

## LEGAL ALERT

### AMENDMENTS TO THE INSOLVENCY AND CORPORATE RECOVERY CODE

#### LAW NO. 9/2022, OF JANUARY 11

On January 11, [Law no. 9/2022](#) ("Law") was published, amending several laws – including the Insolvency and Company Recovery Code, the Companies Code and the Statute of the Judicial Administrator –, transposing [Directive \(EU\) 2019/1023](#) of the European Parliament and of the Council, of June 20, 2019, which aimed, *inter alia*, to increase the efficiency of proceedings relating to restructuring, insolvency and discharge of debt.

This Law **enters into force 90 days after its publication.**

The Law is approved under Component C18 – which concerns the area of Economic Justice and Business Environment – of the Recovery and Resilience Plan and stems from a government initiative **destined, among other things, to expedite and redefine the insolvency process**, in order to contribute to a **more efficient** judicial system, to the benefit of micro, small and medium-sized companies and investors.

#### Implementation of the Measures

The following innovations introduced by Law no. 9/2022 should be highlighted:

- **Entrusting** the insolvency administrator with the task of **drawing up a liquidation plan, with time-definite milestones**, to sell the assets comprising the insolvent estate; and
- **Establishing mandatory partial payments** whenever the amounts deposited to the demand of the insolvency estate are equal to or greater than EUR 10,000.00 and its destination is not disputed.

Moreover, this Law sets out to clarify some procedural and substantive aspects on which there has been debate among legal scholars and/or in case law, such as the issue of the exhaustive nature of the catalogue of subordinated claims and of the catalogue of specially related persons to the debtor.

On the other hand, it is also important to mention that Law no. 9/2022 brought with it **considerable changes** that should lead to **greater protection and involvement of creditors in insolvency proceedings**, namely:

- The **transformation** of compensatory claims arising from the termination of employment contracts by the insolvency administrator, after the debtor's declaration of insolvency, into **claims over the insolvency**, thus ensuring, on this topic too, the necessary certainty and equality in the application of the Law;
- The **softening** of the requirements for the approval of the insolvency plan, **with the respective approval quorum being reduced**; and
- The **lowering, to 10%**, of the amount of the deposit that secured creditors need to pay in order to submit a proposal for the acquisition of the secured asset.

**In what concerns the Special Revitalisation Process**, Law no. 9/2022 introduces fundamental changes to this process which relate, in particular: (i) with the classification of the creditors affected by the recovery plan in distinct categories; (ii) with the new majorities of approval, by the creditors, of the recovery plan; (iii) with the requirements for the homologation, by the court, of the recovery plan; (iv) with the content of the recovery plan; and (v) with the privileges granted to those who, in the course of the Special Revitalisation Process or in the execution of the recovery plan, finance the activity of the company.

[The Restructuring and insolvency team](#)

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