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Insolvency of the Natural Person and COVID 19 in Romania

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Considering that since 2009 draft normative acts have been submitted to the Romanian Parliament, for regulating the insolvency of the natural person, the adoption of the law into 2015 and the entry into force in 2018 represents an indisputable progress but also an entry into normality in the context that all EU member states already had legislation in this area. Three years after the entry into force of the insolvency of the natural law, we can say that the results anticipated by the legislator are far from the reality. The year 2020 characterised by the devastating effects of COVID 19, affected both individuals and legal entities. If the impossibility of overcoming difficult situations by legal entities leads to their deregistration, as far as natural persons are concerned, their disappearance due to the difficulties cannot be taken into account, they must continue their existence with overcoming the situation. Accessing the insolvency procedure of the natural persons is the solution that can be accessed by those in financial difficulty.

Keywords: *insolvency; natural person; COVID 19.*

Introduction

In 2014, by the enactment of Law No. 85, the "Insolvency Code" tered into force, which unified the insolvency prevention procedures, the insolvency procedure applicable to all the economic agents as well as the insolvency legislation in relation to the credit institutions, the insurance/reinsurance companies, the corporate groups, and the cross-border insolvency. The "Insolvency Code" name is used in practice in reference to Law No. 85/2014, but such normative act is not a code, in the sense given to this notion by Law No. 24/2000[1], i.e., a systematization and a concentration of the legislation in a certain field or a branch of law subordinated to certain common principles. Obviously, this act is incomplete, due to the absence of legal provisions in the matter of the insolvency of the natural person. The Romanian insolvency legislation is characterised in the recent doctrine[2] as being ephemeral, sliding and disseminated into too many normative acts.

The literature[3] claims the necessity of a law to regulate the insolvency

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[1]Art. 18-19 of Law No. 24/2000 on the legislative technique norms for the drafting of normative acts.

[2]Piperea (2020) at 501.

[3]Bercea, L., Bufan, R., Buta, A., Clipa, C., Comșa, M., Deli-Diaconescu, A., Deteșan, D., Dumitru, Ș., Folea, F., Micu, P., Mihai, N., Miloș, S.-M., Milu, O.D., Moțiu, F., Moțiu, D.D., Flavius, F.I., Munteanu, S.A., Nász, C.B., Nemeș, C.V., Pașca, V., Popa, A., Sanda, G.C., Sărăcuț, M., Stănescu, A.O., Șarcane, A-I. & S. Târnoveanu (2014) at 1023.

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procedure of the natural persons who do not carry out a business activity, stating that a balanced procedure, devised on the basis of the *win-win* principle, in the application of a payment plan with the discharge of the residual debts on condition of the restitution of a significant percentage of the liability, the debtor would be jointly interested in making the effort of paying a part of the debt knowing that, in the end, he will be exempt from the remaining part, while the creditor would sustain a much smaller loss.

The sole legal provisions that still acknowledged the fact that natural persons as well may have financial difficulties with honoring their assumed obligations are found in art. 1417 of the Civil Code[4], which states that the debtor loses the benefit of payment by instalments if he is in an insolvency state or, as the case may be, in insolvency declared according to conditions of law and in art. 675 of the Code of Civil Procedure[5], where, within the same context of losing the benefit of payment by instalments, reference is made to the "debtor who is in a commonly-known insolvency state".

The reason for avoiding the adoption of an insolvency code results from the letter of intention issued by the Romanian authorities in September 2012, approved by the International Monetary Fund and ratified by the Government Emergency Ordinance No. 45/2013[6], where the Romanian state committed not to adopt the Insolvency Law of natural persons with the purpose of maintaining the lending discipline and of avoiding the moral hazard among debtors. Such commitment led to the rejection of three draft proposals in the matter of the insolvency of natural persons.

It was only in 2015 that the Romanian legislator prioritised the necessity of harmonizing the national legislation with the European one and of adopting the Law of insolvency of natural persons No. 151[7]. The law was adopted on the 25th of June 2015 and it should have entered into force within 6 months from the adoption, i.e., on the 25th of December 2015. The 6-month deadline was meant for the performance of the implementation steps required to put it into practice. The law (art. 92) establishes clear implementation deadlines starting from the date of publication in the Official Journal: 60 days for the approval of the methodological norms for the application, 3 months for the establishment of the insolvency commission at a central level and of the insolvency commissions in the territory, 5 months for drafting the lists of members admitted as administrators/liquidators in the natural person insolvency procedure. Since none of these objectives were reached, the deadline for the application of the law was postponed by the G.E.O

[4]Law No. 287/2009, republished in the Official Journal No. 505 of the 15th of July, 2011.
[5]Law No. 134/2010, republished in the Official Journal No. 247 of the 10th of April, 2015.
[6]The Government Emergency Ordinance No. 43/2013 on the ratification of the Letter of Intention signed by the Romanian authorities in Bucharest on the 12th of September 2012, approved by the Decision of the IMF Executive Board of the 28th of September 2012, as well as of the letter signed by the Romanian authorities in Bucharest on the 8th of March 2013, approved by the Decision of the IMF Executive Board on the 15th of March 2013, by means of which Romania was requesting the extension of the Stand-by Agreement between Romania and the International Monetary Fund.
[7]Law No. 151/2015 published in the Official Journal of Romania No. 464 of the 26th of June 2015 and entered into force on the 1st of January 2018.

No. 61/2015[8] to the 31st of December 2016. The postponement of the entry into force by a year was not enough for the drafting of the methodological norms and the organization of the technical body required for the application of the law, so that by the Government Emergency Ordinance No. 98/2016 published in the Official Journal of the 21st of December 2016 - the application of the normative act was postponed again to the 1st of August 2017. By the Government Emergency Ordinance No. 6 of the 27th of July 2017, the deadline for the entry into force was prolonged to the 1st of January 2018. The arduous journey of the entry into force of the law of insolvency for natural persons was completed by the adoption of Law No. 234/2017 when the Government Emergency Ordinance No. 6/2017 for the extension of the deadline for the entry into force of Law No. 115/2015 on the natural person insolvency procedure was adopted.

Finally, Law No. 151/2015 on the natural person insolvency entered into force as late as the 1st of January 2018. The methodological norms[9] for the application of Law No. 151/2015 on the natural person insolvency entered into force on the 1st of August 2017. The insolvency commissions at the local and central level were established by the Government Decision No. 11/2016.

Landmarks of the Law

Law No. 151/2015 comes to regulate the insolvency of the natural persons whose obligations do not result from the operation of a company. Within such new context, the notion of insolvency acquires a legal definition sanctified by art. 3 point 12 of Law No. 151/2015: "the state of the debtor's patrimony, which is characterised by insufficiency of pecuniary resources available for the payment of the debts, when they become due. The debtor's insolvency is presumed when, 90 days after the due date, the debtor has not paid his debt to one or more creditors. The presumption is relative.

The notion of over-indebtedness or excessive indebtedness responds to the definition of insolvency that indicates a lack of liquidity for the payment of all the assumed obligations. In a study by the European Commission[10] it was stated that there is no unanimous definition of the notion of over-indebtedness, such notion being approached differently by the national legislator. Nonetheless, the vast majority of legislations approach the economic dimension, the temporal dimension,

[8]GEO No. 61/2015 was published in the Official Journal No. 962 of the 24th of December 2015 and it establishes by means of a sole article: the deadline for the entry into force stated in art. 93, the first thesis of Law No. 151/2015 on the natural person insolvency procedure, published in the Official Journal of Romania, Part I, No. 464 of the 26th of June 2015, is extended to the 31st of December 2016.

[9]The methodological norms for the application of Law No. 151/2015 on the natural person insolvency procedure, which were approved by the Government Decision No. 419 of the 9th of June 2017, published in the Official Journal of Romania No. 436 of the 13th of June 2017, entered into force on the 1st of August 2017.

[10]The over-indebtedness of european-households: updated mapping of the situation, nature and causes, effects and initiatives for evalluating its impact http://ec.europa.eu/consumers/financial _services/reference_studies_documents/ docs/part_1_synthesis_of_findings_en.pdf.

the social dimension and the psychological dimension of the phenomenon. The economic standpoint contemplates the amount due, the temporal approach refers to the medium and long-term possibility of payment of the debts, the social dimension comprises the expenses required for everyday life and the psychological standpoint points at the stress of the subject that must cope with the difficult financial situation.

The main purpose of this law is the financial recovery of the natural person debtor, so that the protection of the natural person who is in a difficult financial situation becomes a priority for the legislator. The normative act provides the natural person acting in good faith a series of procedures to be accessed so as to offer the opportunity to surpass the solvency issues with a view to the social and economic reintegration of such person.

Moreover, the wording chosen by the legislator to define the purpose of the law reveals an imbalance even between the manner of protection of the debtor's interests and his creditors. The debtor appears as a protégé from the economic and social standpoint, while the creditors will recover their claims within the limit of the debtor's possibilities. Such approach is natural within the context where the subject facing financial difficulties is not a legal entity whose failure in business is sanctioned by cancellation from the registry where it is registered. It must be stressed that the natural person will continue its existence after this procedure as well, therefore the very first article establishes the debtor's discharge from debts. A mere debt rescheduling is obviously not satisfying for the insolvent natural person, given that a cancellation, a removal of the debts that are impossible to pay within a reasonable time is necessary.

The financial recovery of the debtor acting in good faith within the context of legal protection of the essential elements of his patrimony for the preservation of a decent living and with the possibility of total or partial debt discharge accounts for the legal framework that gives the insolvent natural person the opportunity of a fresh start.

The chance of a fresh start is conditioned by the good faith of the debtor whose insolvency state must be excusable. It is obvious that the option of accumulating debt with the perspective of non-payment towards the creditors provided for by the Insolvency Law for the natural person may also generate a bad-faith or fraudulent behaviour, which, however, if discovered, is sanctioned by the law by the non-discharge of the residual debts.

The bodies that apply the insolvency procedure are the insolvency commission and the administrator of the procedure, the courts of law and the liquidator.

The efficient application of the law entails the assignment of the human and material resources required within the context of performance of the natural person insolvency procedure. Reaching the principles of such procedure: the debtor's financial recovery, the protection of the creditors' rights and interests, the maximization of the debtor's assets, the expeditiousness, the transparency, the predictability, is ensured by specialised bodies. Although the legislator had bodies already specialised in the matter of insolvency of the professionals, and we refer here to the insolvency practitioners and the syndic judges within the courts of law, the legislator changed such configuration profoundly precisely in order to ensure the debtor's accessibility to the procedure. Moreover, the legislator created a new

body in the Romanian legislation - the insolvency commission. The difficulties generated by the allocation of the required human resources, which must also have a high professional standard, are obviously reflected by the subsequent postponements of the entry into force of the insolvency law for natural persons.

An unprecedented fact in the Romanian legislation, the legislator passed special regulations on the insolvency of natural persons - the insolvency commission at a central level and the insolvency commissions at a local level, establishing their attributions.

Whereas the insolvency commission at the central level has the main attributions of monitoring and coordinating the insolvency commissions at the local level, the latter are organised and operate at the level of each county and they have decisional, controlling and supervision attributions within the insolvency procedure.

The local insolvency commission is made up of representatives of the deconcentrated structures within the territory of the National Authority for the consumer protection, the Ministry of Labour, Family, Social Protection and the elderly, as well as one representative of the Ministry of Public Finance.

The establishment of a new body, specific to the insolvency of natural persons encountered a series of difficulties, which led to the postponement of the entry into force of the law until the beginning of 2018. The application of the norms issued by Law No. 151/2015 imposed the establishment of a complex system at the national level, made up of 42 local insolvency commissions, one technical body, logistics as well as the adoption of the application norms for the law. For an efficient operation of such new structure, both human and financial resources had to be allocated. Moreover, the human resources needed a specialization and professional training on the activity they were to carry out.

The Directorship for the Insolvency of Natural Persons within ANPC (National Authority for Consumer Protection) provides the technical body of the central insolvency commission and of the commissions organised at the local level. ANPC is a public institution that operates as a specialty body of the local public administration, with legal personality, subordinated to the Government, which coordinates and accomplishes the Government's strategy and policy in the consumer protection field. Although initially 270 contractual staffing positions were allocated, they were subsequently reduced to 255 and then, radically, to 81, so that currently, the staffing plan only includes 64 positions[11].

Although the efforts made for devising and implementing this new body - the insolvency commission - were consistent, they were hindered by the lack of trust of the Romanian in the provided solutions, aspects that may be quantified in the small number of people who requested to access the natural person insolvency procedure.

Both the procedure administrator and liquidator shall be appointed from among the insolvency practitioners, officers of the court, lawyers and public notaries registered in the List of procedure administrators and liquidators for the natural person insolvency procedure.

[11]Bărbulescu (2020).

The list of procedure administrators and liquidators for the natural person insolvency procedure includes insolvency practitioners, officers of the court, lawyers and public notaries who expressed their intent to perform such activity.

Traditionally, the notion of insolvency was related to the insolvency practitioner who, under the name of trustee or judicial liquidator used to administer the insolvency procedure of professionals. The organization of the insolvency practitioners' activity is regulated by the Emergency Ordinance No. 86/ 2006[12]. The admission to the insolvency practitioner profession entails passing an examination, completing a 2-year professional training course and only then sitting the final professional certification examination. Remaining in the profession requires the completion of annual professional training courses.

Within the context of the regulation of the insolvency practitioner profession, it seemed bizarre to allow some other three liberal professions, i.e. officers of the court, public notaries and lawyers, to enrol in the List of procedure administrators and liquidators for the natural person insolvency procedure. Moreover, the norms of regulation of such professions [13] actually contain express interdictions to exercise simultaneously the insolvency practitioner profession. The firm position of the legislator in allowing, by way of exception, several liberal professions to act as administrators or liquidators of the natural person insolvency procedure results from the provisions of art. 12 comma 2 of Law No. 151/2015: "the capacity of insolvency practitioner, officer of the court, lawyer, and notary is compatible with exercising the capacity of procedure administrator or liquidator for the natural person insolvency procedure". Thus, by means of an article all the interdictions and incompatibilities existing in the various normative acts that regulated the activity of lawyers, public notaries or officers of the court were lifted.

The doctrine[14] also formulated the arguments for which the members of four liberal professions were allowed to become administrators or liquidators in the natural person insolvency procedure. One of the arguments is that for an over-indebted natural person debtor it is more simple and less costly to find support as close as possible, whereas the insolvency practitioners are especially concentrated in the localities where there are county courts, and not in other localities, while the other three professions usually have representation at least in the localities where there are district courts. Another argument is that the insolvency practitioners' expertise in the professionals' procedures would be wasted in the administration of natural person procedures, which are more or less professionally challenging, but which are expected to be numerous, therefore repetitive and time and resource-consuming. On the other hand, in regard to the over-indebted natural persons, oftentimes individual forced execution procedures are in progress, initiated by the officers of the court, who, knowing the patrimony situation of the specific debtors, will administer more efficiently the collective procedure. Since such procedure

[12]The Emergency Ordinance No. 86 of the 8th of November 2006 on the organization of the insolvency practitioners' activity, published in the Official Journal No. 94 of the 22nd of November 2006.

[13]Law No. 51/1995 for the organization and exercise of the profession of lawyer, the Law of public notaries and notary activity No. 36/1995, Law No. 188/2000 on the officers of the court.

[14]Deteșan (2015) at 183.

refers to the natural person, and his/her financial difficulties may have various causes (family, loss of job, health issues), the access of lawyers, respectively of notaries was also permitted, to act as administrators/liquidators of the procedure, who may support the debtors to find a solution to their problems. Furthermore, the public registries kept by the notary offices are an important source of information to which the commission must have access, so that the notaries would anyway be involved in the application of this law, and it is therefore legitimate to also grant the capacity of procedure administrator, to the extent to which the representatives of these liberal professions are willing to accept the administration of the procedure. Last but not least, given that the law opens the access to a large number of natural persons to the procedure, it was necessary to have a covering number of persons that may have the capacity of administrator/liquidator so as not to prevent the natural person debtors to take advantage of the provisions of the law.

The large number of debtors that would access the procedure in 2015, once with the entry into force of the law, was anticipated by the legislator based on the Report by National Bank of Romania for 2014 where it was stated that as of December 31st the Central Credit Register had a number of 218,000 natural person debtors registered by the credit institutions, the non-bank financial institutions and the payment institutions, with arrears representing 309,000 loans amounting to 33,704 million lei. Faced with such numbers, the Romanian legislator considered that many of these natural persons who have outstanding credits will apply for the natural person insolvency procedure, this being also the reason, in our opinion, why the exercise of the capacity of administrator or liquidator in the natural person insolvency procedure was also permitted to the officers of the court, notaries and lawyers. The intention certainly was to make available to the debtor a considerable number of professionals, easily accessible from a territorial standpoint, who would support, guide and direct the natural person debtor in the insolvency procedure.

The explosion of the natural-person insolvency cases, anticipated by the legislator, did not occur, and 3 years after the entry into force of Law, 25 natural persons are in insolvency, which does not justify the ample system engaged in the performance of the natural-person insolvency procedure.

According to art. 10 of Law No. 151/2015, all the requests and actions in the judicial insolvency procedure by liquidation of assets, the appeals against the insolvency commission decisions and also the debt release requests will fall within the competence of the district court, under the jurisdiction of which the debtor had his/her residence for at least 6 months before referral to the court, without taking into account the subsequent residence changes of the debtor.

Whereas traditionally the court with full competence for the merit trial in the court of first instance in the matter of insolvency was the county court, this time the subject-matter jurisdiction was attributed to the district court.

The arguments used by the legislator to allow the four liberal profession categories to act as administrators, respectively, liquidators of the natural person insolvency procedure also underlie the decision to grant the district court the subject-matter jurisdiction. In addition, it was taken into account that once with the entry into force of Law No. 151/2015, the forced execution requests, which are also under the jurisdiction of the district court, will decrease significantly. The

reports[15] on the state of justice drafted and published annually by the Superior Council of Magistracy reveal that from 2011 to 2015, over 50% of the cases newly introduced to civil-case judges are constantly related to forced execution. Thus, anticipating the massive access to the natural person insolvency procedure, which entailed the decrease of the number of forced execution cases, fairness was found in attributing the subject-matter jurisdiction to the district court. Yet, the legislator's predictions, as we have shown, did not prove real with respect to accessing the natural person insolvency procedure by the possible beneficiaries. The reports on the state of justice for 2018 and 2019 continue to reveal that over 50% of the cases newly introduced to civil-case judges are still related to forced execution, aspects deriving from the natural person insolvency procedure not being used.

In the present, noticing the small number of natural persons interested in accessing Law No. 151/2015, we consider that the insolvency procedures might have been attributed to the first instance jurisdiction of the county courts[16]. We make this claim because the professionals' insolvency matter has a tradition of 26 years and is successfully managed by the syndic judges within the county courts. Moreover, keeping the first instance jurisdiction line within the county court for all the insolvency procedures (professionals and natural persons), would have allowed, on the one hand, the management of the natural person insolvency procedure by judges specialised in the insolvency matter, and, on the other hand, the provision of unitary case law.

The procedures accessible by the natural person debtor are: the administrative insolvency procedure on the basis of a repayment plan, the judicial insolvency procedure through the liquidation of the debtor's assets and the simplified insolvency procedure.

The administrative insolvency procedure on the basis of a repayment plan is defined as the collective and egalitarian insolvency procedure, which is applied to the natural person debtors acting in good faith for their financial recovery, for the adequate management of income and expenses in order to cover as much as possible the liabilities, by means of a debt repayment plan, followed by a release of the residual debts, in accordance with the present law. The central element of this procedure is the debt repayment plan, which must be drafted within 30 days from the communication to the creditors of the final debt table.

The debt repayment plan is the document drawn up by the debtor with the administrator of the procedure, which includes the way in which claims against the debtor's assets are covered, the amounts and the payment deadlines, but not more than the amounts due according to the debt table, as well as any other measures for the financial recovery of the debtor.

The judicial insolvency procedure through liquidation of assets is, pursuant to Article 3(18) of Law No. 151/2015, the collective and egalitarian insolvency procedure, which applies to the natural person debtor acting in good faith, with a view to capitalise the enforceable assets and/or income of the debtor in order to cover the liabilities, followed by the release of residual debts, in accordance with the law. Characteristic of the liquidation procedures is the debtor's loss of the right

[15]https://www.csm1909.ro/267/3570/Rapoarte-privind-starea-justi%C5%A3iei.
[16]Nasz (2016) at 170.

to dispose of his/her own enforceable assets and income. As results from the very name of such procedure, its essence consists in the liquidation/capitalization of the debtor's enforceable assets so as to cover the creditor's liabilities.

The simplified insolvency procedure is destined to a limited category of debtors. Thus, besides the general requirement for the debtor to be a natural person in an insolvency state and for there not to exist a reasonable probability for the debtor to become, within a 12-month period, capable to fulfil his/her obligations, as they were contracted, with the maintenance of a reasonable standard of living for himself/herself and his/her dependants, with the verification of the interdictions imposed by the law to certain categories of debtors to access any insolvency procedure, the legislator requests the fulfilment, cumulatively, of the following conditions[17]: the total amount of the obligations is at most 10 national minimum wages; the debtor does not have enforceable assets or income; the debtor has passed the standard retirement age or has lost entirely or at least half of the work capacity. Consequently, the recipients of this procedure are the natural persons who are no longer able to work because of old age or other reasons, do not have assets or income, and their debts do not exceed the amount of 23,000 RON (approximately 4600 Euros).

The literature[18] compared this last procedure with a social assistance measure for certain categories of debtors and, although it is a standalone procedure, having its own triggering conditions, it is not a genuine collective insolvency procedure.

The financial difficulty that the debtor confronted may not be exceeded only by the suspension of the forced executions or of the accessories, or by granting longer payment deadlines, while the essential aspect is the cancellation of a part of the debt for the debtors acting in good faith. Good faith, as we have shown, is a central element of the natural person insolvency procedure, which must characterise the debtor's behaviour before the opening of the procedure, during the procedure and also after the closure of the insolvency procedure so that the debtor may take advantage of the residual debts release.

Insolvency of the Natural Person in the Context of the COVID 19

The crisis caused by the COVID 19 pandemic from 2020 to 2021 is a major shock for citizens both from a financial-economic standpoint and from a social standpoint. The member states adopted a series of measures to enhance the systems' capacity to offer help to the people form the severely-affected sectors.

Even though at an academic level we speak of supporting the "critical sectors of the economy", the protection of jobs and of citizens in general were particularly contemplated.

The economic impact varied from one sector to another and from one company to another. A series of factors were decisive, among which the possibility to adapt to the interruptions within the procurement chain, stock existence, financial reserves and so on. It is no secret that very many small and medium businesses

[17]Art. 65 of the Law.
[18]Comșa (2018) at 87.

closed temporarily or for good during the pandemic and very many citizens survived on diminished salaries or were even left without a job. Such aspects led to the diminution of the standard of living.

In a study[19] published in June 2020 it was shown that in Romania there are about 7 million people at risk of poverty of social exclusion, and the COVID pandemic will further increase this number up to 8 million citizens.

Within the context of a profound economic and financial impact on the Romanian citizen, caused by the pandemic, without being able to anticipate in a real manner the quantitative or temporal dimension of the disaster, the natural person insolvency procedure had to appear as a solution.

In June 2018, the National Office of the Trade Registry (ONRC) announced the publishing in the Romanian Insolvency Proceedings Bulletin (BPI) of the first case of insolvency of a natural person whose obligations do not result from the operation of a company. In March 2019[20], more than one year after the entry into force of the Law, only 13 Romanians had accessed the natural person insolvency procedure. In January 2020[21], two years from the entry into force of the Law only 25 natural person debtors had chosen to claim the advantages provided by the natural person insolvency law[22].

The failure to access the procedure is recognised at institutional level; in September 2020 ANPC[23] announced in a press release that it offers gratuitous guidance procedures for the preparation of the insolvency file of the natural persons who have debt repayment delays exceeding 90 days, and that it will identify new tools suitable for the clients acting in good faith resorting to the insolvency procedure.

Three years after the entry into force of the insolvency law, a very small number of natural persons are in insolvency, although the period from 2020 to 2021, characterised by the COVID 19 pandemic, should have brought a significant increase of this number. Even though this epidemic brought along severe financial difficulties for natural persons, and declaring personal bankruptcy would be a solution, still it is not used by the potential recipients.

Analysing the devastating economic effects caused by the COVID 19 pandemic and materialised into a global recession, the World Bank draws attention to the national legislators on the importance of the crediting activity. The specialists stress the transparency of the crediting process, the reduction of the credit costs, waiving confidentiality clauses and urgent legislative reforms that would allow an efficient management of the debts of natural persons and legal entities. Furthermore, the adoption of urgent measures to improve and consolidate the legal

[19]Chivu & Georgescu (2020) at 26-27.
[20]Niculescu (2019).
[21]Bakos (2020).
[22]BPI does not provide statistics with respect to the number of natural persons for whom the insolvency procedure is currently open, providing only information related to the number of procedural files issued by the courts of law, the insolvency commissions and the procedure administrator/liquidators and published in BPI - the Debtors Section - natural persons having obligations that do not result from the operation of a company. Thus, in 2018, 28 such files were published, in 2019, 40 files were published and in 2020, 28 such files were published.
[23]https://anpc.ro/articol/1495/comunicat-de-presa.html.

framework in the matter of insolvency are considered "critical".[24]

The doctrine on the natural person insolvency in Romania is scarce, yet the authors do agree that the first shape drafted by the legislator - Law No. 151/2015 is not an attractive one for debtors, inasmuch as it is complicated, by many rules, imprecise and interpretable notions and that its modification is required so as to transform it into a tool that would be able to provide clear and concrete solutions in order to exceed the state of financial difficulty of the natural person.

Conclusion

From a medical standpoint, the fight against the COVID 19 virus in Romania seems to be reaching an end, through the vaccination process that is currently in progress, although the doctors warn of possible subsequent waves of infections caused by mutations of the virus.

From a financial-economic standpoint though, we consider that we will only be able to quantify the effects of the pandemic, generated by the fracturing of the balance existing in society, in 2022.

It is certain that the standard of living of the Romanian citizens decreased and a large part of the population is excessively indebted. Among the efforts made to reduce the social and economic effects generated by COVID 19 on the citizens, we must take into account the encouragement to access the natural person insolvency procedure, by means of which the debtors acting in good faith may be exonerated from part of their debts.

Unfortunately, as we have shown, despite the multiple benefits of such procedure, it is not accessed by the over-indebted natural persons. The ambiguous and interpretable legislation along with the large number of documents required in order to access the procedure does not convince the natural persons to resort to such solution.

The Romanian legislator, following the recommendations of the World Bank, must provide a new legal framework for the natural person insolvency procedure. The law will have to convince the potential natural-person recipients of the benefits provided to them, being able to provide a fresh start to any citizen acting in good faith who has reached a financial state of over-indebtedness for reasons not ascribable to the citizen.

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[24]World Bank (2021) at 18.

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