

## **Institution of Private Bankruptcy**

**Irrespective of positive European experiences, bankruptcy law in Hungary has not adopted settlement agreement procedure applicable in case of private individuals' bankruptcy, nevertheless proposals have been made in this respect, the expert of Kovács Réti Szegheő Attorneys at Law has revealed.**

The increasing household debts would require debt settlement in the framework of regulated proceedings. However, only the amendments of the currently effective bankruptcy act may present such a solution. Last October, a draft bill was submitted by the opposition, which would allow a three-tier settlement of debt.

The moratorium of evictions was seeking to find a solution for the situation impending for many, however it does not offer a practical solution to the problem moreover, many people believe that it only delays the escalation of the real problems while bearing a negative impact on debtor's payment morale.

### **Western European Models To Follow**

The expert of Kovács Réti Szegheő Attorneys at Law emphasised, the draft bill on bankruptcy of private individuals comprehensively presents the western European models and based on these, aims to implement a three-tiered system.

We would introduce the first stage, i.e. seeking an agreement. This requires creditor co-operation and readiness for compromise. In the second stage, accelerated bankruptcy proceedings would follow.

Dr. Attila Kovács opines that in this case, the court would designate an asset manager to take an inventory of the debtor's assets and provide proposals on the sale and distribution thereof among creditors. In case it is completed, the debtor shall be discharged from the settlement of the remaining debts on grounds of such being uncollectible.

For the future improvement of the debtor's financial situation, creditors may demand settlement of unpaid debts in accordance with the rules of civil procedure. This provision of the draft bill is a rather inconsequential one as in no way would the debtor be encouraged but rather discouraged from taking future efforts for the sake of a more prudent management.

### **Long Term Repayment Process**

The third phase is the so-called long-term repayment process bearing striking similarities to the Austrian model. This is also ordered by the court but the creditors' approval is also required, the expert of Kovács Réti Szegheő Attorneys at Law pointed out.

The process is expected to last for five years that can be shortened to two years or can be prolonged by one year with the consent of creditors.

Essentially, the right of disposal over the debtor's assets is exercised by an asset manager. Thus the debtor's management and lifestyle would be under strict control and the debtor may be entitled to decide only on expenses required for his most essential subsistence.

Dr. Attila Kovács reminded that the introduction of bankruptcy of private individuals in Hungary was subject to dispute a year before. The Hungarian Bank Association expressed grave concern to its members despite admitting that its implementation would be justified, having regard to the fact that it is practiced in several European countries.

Nevertheless the association also remarked that for the introduction of bankruptcy for private individuals, much calmer economic environment is required while the currently critical situation may not cater to the introduction of such institution either in Western Europe or Hungary.

### **Responsible Borrowing**

As far back as 2009, the proposal elaborated by the Ministry for Justice and Law Enforcement included provisions that the debtor may be relieved from payment of part of his debts.

Such institutionalised relief was deemed unacceptable by the banks. Rather, they wish to place the emphasis on responsible borrowing –underlined by the attorney at law.

The current draft bill so far has not inspired significant debates a reason for that may be that the government has a ready-made structure for the assistance of foreign exchange debtors. The government's proposal that has been disclosed aims to tackle only one particular situation, the problems of the foreign exchange debtor's.

### **Such a Draft Bill Would Be Timely**

However, the high rate of family indebtedness and the gradual increase in the number of those in arrears with repayment of loan may call for concern besides numerous factors prove that it would be timely to draft domestic regulation in respect of bankruptcy rules for private individuals.

And in this respect, it would be advisable to consider such social aspects on whose grounds the government(s) have so far prevented eviction from residential properties, the expert of Kovács Réti Szegheő Attorneys at Law emphasised.