthetic approach of the three forms of the insolvency procedure for individuals, by defining the hypotheses of resorting to one of the three forms of the insolvency procedure for individuals and pointing out to the important moments of each form of the procedure. The paper outlines the important role played by the administrator of the procedure during the first two forms of this procedure, reveals the possibility of appeal in front of the court against the decisions of the insolvency commission within the administrative procedure based on a debt repayment plan and assesses that the judicial procedure of insolvency by assets liquidation can also come to the benefit of the debtor who signed acts

or acted in any way to deceive the creditors, however with the legal consequences for their fraudulent deeds.

At the same time, this paper completes the doctrine by detailing, for the first time, certain aspects stipulated in the Methodological Norms for the enforcement of Law no. 151/2015 regarding the insolvency procedure for individuals (adopted by GD. no. 419/2017, published in the Official Gazette no. 436 from June 13, 2017). Thus, we have outlined the importance of complying with certain criteria of the debt repayment plan, in relation to the debtor's background, the debtor's possibility of remaining in the family building as tenant in case of a decision to sell it, as well as the importance of mediation meetings between the debtor and the creditor, as part of the procedure.

3. Argument of the Paper

The paper intends to reveal the necessity and importance of regulating the insolvency procedure for individuals by Law no. 151/2015, distinctly from the regulation of the procedure applicable in case of legal entities and traders registered with the Trade Register's Office, regulated by Law no. 85/2014 regarding the insolvency prevention procedures procedure and insolvency, taking into consideration the specificity of the procedure that applies to individuals (simple citizens or consumers), starting from the fact that the difficulties of the market economy have generated the over-indebtedness of many Romanian citizens who find it impossible to carry out their monetary obligations while maintaining a reasonably decent living for themselves or the people under their care.

4. Arguments to Support the Thesis

The regulation of a distinct insolvency procedure for individuals is justified by at least several arguments.

As legal entities can run into out of control financial problems, certain specific problems of individuals (related to their health condition, to the birth or death of a family member, divorce, etc.) can lead to a state of insolvency which should be specifically regulated.

Another argument is that the regulation of this special procedure (without it being perfect) is the only efficient way to reduce the debtor's fraud, through the careful monitoring of their financial situation by administrators and creditors.

Furthermore, the studies in the matter [1] have shown that, following the financial crisis, although people in Romania have become more and more careful to crediting products, their over-indebtedness due to various and complex causes can lead to default and this law offers the possibility for these affected individuals to recover.

5. Arguments to Argue the Thesis

In opposition to the arguments to support the necessity of the current regulation, Romania's Government itself (through Emergency Ordinance no. 45/21.05.2013) expressed a series of antagonistic opinions.

Thus, a first counter-argument would be that by withholding from such a regulation moral hazard (or risk) would be averted, in the sense that failure to fulfil the individuals' obligations would be related only to the irresponsibility or immorality of the debtors but, as we indicated above, failure is rarely due to controllable factors, its causes being both varied and complex.

Another counter-argument of Romania's Government refers to the fact that such a regulation would create the risk of fraud on the debtor's part, in the sense that debtors could avoid obligations by means of fraudulent means, thus abusively benefiting from the regulation of a special insolvency procedure for individuals, although it has been assessed that in the law systems that have regulated the insolvency for individuals, the cases of real fraud are insignificant as far as their number is concerned.

At last, another counter-argument is that the regulation of the insolvency for individuals would generate the risk of a lack of discipline in crediting, in the idea that indiscipline leads to default, but, as we indicated above, studies have shown that this is not the real cause of default but rather over-indebtedness, caused by complex reasons, which exceed the lack of discipline in crediting.

6. Purpose and Beneficiaries of Law no. 151/2015

The first article of Law no. 151/2015 sets down the purpose of the current regulation: "to establish a collective procedure for the financial recovering of an individual in debt and of good faith, to cover their liabilities to the greatest extent possible and to free from debts the individual in debt.

The new regulation addresses the regular individuals in debt who meet the following criteria:

- Have had the permanent address, residence or regular residence in Romania for at least 6 months prior to the submission of the application;
- Are in a state of insolvency, without any reasonable probability of becoming able to execute their obligations (as they were contracted) within a maximum period of 12 months while maintaining a reasonable standard of living for themselves and those under their support. This debtor's reasonable probability is determined taking into account the total amount of the obligations compared to the income made (or to be made) in relation to the professional training, the debtor's expertise and their traceable assets;

- The total of the debtor's outstanding obligations equals at least the threshold value set down by the legislator, of at least 15 minimum salaries at the national level.

The law fails to define with clarity what a good faith debtor means, but lists the debtors who cannot benefit from this procedure:

- Those for whom, for reasons that can be imputed to them, an insolvency procedure has been closed, either based on a plan to repay the debts or a judicial insolvency procedure to liquidate the assets or a simplified insolvency procedure, at least 5 years prior to formulating such a new application;
- People with a final court sentence for the perpetration of certain crimes (tax evasion, forgery, a crime committed with intent against the patrimony, by abusing trust);
- Debtors who have been fired in the last two years for reasons they are responsible;
- Those who, without having a place of work but are fit for work, failed to make the reasonable efforts to find or refused without good grounds a job that had been offered to them or another lucrative activity;
- The debtors who have accumulated new debts, by voluntary expenses while they were or should have been aware of their insolvency condition;
- The debtors who caused or facilitated the state of insolvency, with intent or due to serious fault (art. 4 line 4).

7. The Forms of the Insolvency Procedure for Individuals

Law no. 151/2015 regulates three forms of the insolvency procedure for individuals: the insolvency procedure based on a plan to repay the debts; the judicial insolvency procedure by means of liquidating assets and the simplified insolvency procedure.

While the first two forms apply to all individuals in debt who meet the conditions of the law, the third one is not just a form of insolvency, but also a form of social protection that applies to a limited category of debtors [3].

7.1. The Administrative Procedure Based on a Plan to Repay the Debts

Article 3 point 17 of Law no. 151/2015 defines the insolvency procedure based on a plan to repay the debts as a "concurrent, collective and egalitarian procedure that applies to the individual in debt of good faith in view of their financial recovery, for the proper management of income and expenses, in view of covering the liabilities, to the greatest extent possible, by means of a plan to repay the debts, followed by the discharge of residual debt, under the conditions of this law".

By the discharge of residual debts, according to art. 3 point 11 of Law no. 151/2015, one should understand the "writing off, at the completion of the insolvency procedure based on a repayment plan, of the debts included in the debt table that exceed the covering quota agreed upon in the repayment plan"; writing off the debts remained uncovered at the termination of the simplified insolvency procedure; writing off the debts remained uncovered after the surveillance period following the termination of judicial insolvency procedure by assets liquidation; the debt discharge fails to include the obligations of co-debtors or third warranting parties".

This form of the insolvency procedure is regulated in Chapter III of Law no. 151/2015, art.13-43.

In the event the debtors asses a state of insolvency (which exceeds by more than 90 days the due date for the outstanding debts, without having the necessary liquidities to pay for them), while their financial condition is not irremediably compromised, they can require the Insolvency Commission (an administrative organ organized at a territorial level in each county) to open the insolvency procedure based on a repayment plan to pay the debts, which is an administrative, and not a judicial procedure. The application falls under the competence of the Insolvency Commission from the territory

where the debtor has had the permanent address, residence or regular residence for at least 6 months prior to the submission of the application.

The debtor's application should indicate the reasons that led to this condition, the accumulated debts, the legal actions initiated in court against them, the attempts to negotiate the scheduling of debts, their civil and professional status, the amount of income for the three previous years, the assets and bank accounts in their possession, as well as those foreseen for the following three years, the amounts of money to recover from defaulting debtors, current or finalized litigation, the existence of convictions for tax evasion or forgery. The application should be supported by appendices with proofs regarding their professional condition (employed or unemployed), evidence to prove that they hadn't been fired for reasons that can be imputed to them and to show that they had taken all actions to find another job, documents regarding their income, copies of fiscal statements for the previous three years, an up-to-date criminal record and fiscal record, a report from the Crediting Office and a proposal for a repayment plan.

The debt repayment plan is of the essence in this procedure, which is established by the debtor together with the administrator of the procedure. The plan can be conceived for a period of maximum 5 years, with the possibility of extension for another year. Therefore, the law stipulates a maximum plan period of 6 years, but the debtor can also indicate a shorter period, depending on the amount of the debts, the expected income or value of goods the debtor intends to sell. We would like to mention that a series of debts cannot be paid off in instalments, reduced or written off, such as the legal or civil obligations of support or the ones deriving from the criminal or civil liability.

In the execution of this form of the insolvency procedure an important part is played by the administrator of the procedure. The administrator manages the procedure, supports, supervises and monitors the debtor while being also controlled by the Insolvency Commission. Although this procedure is administrative, all the commission's decisions can be appealed against by the interested parties, so that the parties' right to court action is hereby not affected.

After examination of the application, the insolvency commission verifies its own competence *ex officio* and then the requirements regarding the debtor's address (residence), the existence of the insolvency status, as well as whether the subject had been a subject of this procedure before, finalized with the discharge of residual debts ,at least 5 years prior to formulating the new application for the initiation of the insolvency procedure (art. 4, line 3) or whether the debtors falls in one of the categories indicated at art. 4, line 4,

already mentioned in the section regarding the purpose and beneficiaries of Law no. 151/2015.

After the analysis of the application, the insolvency procedure can admit it and rule the opening of the insolvency procedure based on a debt repayment plan, also appointing an administrator for the procedure, or may reject it while assessing that the debtor's condition is irremediably compromised, case in which, with the debtor's approval, will notify the court to open the insolvency procedure through assets liquidation or by means of the simplified insolvency procedure, as the case may be.

If the application is admitted, the forced executions initiated against the debtor's assets are temporarily suspended for maximum three months, except for the case when the court approved the extension of the suspension for up to three months, if in the absence of this measure the debtor's financial situation would be irremediably compromised.

In the event the plan is not observed, or the debtor fails to pay back their current debts, the closure of the plan based procedure can be requested followed by the initiation of the assets liquidation insolvency procedure.

7.2. The Judicial Procedure of Assets Liquidation Insolvency

This form of the insolvency procedure is defined by art. 3 line 18 of Law no. 151/2015, as a "concurrent, collective and egalitarian procedure that applies to the individual in debt of good faith in view of selling the assets and or traceable goods in view of covering the liabilities, to the greatest extent possible, by means of a plan to repay the debts, followed by the discharge of residual debt, under the conditions of this law".

The judicial procedure of insolvency by mean of the assets liquidation is regulated in Chapter V of Law no. 151/2015, art.46-64.

The application is of the competence of the court from the territory where the debtor has had the address, residence or regular residence for at least 6 months prior to the submission of the application.

The conditions under which the insolvency procedure by means of assets liquidation can be initiated are identical with those for the repayment plan based insolvency procedure, plus the irremediably compromised financial situation of the debtor.

As a rule, the initiation of this procedure is requested by the debtor, directly, if their financial situation is irremediably compromised, as shown above. The appreciation of this fact is examined using two subjective filters, the debtor's and the syndic judge's. In this sense, a clearer definition of the terms would be helpful to avoid a non-uniform practice of the court.

In addition, this procedure can be triggered following the initiation of a rejected or failed repayment based procedure.

Creditors can request the initiation of this procedural form only if the repayment plan based procedure to cover the debts cannot be carried out.

In this form of insolvency procedure an important part is played by the judicial liquidator, who will draw up the final table of debts, will make the inventory of the debtor's assets and will take charge of the liquidation of the debtor's assets, signing sale-purchase contracts on their behalf. The collected amounts will be deposited in a liquidation account, where the debtor's traceable income will also be redirected. If the liquidator fails to sell the assets in less than two years, despite all the reasonable efforts, creditors can become the owners of the assets to compensate for the debt.

The debtors who find themselves in this form of procedure are bound to perform lucrative activities to generate income and to provide information regarding the salary modifications that have occurred and in relation to the acquisition of goods and services.

After the sale of the goods and the distribution of the amounts collected to creditors, the liquidator draws up a final report. Within 30 days from the final form of the report, the court rules the completion of the procedure and determines the proportion of the debtor's income that can be used to cover the liabilities, after the procedure is closed.

If the creditors so desire, the debtor who concluded acts or acted in any way to fraud the creditors, prior to opening the procedure or during its course, can also remain in this form of insolvency procedure (art. 46 letter c) art. 64 line 2). In this case, the debtor will not benefit from the discharge of residual debts and the fraudulent acts committed can be annulled.

After the finalization of the insolvency procedure by means of assets liquidation, depending on the degree of liabilities coverage, the debtor of good faith can remain in a post-procedure surveillance procedure, from 1 to 5 years, until the discharge of residual debts.

7.3. The Simplified Insolvency Procedure

The simplified insolvency procedure is regulated in Chapter VI of Law no.151/2015, art.65-70.

It can be initiated if, beside the conditions required for the initiation of any insolvency procedure for individuals (mentioned before), the following supplementary conditions are met: the total amount of the debtor's obligations is maximum 10 minimum salaries on the economy (maximal value which shouldn't be mistaken with the threshold value), the

debtor has no traceable goods or assets and is over the standard retirement age or has lost completely or at least half of their capacity to work.

The application is submitted to the insolvency commission, which will analyse the debtor's file in the light of meeting the requirements to initiate the procedure and then the commission verifies if the conditions are met and sends the file to the court which, by court decision, will assess the fulfilment of the conditions for the application of the simplified insolvency procedure or shall deny the application.

It is worth mentioning that the simplified insolvency procedure is fully-fledged, with its own conditions of initiation as compared to the other two forms of the insolvency procedure for individuals, being impossible to initiate as a result of the failure of the other procedures.

This simplified procedure, as the other procedures, has as an effect the rightful suspension of all the forced execution measures on the debtor's debts, the application of interests, penalties, delay penalties, as well as of any other accessories of the payment obligation.

From the initiation of the procedure, for a period of three years, the debtor has a series of obligations set forth in art. 69:

- To pay the current debts, as they become due;
- Not to contract other loans;
- To provide yearly a notification to the insolvency commission regarding their patrimonial condition;
- To inform the insolvency commission regarding any extra income that exceeds ½ of the minimum salary on the economy, in addition to the level declared in the application form for the simplified insolvency procedure;
- To inform the insolvency commission with regard to the acquisition, of any nature whatsoever, including inheritance or donations, of goods and services whose value exceeds the minimum economy salary;

Upon the expiration of the three years period, the commission will issue a decision of termination of the simplified insolvency procedure, assessing the fulfilment by the creditor of the obligations incurred during the procedure or the conditions for the discharge of residual debts.

If the debtor fails to fulfil the aforementioned obligations, the commission will issue a decision to assess the termination of the simplified insolvency procedure, case in which the debtor will be held liable for the debts prior to the application, including debts and penalties that would have run but for their suspension, minus the paid amounts, if applicable.

8. Clarifications regarding the Methodological Norms for the Application of Law no. 151/2015 regarding the insolvency procedure for individuals

For the enforcement of Law no. 151/2015, Romania' Government adopted the methodological norms by Government Decision no. 419/2017 [5], to be effective starting on August 1, 2017, the date the law becomes effective.

The norms comprise detailed provisions regarding the debt repayment plan based insolvency procedure (art.3-12). Thus, the repayment plan shown by the administrator of the procedure should be feasible and have real chances for the debtor's financial recovery, depending on the debtor's circumstances. In this light, the norms set forth the landmarks the insolvency commission from the central level will use to determine the reasonable standard of living for the debtor and to evaluate the living conditions for the debtor and their family, in case of insolvency.

An important provision for the debtor, as found in the methodological norms, stipulates that if in the debt repayment plan it is deemed necessary to put to use the family's home (either by sale or by dation in payment), the debtor will be allowed to remain in the building as tenant, while the insolvency commission will determine the amount of rent, depending on the payer's possibilities and the level of rent for social houses (art.9 alin.2).

Furthermore, the norms also include details related to the conciliation meeting between the creditor and the debtor, when the parties express their point of view on the measures comprised in the repayment plan and offer solutions to reach an agreement (art.13-21). In this sense, the normative act sets down that the conciliation meeting should serve exclusively the parties' legitimate interests and that neither party can impose a solution to the other.

A large part of these norms approaches the situation of the administrators of the procedure (art.27-33). They will be appointed by a computer run application, choosing from insolvency practitioners, lawyers, notaries public or executors. They will be allowed to deny the appointment only on solid grounds (related to the health condition, a possible conflict of interest or in case of incompatibility according to the professional norms). The administrators can also be changed for solid grounds (failure to observe the procedural terms, negligence, lack of good faith or undignified behaviour to the parties involved in the procedure).

9. Dismantling the Arguments Against

The necessity of Law No. 151/2015 and its importance in the Romanian system of law cannot be contested. The very inexistence of such a regulation of the insolvency for individuals in the legal Romanian environment after 1989, but also the postponement for more than two years of the date when it becomes effective make this law a long-waited one for the Romanian citizen debtors who, against their will, find themselves in a state of financial distress.

Romania's Government itself, by Emergency Ordinance no. 45 from 21.03.2013, decided to refrain from adopting certain legislative initiatives that might undermine the crediting discipline, giving as an example the regulation of the insolvency procedure for individuals.

Certainly, after the law becomes effective, the arguments against it will be reactivated.

Against the argument regarding the danger of moral hazard, this danger exists in any system of law and in the life of any individual, but this risk cannot deny the considerable advantages of this new law for the debtors of good faith who, for reasons that cannot be imputed to them (already exemplified in a previous section), can no longer fulfil their patrimonial obligations. On the contrary, we appreciate that the regulation of the insolvency procedures for individuals and especially the imminent enforcement of the provisions of the law for the initiation of the insolvency condition regarding the debtor's behaviour during the execution and upon termination of the insolvency procedure will lead to a limitation and disappearance of those who sign crediting transactions prone to excessive risks.

Against the argument related to the danger of fraud on the part of the debtor, we would like to indicate that no simple or perfect solutions have been found to remove this risk. It would be utopic to attempt the complete exclusion of fraud, which have been present in all judicial systems, admitting the risk of existence of a limited dosage of fraud on the part of people who abuse the provisions of the law, which should be an incentive to find new ways to diminish the fraudulent acts and not to deter the procedure altogether.

Against the argument regarding the risk of a lack of discipline in crediting, we would like to reiterate the idea that, according to the studies conducted by Romania's National Bank, it has been assessed that the reasons for default should be looked for in the excessive over-indebtedness of Romanian citizens and not in the lack of discipline. In addition, we might also talk about the Romanian citizens' cultural attitude towards debt, but the

same studies reveal that the diversification of the crediting products following the financial crisis has led to an increase attention on the part of the debtors towards risks and a cautious attitude towards crediting products, so that the argument of cultural attitude fails to resist in front of arguments based on the previously referred to studies.

10. Conclusions

In an attempt to synthesize the ideas expressed in this paper, we assess that Law no. 151/2015 regarding the insolvency procedure for individuals creates obvious benefits for its recipients, Romanian citizens of good-faith who have accumulated monetary obligations for reasons that (in their vast majority) cannot be imputed to them and which exceed the possibilities to pay back, as they have been contracted.

Firstly, it ensures a long expected and specific protection to Romanian debtors, individuals of good faith who, meeting the requirements of the law, can recover from a financial perspective.

Secondly, all debts become liquid and outstanding, so that the creditors can recover them, in the hypothesis of the debt repayment plan based procedure or they can put to use the debtor's goods and/or income, in case of the insolvency procedure by means of assets liquidation.

Thirdly, with the initiation of the insolvency procedure, debtors benefit from the suspension of forced executions against them, as well as the cessation of interests and penalties accumulation for late payments.

Furthermore, the new law sets forth three specific procedures to solve the concrete cases in which various debtors can find themselves, thus managing to cover a large range of situations individuals can be confronted with. With regard to the simplified insolvency procedure, a welcome measure of social support for certain categories of debtors, it cannot be initiated following the failure of the other two forms of the insolvency procedure for individuals, being especially destined for certain people with a delicate financial condition (with a total amount of liabilities of at most 10 minimum salaries on the economy, without traceable income or goods, over the standard retirement age or completely or partly deprived by the capacity to work), as we indicated in the section destined for this form of the insolvency procedure.

Just as any other regulation, this one is not perfect. Thus, as far as the exoneration of residual debts is concerned, it can be done only at the debtor's request address to the court, after a term of 1, 3 or 5 years (depending on the percentage of covering the total value of the debts), a

relatively long period which fails to satisfy the debtor's interest at all times, not to mention that those terms are calculated from the moment of the finalization of the procedure, not from the moment of its initiation.

In conclusion, we appreciate that the provisions of Law no. 151/2015, on the whole, ensure a fair balance between the debtor's and creditor's interests, without favouring either party but providing a real support for Romanian citizens of good-faith who find themselves in a state of insolvency.

Certainly, for the time being we find ourselves in the realm of a pure theoretical opinion, as the law is about to become effective soon. The debates, the pros and cons will soon make their way to the Romanian legal environment after the law becomes effective. With the practical application of this regulation there can arise new problems, topics, proposals for completion or modification of the dispositions regarding the insolvency procedures for individuals, which will give us the occasion for future jurisprudential approaches on the matter.

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