



For this edition of our series on becoming an Insolvency Practitioner in Europe, we bring you the facts from Hungary, provided by László Csia. László is a respected insolvency practitioner in Hungary and a committee member of the Hungarian Association of Insolvency Practitioners.

If you have any questions, please send them to florica.sincu@free.fr or fsincu@etude-didier.com for further information.

Anyone who wishes to continue the series with a report from their own jurisdiction is also encouraged to contact the editors.

All you need to know about becoming an Insolvency Practitioner in Europe: Hungary

Following on from our reports on the legal status and remuneration of insolvency practitioners in France, Austria, Latvia and Spain, László Csia discusses what happens in Hungary



Access to the profession

In Hungary only insolvency practitioner companies (IPCs) can be appointed as a liquidator, as ruled by Government decree (114/2006.). The minimum initial capital for these companies is HUF 50 million (approximately EUR 200 000). It is possible to use a mixed form, for example HUF 10 million and liability insurance for HUF 40 million.

IPCs are listed on the Liquidators' Register held by the Ministry of Finance.

To qualify, companies must:

- not be subject to insolvency proceedings;
- not be the owner of any unlimited liability companies;
- give permission for publication of their details recorded in the Companies Register, namely:
 - the name, registered office and establishments of the company
 - the name of the directors, the chairman of the supervisory board and the auditor
 - the principal activity of the company
 - the name and address of any owners who have more than a 5% share in the company
 - the name and address of the company in which the insolvency practitioner company has majority ownership
- the name of the companies in which the insolvency practitioner company is appointed as a trustee or liquidator; and must
- inform the Ministry of Finance about any changes within eight days.

Listed companies must not carry out real estate, lending or factoring activity, and must not perform any activity which would cause a loss of the public's confidence in insolvency professionals.

The IPCs have to employ (or have a contract) with at least two lawyers, two economists and a public accountant. After 1 July 2010, every IPC will have to employ at least two practitioners who have completed a post-graduation course with the University of Economics and the Hungarian Association of Insolvency Practitioners (HAIP).



Appointment

IPCs are appointed by the bankruptcy judges. Insolvency proceedings are handled by County Courts, and every court has its own list of IPCs. If a court appoints an IPC, it commissions an individual professional to act as a trustee or a liquidator.

Legally there is no specialisation for IPs, but it could be useful to have expertise in a special economic area.

There are strict rules in connection with conflicts of interests.

A practitioner company may not be appointed liquidator if:

- it is the owner or creditor of the debtor;
- its owner is an owner or creditor of the debtor;
- any of its executive employees or close relatives has majority control of the debtor organisation or in any other organisation that is engaged in any incompatible activities.

A person may not be appointed liquidator if he:

- is the owner or creditor of the debtor;
- is the close relative of the owner or creditor of the debtor;
- is an executive employee of a business association that is the owner or creditor of the debtor;
- or his close relative is a member, shareholder or executive employee of a legal person or unincorporated business association that is engaged in any incompatible activities.

When appointed, the practitioner company shall notify the court if any grounds for his disqualification exist within eight days of receipt of the appointment, or, if any grounds for disqualification arise at a later point in time, within eight days of the occurrence of such grounds. The liquidator company may only refuse an appointment in such cases. Should a liquidator company fail to disclose grounds for disqualification, the court shall have his name removed from the register of liquidators. The liquidator company shall announce to the court of registry the name and address of the appointed liquidator within eight days of receiving the decree of liquidation. The order, by which the liquidator company is appointed, shall not be subject to appeal.

If, subsequent to the appointment, the court determines that there are grounds for disqualification of the liquidator company or the appointed liquidator has been removed from the register of

liquidators, or if the liquidator itself is subject to liquidation (whether compulsory or voluntary), the court shall dismiss the liquidator ex officio.



Control body

In practice there is no control body that oversees activities of IPs, but the Hungarian Association of Insolvency Practitioners has an Ethical Committee that investigates the complaints made against insolvency practitioners by creditors or other parties concerned. According to the Ethical Rules of the HAIP, this committee has the possibility to punish IPs. The most serious punishment is the commencement of striking the guilty liquidator company off the Liquidator's Register. Bankruptcy judges may also do the same, if an IP repeatedly breaks the Bankruptcy Act.



Remuneration

The remuneration of IPs is regulated by the Bankruptcy Act.

In the bankruptcy procedure the fee and the justified expenses of the trustee shall be borne by the debtor. The expenses of the trustee shall be paid when incurred as invoiced. The fee of the trustee is 1% of the book value of the assets shown in the balance sheet of the debtor. The fee shall be awarded by the court in its ruling on the termination or discharge of the proceedings, or on the appointment of the liquidator.

In the liquidation procedure the liquidator's fee is 5% of the total amount of the proceeds from the assets sold in the course of liquidation and the proceeds from claims received, or minimum 100,000 forints (approximately EUR 400). If the debtor continues operating during the liquidation, 2% of the sales revenues arising therefrom can be taken into account as a fee. The court may depart from that rule in particularly complicated cases. In the case of a simplified liquidation, the liquidator's fee is 300,000 forints. If a composition agreement is reached in the liquidation procedure, the liquidator's fee is 5% of the value of the assets included within the composition. The liquidator's fees are exclusive of value added tax.

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If the amount of the fee actually payable to the liquidator (excluding value added tax) exceeds 4%, the part of the fee exceeding 4% shall be paid to a fee supplement account held by the Financial Administration Office of the Municipal Court of Budapest. In the event the debtor continues to operate during the liquidation procedure, and if the actual fee payable (excluding value added tax) exceeds 1%, the amount in excess of 1% shall be paid to the same account as above.

If the fee does not reach 100,000 forints, the Financial Administration Office will supplement the liquidator's fee and bring it up to 100,000 forints as due. This is the case if the debtor company has no assets.



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