

A practical guidance on the public plan to address and mitigate the impending bankruptcy risks of small and medium-sized enterprises

The Ministry of Economy of the Slovak Republic publishes practical guidance on the development of a public plan for the imminent bankruptcy of small and medium-sized enterprises following § 63 letter a) of the Act no. 111/2022 Coll. On solving impending bankruptcy and on amendments to certain laws (hereinafter only “Act”).

Small and medium-sized enterprises follow the law and follow-up statements to prevent impending bankruptcy:

- Decree of the Ministry of Justice of the Slovak Republic No. 195/2022 Coll., implementing certain provisions of Act No. 111/2022 Coll. on dealing with impending bankruptcy and on amendments to certain laws,
- Decree of the Ministry of Justice of the Slovak Republic No. 197/2022 Coll., laying down details on the method of determining insolvency, the coverage gap and impending insolvency,
- further follow-up legislation.

The application for public preventive proposal as per § 7 section 1 of the Act is filed by the debtor. According to § 36 section 6 of the Act the debtor attach to the proposal also draft public plan and following annexes:

- list of creditors,
- list of assets with established values,
- list of guarantors and other guarantors,
- list of liaised persons,
- list of deeds with liaised persons for the last three years,
- list of employees,
- impending bankruptcy analysis,
- best creditor interest analysis,
- rule of relative priority analysis,
- viability and sustainability analysis.

In the case of small and medium-sized enterprises, according to § 5 section 2 of the Decree of the Ministry of Justice of the Slovak Republic No. 195/2022 Coll., annexes to the public plan can be prepared in a simplified format according to the practical guidelines of the Ministry of Economy of the Slovak Republic.

In this context, the Ministry of Economy of the Slovak Republic recommends that small and medium-sized enterprises include all the necessary annexes listed in § 36 section 6 of the Act, with the understanding that they will apply appropriate methods of financial analysis in accordance with legal requirements.

If an enterprise does not have its own personnel expertise to develop a public plan, we recommend using expert advisors. Based on an engagement call released to public, the Ministry of Economy of the Slovak Republic has created a list of advisors for small and medium-sized enterprises in the event of imminent bankruptcy, which is published on the website of the Ministry of Economy of the Slovak Republic. Companies in imminent bankruptcy in accordance with Act No. 111/2022 Coll. may also use legal entities and experts other than those listed.

The Ministry of Justice of the Slovak Republic processed some forms for use in process of public preventive restructuring and temporary protection. The forms are accessible via the website slovensko.sk. The links to the specific forms are also available on the [website of the Ministry of Justice of the Slovak Republic](#).

List of forms:

- The proposal to authorize public preventive restructuring with the possibility of applying for temporary protection
- The debtor's application for confirmation of the plan by the court - replacement of the group's consent by a court decision,
- The debtor's proposal for confirmation of the plan by the court
- The proposal to extend temporary protection
- The proposal for termination of temporary protection of the enterprise

In addition, we need to underline that small and medium-sized enterprises must comply with all the legal regulations during the public plan development in case of impending bankruptcy. The most important ones are listed below:

List of legislation:

1. Act No. 111/2022 Coll. on the solution of impending bankruptcy and on the amendment of some laws

Source: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2022/111/20220501>

2. Decree of the Ministry of Justice SR no. 195/2022 Coll., which implements some provisions of Act no. 111/2022 Coll. on the solution of impending bankruptcy and on the amendment of some laws

Source: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2022/195/20220717>

3. Decree of the Ministry of Justice SR no. 197/2022 Coll., which establishes details on the method of determining insolvency, coverage gap and impending insolvency

Source: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2022/197/20220717>

The Ministry of Economy of the Slovak Republic publishes on its website a tool for small and medium-sized enterprises the "Manual for entrepreneurs for preventive restructuring and the use of consulting services in this area" prepared by the American Chamber of Commerce in Slovakia and the Slovak Banking Association. We publish the aforementioned manual with the consent of both institutions.