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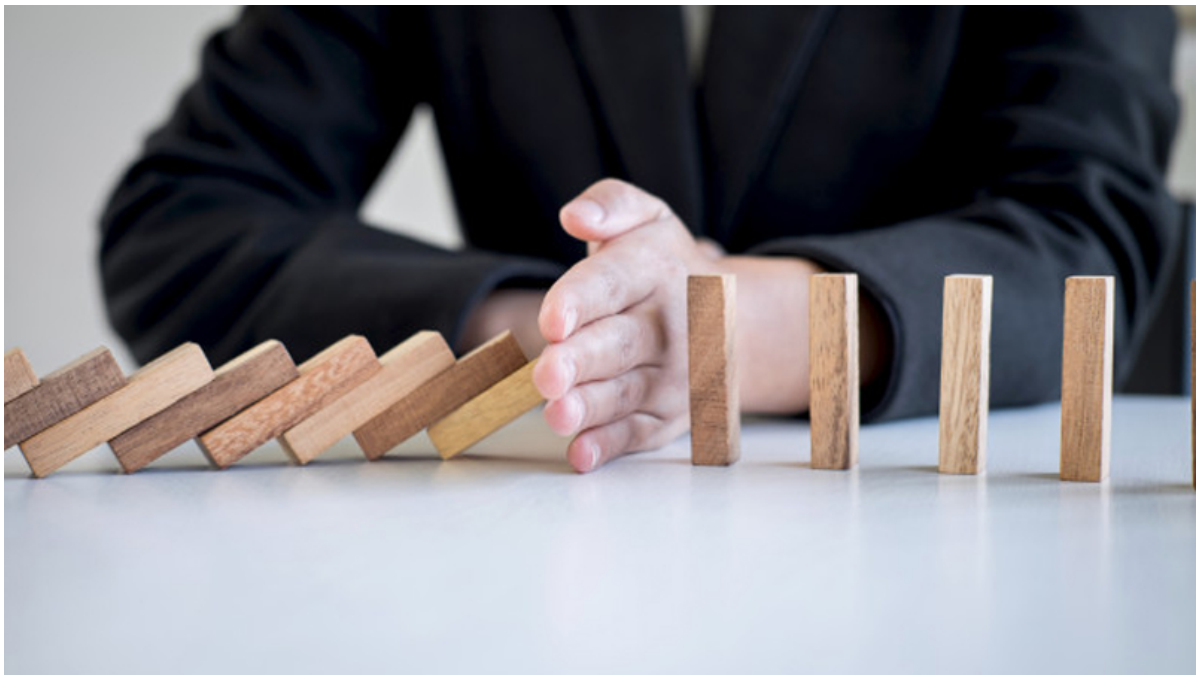
Luxembourg law of August 7, 2023, on the preservation of businesses and the modernization of bankruptcy law[1]



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[1] This English version is a largely automated translation of the original in French for information purposes only. In case of a discrepancy, the original version of the law (available here) will prevail.

TITLE 1er Measures to protect businesses

Chapter 1 - General provisions

Art. 1. For the purposes of this title, the following definitions shall apply:

a) *"Cellule d'évaluation des entreprises en difficultés":* the interministerial commission set up in application of article 8;

b) "creditor classes": all prepetition creditors grouped into ordinary prepetition creditors on the one hand, and extraordinary prepetition creditors on the other;

c) "prepetition claims" *(créances sursitaires):* claims other than wage claims arising prior to the judgment opening the judicial reorganization proceedings or arising as a result of the filing of the petition or the decisions taken in connection with the judicial reorganization proceedings;

d) "extraordinary prepetition claims": prepetition claims secured by a special lien or mortgage, claims by owner-creditors and prepetition claims by tax and social security authorities;

e) "Ordinary prepetition claims: prepetition claims other than extraordinary prepetition claims;

f) "creditor-owner": a person who is simultaneously the holder of a secured claim and the owner of a tangible asset that is not in his possession and that serves as collateral;

g) "ordinary prepetition creditor" *(créancier sursitaire ordinaire)* means a person who is the holder of an ordinary prepetition claim;

h) "extraordinary prepetition creditor" *(créancier sursitaire extraordinaire)* means a person who is the holder of an extraordinary prepetition claim;

i) "opening of the proceedings" means the judgment declaring the judicial reorganization proceedings open;

j) "reorganization plan" means the plan drawn up by the debtor during the stay, as referred to in article 41 ;

k) "stay of execution *(sursis)* ": the moratorium granted by the court to the debtor in order to allow the conclusion of an amicable agreement or to carry out a judicial reorganization by collective agreement or by transfer by court order;

l) "court": the district court with territorial jurisdiction, sitting in commercial matters.

Art. 2. This title applies to the following debtors:

- individual traders as defined in article 1er of the French Commercial Code,
- the commercial companies referred to in article 100-2, paragraph 1 of the eramended law of August 10, 1915 on commercial companies,
- the special limited partnerships referred to in article 100-2, paragraph 4, of the amended law of August 10, 1915 on commercial companies,
- craftsmen and

- non-trading companies.

Art. 3. This title shall not apply:

1° credit institutions and investment firms subject to Part II of the amended law of December 18, 2015 on the failure of credit institutions and certain investment firms;

2° other financial institutions and entities listed in Article 2(1)er of the amended Act of December 18, 2015 on the insolvency of credit institutions and certain investment firms;

3° insurance and reinsurance companies subject to the amended law of December 7, 2015 on the insurance sector;

4° the undertakings for collective investment referred to in articles 2 and 87 of the amended law of December 17, 2010 concerning undertakings for collective investment ;

5° specialized investment funds governed by the amended law of February 13, 2007 on specialized investment funds;

6° venture capital investment companies governed by the amended law of June 15, 2004 on venture capital investment companies (SICAR);

7° central counterparties within the meaning of Article 2(1) of Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on over-the-counter derivatives, central counterparties and trade repositories;

8° central securities depositories within the meaning of Article 2(1)er , point 1, of Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories, and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 ;

9° pension funds governed by the amended law of July 13, 2005 on institutions for occupational retirement provision in the form of sepcavs and asseps ;

10° pension funds as referred to in article 32, paragraph 1er , point 14, of the amended law of December 7, 2015 on the insurance sector;

11° securitization organizations that issue securities to the public on a continuous basis, as referred to in article 19 of the amended law of March 22, 2004 on securitization;

12° payment and electronic money institutions subject to the amended law of November 10, 2009 on payment services;

13° reserved alternative investment funds governed by the amended law of July 23, 2016 on reserved alternative investment funds;

14° as well as to companies practicing as lawyers under the amended law of August 10, 1991 on the legal profession.

Art. 4.

All decisions of the court and of the presiding magistrate of the court chamber provided for in this title are enforceable provisionally and without surety.

Chapter 2 - Detection of companies in difficulty and companies likely to be declared bankrupt

Section 1 - Detection of companies in difficulty by the Minister for the Economy and the Minister for Small and Medium-sized Businesses

Art. 5.

The Minister for the Economy and the Minister for Small and Medium-sized Businesses are responsible, within their respective areas of responsibility, for detecting debtors in financial difficulty when this could jeopardize the continuity of the debtor's business.

When the Minister for the Economy or the Minister for Small and Medium-sized Businesses considers that the continuity of a debtor's business is in danger of being compromised, the competent minister may invite the debtor concerned to obtain any information relating to the state of his business and inform him of the reorganization measures available to him.

Art. 6.

(1)

For the purposes of fulfilling the duties set out in Article 5, the Minister for the Economy and the Minister for Small and Medium-sized Businesses have access to the following information:

- information held by the National Institute for Statistics and Economic Studies (STATEC), manager of the Central Balance Sheet Office, in application of article 76 of the amended law of December 19, 2002 concerning the register of commerce and companies and the accounting and annual accounts of companies;
- the judgments referred to in article 7 ;
- the table of protests drawn up by the registrars in application of article 97 of the amended law of January 8, 1962 concerning bills of exchange and promissory bills;
- notifications of redundancy for economic reasons made in application of article L. 511-17 of the French Labor Code;
- to the list of debtors who have not paid**,** within three months**,** all social security and VAT debts and wage and salary deductions which have been the subject of an administrative constraint issued against them.

(2)

The debtor may, at any time, view the data collected concerning him/her without having to move. The debtor has the right to obtain rectification of the data collected concerning him/her, by submitting a request to the competent minister.

Art. 7.

A copy of default judgments and contradictory judgments against debtors who have not contested the principal amount claimed is sent by the clerk's office of the competent court to the Minister for the Economy and the Minister for Small and Medium-sized Businesses.

The same applies to judgments declaring a commercial lease terminated at the tenant's expense, refusing a renewal requested by the tenant, or putting an end to the management of a business.

Section 2 - Detection of companies at risk of bankruptcy proceedings

Art. 8.

A "Cellule d'évaluation des entreprises en difficulté" is set up to assess the appropriateness of bankruptcy petitions. It is made up of five civil servants, full members or their substitutes, appointed by the Minister for the Economy as follows:

1) a member and alternate member nominated by the Centre commun de la sécurité sociale,
2) one member and one alternate representing the Direct Tax Department, nominated by the Minister of Finance,
3) one member and one alternate representing the Administration de l'enregistrement et des domaines, nominated by the Minister of Finance,
4) a member and alternate member nominated by the Minister for Small and Medium-sized Businesses, and
5) a member and alternate member nominated by the Minister for the Economy.

The provisions of paragraph 1 do not alter the powers vested in receivers and public agents as defined in the amended law of June 8, 1999 on the State budget, accounting and treasury and those vested in the Joint Social Security Centre by articles 428 and 429 of the Social Security Code.

The organization, operation and compensation of the members of the "Cellule d'évaluation des entreprises en difficulté" are determined by Grand Ducal regulation. The operating costs of the Unit are borne entirely by the State.

Section 3 - Conservatory measures

Art. 9.

At the debtor's request, the Minister for the Economy or the Minister for Small and Medium-sized Businesses**, depending on their respective areas** of competence**,** may appoint a company conciliator to facilitate the reorganization of all or part of the assets or activities.

The mission of the company conciliator, whether outside or within the framework of judicial reorganization proceedings, is to prepare and promote either the conclusion and implementation of an amicable agreement in accordance with article 11, or the obtaining of creditors' agreement to a reorganization plan in accordance with articles 38 to 54, or the transfer by court order to one or more third parties of all or part of the assets or activities in accordance with articles 55 to 64.

The debtor may propose the name of a company conciliator.

There are no formal requirements for requesting the appointment of a company conciliator.

The Minister, in granting the debtor's request, determines the scope and duration of the company conciliator's mission within the limits of the debtor's request.

The company conciliator is chosen from among the sworn experts appointed as company conciliators under the amended law of July 7**,** 1971 establishing sworn experts, translators and interpreters, company conciliators and legal representatives in criminal and administrative matters, and supplementing the legal provisions relating to the swearing-in of experts, translators and interpreters.

The corporate conciliator's mission ends when the debtor or the corporate conciliator so decides and informs the Minister.

The company conciliator's claim in connection with his mission benefits from the privilege provided for in articles 2101, paragraph 1er , point 1°, and 2105, point 1°**,** of the Civil Code in the event of a subsequent contest or is treated as an extraordinary super-supervisory claim in the context of a

reorganization plan. The conciliator's mission is also terminated in whole or in part in the cases referred to in articles 10, 22, 23 and 56.

Art. 10.

When serious and well-founded breaches by the debtor or one of its organs threaten the continuity of the business, and the measure requested is likely to preserve this continuity, the magistrate presiding the chamber of the district court sitting in commercial matters and as in summary proceedings, referred to by the public prosecutor or any interested party, may appoint one or more court-appointed representatives from among the sworn experts appointed as court-appointed representatives in application of the amended law of July 7, 1971 establishing sworn experts, translators and interpreters, company conciliators and court-appointed representatives in criminal and administrative matters, and supplementing the legal provisions relating to the swearing-in of experts, translators and interpreters.

The order appointing the court-appointed agent shall specify the scope and duration of the agent's mission. Where a conciliator has been appointed under article 9, the court may decide that the conciliator's mission is to be terminated in whole or in part.

The opening of a judicial reorganization procedure does not in itself put an end to the mandataire de justice's mission. The judgment initiating the judicial reorganization or a subsequent judgment determines the extent to which the mission is to be maintained, modified or terminated.

Chapter 3 - Reorganization by mutual agreement

Art. 11.

The debtor may propose to all or at least two of his creditors an amicable agreement for the reorganization of all or part of his assets or business. To this end, the debtor may request the appointment of a company conciliator, whose mission may extend beyond the conclusion and approval of the agreement, with a view to facilitating the implementation of the amicable agreement.

In the event of an amicable agreement, the court, ruling on the debtor's request, will approve the agreement after verifying that it has been concluded for the purpose referred to in paragraph 1er and will make it enforceable.

This decision is not subject to publication or notification. It is not subject to appeal.

Articles 445, point 2°, and 446 of the French Commercial Code do not apply either to the approved out-of-court settlement or to acts performed in execution of that settlement.

Third parties may only take cognizance of the agreement with the express consent of the debtor.

The liability of creditors participating in an amicable agreement cannot be pursued by the debtor, another creditor or third parties for the sole reason that the amicable agreement did not effectively preserve the continuity of all or part of the business.

Chapter 4 - Judicial reorganization

Section 1 - General provisions

Subsection 1 - Objectives of the procedure

Art. 12.

The purpose of judicial reorganization is to preserve, under the judge's supervision, the continuity of all or part of the company's assets or activities.

The purpose of the judicial reorganization procedure is to :

- or to obtain a stay of execution to enable an out-of-court settlement to be reached, under the conditions set out in article 11 ;
- or to obtain the agreement of creditors on a reorganization plan, in accordance with articles 38 to 54 ;
- or to enable the transfer by court order, to one or more third parties, of all or part of the assets or activities, in accordance with articles 55 to 64.

The application to initiate judicial reorganization proceedings may have a specific objective for each activity or part of an activity.

Subsection 2 - The petition for judicial reorganization and subsequent proceedings

Art. 13.

(1)

The debtor requesting the opening of a judicial reorganization procedure submits a petition to the court.

(2)

He encloses with his application :

1° a statement of the facts on which the request is based and which show that, in his opinion, the continuity of his business is threatened in the short term or in the long term;

2° an indication of the objective or objectives for which it is requesting the initiation of the judicial reorganization procedure;

3° the last two approved annual accounts that should have been filed in accordance with article 75 of the amended law of December 19, 2002 concerning the register of commerce and companies and the accounting and annual accounts of companies or, if the debtor is an individual not subject to the obligation to file annual accounts, the last two personal income tax returns; if the debtor makes this request before two financial years have elapsed, he must submit the data for the period since his incorporation or, in the case of an individual, since the start of his business;

4° an accounting statement of assets and liabilities and an income statement no more than three months old, drawn up with the assistance of an auditor, chartered accountant or accountant. The companies referred to in article 35 of the amended law of December 19, 2002 concerning the register of commerce and companies and the accounting and annual accounts of companies communicate their profit and loss account in the following format;

5° a budget containing an estimate of income and expenditure for the minimum duration of the requested moratorium, prepared with the assistance of an auditor, chartered accountant or bookkeeper;

6° a complete list of recognized or self-styled secured creditors, giving their names, addresses and the amount of their claims, with specific mention of the status of extraordinary secured creditor and of the assets subject to a security interest or mortgage or owned by this creditor;

7° a statement of the measures and proposals it is considering to restore the company's profitability and solvency, to implement any redundancy plan and to satisfy creditors;

8° a description of how the debtor has fulfilled its legal and contractual obligations to inform and consult employees or their representatives;

9° a copy of the orders and summonses for seizure and sale of movable and immovable property, in the event that he/she requests the suspension of sale operations on seizure and sale of immovable property in accordance with articles 18, paragraphs 2 and 3 and 26, paragraphs 2 and 3;

10° the list of partners if the debtor is a legal entity with at least one partner having unlimited liability, and proof that the partner has been informed.

(3)
If the debtor is unable to attach to his petition the documents referred to in paragraph 2, subparagraph 1er , points 4° to 8°, he shall send them to the court no later than two days before the hearing referred to in article 20.
If, despite this deadline, the debtor is unable to provide the required documents, he shall send a note within the same deadline, giving detailed reasons why he was unable to do so.

The court rules on the basis of the information submitted to it.

If the request is for the transfer of the business in the circumstances referred to in section 3, the request contains the elements referred to in paragraph 2, subparagraph 1er , with the exception of the elements listed under points 5° and 7°. It may be supplemented at any time on the debtor's own initiative or following a decision by the delegated judge.

(4)
The petition is signed by the debtor or his lawyer. It is filed with the court clerk's office, together with the documents referred to in paragraph 2. The court clerk issues an acknowledgement of receipt.
Within forty-eight hours of the filing of the petition, the court clerk notifies the State Prosecutor, who may be present at all stages of the judicial reorganization procedure.

Art. 14.
In all cases, the presiding magistrate of the court chamber appoints a delegated judge to report to the court hearing the case on the admissibility and basis of the claim and on any elements useful to its assessment.

The delegated judge hears the debtor and any other person whose testimony he deems useful to his investigation. He may ask the debtor for any information required to assess his situation.

Art. 15.
The delegated judge ensures compliance with the provisions of Title 1er and informs the court of any changes in the debtor's situation.

It pays particular attention to the formalities laid down in Articles 13, 21(2), 39 and 40(6).

Except in application of Article 54 of Regulation (EU) 2015/848 of the European Parliament and of the Council of May 20, 2015 on insolvency proceedings, it may dispense with any individual notification of the debtor and shall specify in such case, by order, what equivalent measure of publicity is required.

Art. 16.
A judicial reorganization file is kept at the clerk's office, containing all information relating to the procedure and the merits of the case.

The filing of a statement of claim by the creditor in the judicial reorganization file suspends the statute of limitations on the claim. It also serves as formal notice.

Any creditor and, with the authorization of the delegated judge, any person able to demonstrate a legitimate interest, may inspect and obtain copies of the documents referred to in Article 13(2) free of charge, with the exception of any personal data that may be contained therein.

At the reasoned request of the debtor or a creditor, the delegated judge may, after having heard the creditor, the debtor concerned and the State Prosecutor, by reasoned order, determine the data which are of interest to business secrecy and which are not accessible to the creditors and persons referred to in paragraph 3.

An appeal against this order may be lodged with the district court sitting in commercial matters by the debtor or creditor concerned. No appeal may be lodged against the decision of the District Court.

The action is brought and judged as in summary proceedings in accordance with articles 934 to 940 of the New Code of Civil Procedure.

The delegated judge may decide that all or part of the file will also be accessible remotely by electronic means.

Art. 17.

Where there are serious, precise and concordant presumptions that the debtor or a third party is in possession of a document containing proof that the conditions for the opening of judicial reorganization proceedings or other decisions likely to be taken in the course of judicial reorganization proceedings or pursuant to Article 55(2) have been met, the court may order, at the request of any interested party or even of its own motion, that this document or a copy thereof be attached to the reorganization file.

The court decides in accordance with articles 285 to 288 of the New Code of Civil Procedure.

Art. 18.

(1)

As long as the court has not ruled on the petition for judicial reorganization, regardless of whether the action was brought or enforcement proceedings commenced before or after the petition was filed :

- the debtor cannot be declared bankrupt, nor, in the case of a company, can it be judicially dissolved, subject to the application of article 1200-1 of the amended law of August 10, 1915 concerning commercial companies and article 35 of the Penal Code, nor be the subject of administrative dissolution proceedings without liquidation;
- no realization of movable or immovable property of the debtor may take place following the exercise of an enforcement procedure.

(2)

If the day set for the forced sale of the movables falls within two months of the filing of the petition for judicial reorganization, the seizure sale operations may continue. However, the court may order the suspension of the sale, prior to or in conjunction with the decision to open the judicial reorganization proceedings, after hearing the report of the delegated judge, and at the express request of the debtor in his petition for judicial reorganization. The application to suspend the sale has no suspensive effect. If the sale is suspended, the costs incurred by the suspension will be borne by the applicant.

(3)

If the date set for the forced sale of the property falls within two months of the filing of the petition for judicial reorganization, the seizure sale may continue.

However, the notary must suspend sales operations if the following cumulative conditions are met:

- at the express request of the debtor in his petition for judicial reorganization, the court orders the suspension of the forced sale operations, prior to or at the same time as the decision to open the judicial reorganization proceedings, after hearing the report of the delegated judge, as well as the registered mortgagees and preferential creditors, the mortgagees and preferential creditors exempt from registration and the debtor. The request to suspend the sale has no suspensive effect. The actual costs incurred by the notary in connection with the forced sale, between his appointment and the filing of the petition for judicial reorganization, are to be borne by the debtor;
- an amount corresponding to these costs is paid to a bailiff;
- the bailiff immediately informs the notary by registered letter with acknowledgement of receipt;

These conditions must be met at least three working days before the day set for the forced sale.

The bailiff transfers the amount paid into his hands within fifteen days of receipt to the notary. This amount will be used to pay the notary's fees.

(4)
In the event of a seizure carried out against several debtors, one of whom has filed a petition for judicial reorganization, the forced sale of movable or immovable property proceeds in accordance with the rules governing seizure of movable or immovable property, as applicable, without prejudice to paragraphs 2 and 3. In the event of a sale on seizure and execution of real estate, the notary pays the balance of the debtor's share of the sale price to the debtor or to the court-appointed agent in the event of the opening of proceedings by transfer to the latter by court order, after payment of the mortgage and special preferential creditors. This payment discharges the debt, as does the payment made by the successful bidder.
(5)
In all cases, the debtor must immediately inform the notary or bailiff responsible for selling the property, in writing, of the filing of the petition for judicial reorganization. If a request to suspend the sale is made by means of this petition, the debtor must at the same time inform the notary.

Subsection 3 - Conditions for initiating judicial reorganization proceedings

Art. 19.

Judicial reorganization proceedings are opened as soon as the company is in danger, either rapidly or in the long term, and as soon as the application referred to in article 13 paragraph 1er has been lodged.

The debtor's state of bankruptcy is not an obstacle to the opening or continuation of the judicial reorganization procedure.

If the request comes from a debtor who has already requested and obtained the opening of judicial reorganization proceedings less than three years earlier, the judicial reorganization proceedings may only be opened if they are aimed at the transfer, by court order, of all or part of the debtor's assets or activities.

A petition for reorganization does not have the suspensive effect referred to in article 18 if it is filed by a debtor who has requested the opening of judicial reorganization proceedings less than six months earlier, unless the court rules otherwise in a reasoned decision.

If the application comes from a debtor who has already applied for and obtained the opening of a judicial reorganization procedure more than three but less than five years earlier, the new judicial reorganization procedure cannot call into question the creditors' gains obtained during the previous judicial reorganization procedure.

Subsection 4 - Judgment on the petition for judicial reorganization and its consequences

Art. 20.

(1)

The court examines the petition for judicial reorganization within fifteen days of its filing with the clerk's office.

Unless the debtor has waived the right to be summoned, the debtor is summoned by registered letter with acknowledgement of receipt by the court clerk no later than three days before the hearing.

The debtor is heard in chambers, unless he has expressly indicated his wish to be heard in open court.

After hearing the delegated judge's report, the court issues a ruling within eight days of examining the request.

(2)

If the conditions referred to in article 19 appear to be met, the court declares the judicial reorganization proceedings open and sets the duration of the stay referred to in article 12, which may not exceed four months; failing this, the court rejects the application.

(3)

Where the purpose of the judicial reorganization proceedings is to obtain the creditors' agreement to a reorganization plan, the court shall designate, in the judgment by which it declares the judicial reorganization proceedings open, or in a subsequent judgment, the place, day and time at which, unless the stay is extended, the hearing will take place to vote on the plan and rule on its approval.

Art. 21.

(1)

The judgment declaring the judicial reorganization procedure open is notified to the debtor by the court registry and published in the Recueil électronique des sociétés et associations in accordance with article 67.

(2)

The debtor shall individually notify the creditors of the judgment within fourteen days of its pronouncement.

Creditors may consult the list of creditors referred to in article 13, paragraph 2, point **6°**, at the registry under the conditions set out in article 16, paragraph 3. The communication referred to in this paragraph may be made either by registered letter or by electronic means. The debtor shall forward to the registrar, either electronically or on a physical medium, a copy of the communication referred to in this paragraph, together with any acknowledgement of receipt, for inclusion in the file referred to in Article 16.

(3)

The judgment rejecting the claim is notified to the debtor by the court registry.

Art. 22.

(1)

Where the debtor so requests, and where such an appointment is useful to achieve the aims of the judicial reorganization procedure, the court may, by the same decision or at any other time during the judicial reorganization procedure, appoint a judicial representative chosen from among the sworn experts appointed as judicial representatives pursuant to the amended law of July 7, 1971 relating to repressive and administrative matters, institution of sworn experts, translators and interpreters, company conciliators and court-appointed agents and supplementing the legal provisions relating to the swearing-in of experts, translators and interpreters to assist the debtor in its judicial

reorganization, in which case the court determines the assignment on the basis of the debtor's request.
(2)
The same request may be made by a third party who has an interest in it. The request is made by means of a petition notified to the debtor by the court clerk. The request specifies the mission proposed by the petitioner and stipulates that the petitioner pays the costs and fees of the legal representative.
(3)
In the event that a conciliator has been appointed in application of article 9, the court may decide that the conciliator's mission is to be terminated in whole or in part.
(4)
A copy of any notification sent to the debtor by the court clerk shall be sent to the debtor's representative.
Whenever the debtor is required to be heard, the mandatary is given the opportunity to comment.

Art. 23.
In the event of serious and flagrant misconduct on the part of the debtor or one of its organs, the court may, at the request of any interested party or the public prosecutor and in the judgment opening the judicial reorganization proceedings or in a subsequent judgment, after hearing the debtor and the delegated judge in his report, substitute a provisional administrator for the duration of the stay.

The provisional administrator is chosen from the list provided for in article 10 of the amended law of July 7, 1971 establishing sworn experts, translators and interpreters, company conciliators and legal representatives in criminal and administrative matters, and supplementing the legal provisions relating to the swearing-in of experts, translators and interpreters, unless this list is unavailable or no legal representative from this list is available.

In the event that a conciliator has been appointed in application of article 9, the court may decide that the conciliator's mission is to be terminated in whole or in part.

At any time during the suspension period, the court, seized in the same way and after hearing the debtor, the delegated judge in his report, and the provisional administrator, may withdraw the decision taken in application of paragraph 1er , or modify the powers of the provisional administrator.

These decisions are published in the Electronic Register of Companies and Associations in accordance with Article 67 and notified in accordance with Article 21(3).

Art. 24.
The judgment ruling on the application to open the judicial reorganization procedure is not subject to opposition.

An appeal may be lodged within eight days of notification. The notice of appeal contains a writ of summons.

The action is brought as a summary proceeding in accordance with articles 934 to 940 of the New French Code of Civil Procedure, and judged within a short period of time.

The summons and the notice of appeal are served on the State Attorney and the State Attorney General respectively.

The right of appeal also belongs to the State Prosecutor.

If the judgment rejects the claim, the appeal has suspensive effect.

The judgment overturning the judgment declaring the judicial reorganization procedure open is published in the Recueil électronique des sociétés et associations in accordance with article 67.

Subsection 5 - Effects of the reorganization decision

Art. 25.

The debtor's movable or immovable property may not be enforced during the stay of execution. During the same period, a merchant debtor may not be declared bankrupt**,** subject to the debtor's own declaration**,** and a company **may not** be judicially dissolved, nor be the subject of administrative dissolution proceedings without liquidation.

Art. 26.

(1)

No seizure may be carried out in respect of overdue receivables during the suspension period.
However, the court may, depending on the circumstances and insofar as such release does not cause significant prejudice to the creditor, grant release after hearing the report of the delegated judge, the creditor and the debtor. The request for release is made by petition.

(2)

If the date set for the forced sale of the movables expires within two months of the filing of the petition for judicial reorganization, and if the debtor has not, where applicable, exercised his right to request suspension pursuant to article 18, paragraph 2, or if his request is rejected, the seizure sale operations may continue notwithstanding the judgment opening the judicial reorganization. The debtor who has not availed himself of the right to request suspension under article 18, paragraph 2, may ask the court to order suspension after hearing the report of the delegated judge, the creditor and the debtor. The application to suspend the sale shall not have suspensory effect. If the sale is suspended, the costs incurred by the suspension will be borne by the applicant. The request for suspension is made by petition.

(3)

If the date set for the forced sale of the immovable property expires within two months of the filing of the application for judicial reorganization, and if the debtor has not exercised his right to request suspension pursuant to Article 18, paragraph 2, or if his request is rejected, the seizure sale operations may continue notwithstanding the judgment opening the judicial reorganization.
However, the notary must suspend sales operations if the following cumulative conditions are met:

- at the express request of the debtor in his petition for judicial reorganization, the court orders the suspension of the forced sale operations, prior to or at the same time as the decision to open the judicial reorganization proceedings, after hearing the report of the delegated judge, as well as the registered mortgagees and preferential creditors, the mortgagees and preferential creditors exempt from registration and the debtor. The request to suspend the sale has no suspensive effect. The actual costs incurred by the notary in connection with the forced sale, between his appointment and the filing of the petition for judicial reorganization, are to be borne by the debtor;
- an amount corresponding to these costs is paid to a bailiff;
- the bailiff immediately informs the notary by registered letter with acknowledgement of receipt.

These conditions must be met at least three working days before the day set for the forced sale.

The bailiff transfers the amount paid into his hands to the notary within fifteen days of receipt. This amount will be used to pay the notary's fees.

(4)

In the event of a seizure carried out against several debtors, one of whom has filed a petition for judicial reorganization, the forced sale of movable or immovable property proceeds in accordance with the rules governing seizures of movable or immovable property, as applicable, without prejudice to paragraphs 1er to 3. In the event of a sale on seizure and execution of real estate, the notary pays the balance of the debtor's share of the sale price to the debtor, or to the court-appointed agent in the event of the opening of proceedings by transfer to the latter by court order, after payment to the mortgagees and special preferential creditors.

(5)

In all cases, the debtor must immediately inform the notary or bailiff responsible for selling the property, in writing, of the filing of the petition for judicial reorganization. If a request to suspend the sale is made by means of this petition, the debtor must at the same time inform the notary.

Art. 27.

The moratorium does not prevent the debtor from voluntarily paying overdue debts insofar as such payment is necessary for the continuity of the business.

The direct action instituted by article 1798 of the Civil Code is not precluded by the judgment declaring the debtor's judicial reorganization open, or by decisions taken by the court during the reorganization or pursuant to article 55, paragraph 2.

Articles 445(2) and 446 of the French Commercial Code do not apply to payments made during the suspension period.

Art. 28.

(1)

The debtor's spouse, former spouse, partner or former partner in accordance with the amended law of July 9, 2004 on the legal effects of certain partnerships of the debtor, insofar as they are personally co-obligated, are entitled to the debtor's contractual debts relating to the debtor's economic activity. They may not benefit from the stay in respect of personal or joint debts arising from contracts entered into by these persons, whether or not with the debtor, and which are unrelated to the debtor's economic activity.

This protection cannot be extended to a partner whose declaration of partnership was made within the six months preceding the filing of the application to initiate the judicial reorganization proceedings referred to in Article 13(1)er .

(2)

Without prejudice to article 2016 of the Civil Code, the stay does not benefit co-debtors or grantors of personal sureties.

(3)

From the time of the judgment declaring the judicial reorganization proceedings open, an individual who has taken out a personal surety against the debtor free of charge may apply to the court for a ruling that the amount of the personal surety is manifestly disproportionate to his or her ability to repay the debt, this ability being assessed, at the time the stay is granted, in relation to both his or her movable and immovable property and income.

To this end, the applicant shall state in his application :

- identity, profession and address;
- the identity and address of the holder of the claim whose payment is guaranteed by the security;
- the declaration that, at the opening of the judicial reorganization procedure, its obligations are disproportionate to its income and assets;
- a statement of all the assets and liabilities that make up its assets;

- the documents supporting the commitment to provide security free of charge and its significance;
- any other document likely to establish with precision the state of its resources and its expenses.

The parties are promptly summoned by the clerk's office to appear at the hearing set by the judge.

The summons mentions that the petition and the documents filed may be consulted at the clerk's office. Filing the petition suspends enforcement proceedings.

(4)
If the court grants the application, the natural person who has constituted a personal surety for the debtor free of charge benefits from the stay and, where applicable, from the effects of the amicable agreement, the collective agreement and the debt write-off referred to in article 536-3 of the French Commercial Code.

(5)
The judgment granting the request is entered in the reorganization file and published by extract in the Electronic Register of Companies and Associations in accordance with article 67.

Art. 29.

Without prejudice to the application of the amended law of August 5, 2005 on financial collateral arrangements, set-off between prepetition claims and claims arising during the deferment period is only permitted if these claims are related.

Art. 30.

(1)
Notwithstanding any contractual stipulations to the contrary, the application for or commencement of judicial reorganization proceedings does not terminate existing contracts or the terms and conditions of their performance.
A breach of contract committed by the debtor prior to the granting of a stay of execution does not entitle the creditor to terminate the contract if the debtor remedies the breach by performing within fifteen days of being put on notice to do so by the creditor after the stay of execution has been granted.

(2)
As soon as the judicial reorganization proceedings have been opened, the debtor may, however, unilaterally decide to suspend performance of its contractual obligations for the duration of the stay by notifying the other party of this decision in accordance with article 21, paragraph 2, where the reorganization of the business imperatively requires it.
Any claim for damages due to the co-contractor as a result of this suspension is subject to the stay.

The debtor's right to unilaterally suspend performance of his contractual obligations does not apply to employment contracts.

If the debtor exercises this right, the other party may suspend performance of its own contractual obligations. However, the contract may not be terminated solely as a result of the debtor's unilateral suspension of performance.

(3)
Penalty clauses, including interest rate prepetition clauses, intended to cover potential damage suffered as a result of non-compliance with the main undertaking, remain ineffective during the standstill period and until full implementation of the reorganization plan as far as the creditors included in the plan are concerned. The creditor may, however, include the actual loss suffered as a result of non-compliance with the main undertaking in his claim for a stay of execution.

Art. 31.

A claim arising from current contracts for successive services is not subject to the stay, including contractually due interest, insofar as it relates to services rendered after the judgment opening the judicial reorganization proceedings.

Art. 32.

Claims relating to services rendered to the debtor during the judicial reorganization proceedings, whether arising from new commitments on the part of the debtor or from contracts in force at the time of the opening of the judicial reorganization proceedings, are considered as debts of the estate in bankruptcy or liquidation or in the distribution referred to in article 63 in the event of transfer by court order, provided that there is a close link between the end of the judicial reorganization proceedings and these collective proceedings.

Such a close link exists in particular if the collective proceedings are opened within twelve months of the end of the judicial reorganization procedure.

Any contractual, legal or judicial indemnities claimed by the creditor as a result of the termination or non-performance of the contract are allocated on a pro rata basis according to whether they relate to the period before or after the initiation of the judicial reorganization proceedings.

However, payment of claims will only be deducted in priority from the proceeds of the realization of assets over which a real right has been established, insofar as these services have contributed to the maintenance of the security interest or ownership.

Subsection 6 - Extension of stay (sursis)

Art. 33.

(1)

At the request of the debtor or of the judicial representative in the case of transfer proceedings by court order as referred to in article 55, and on the report of the delegated judge, the court may extend the stay granted in accordance with article 20, paragraph 2, for such period as it shall determine. The maximum duration of the suspended sentence thus extended may not exceed twelve months from the judgment granting the suspension. The request must be submitted, failing which it will be inadmissible, no later than fifteen days before the expiry of the suspension granted.

(2)

However, in exceptional circumstances and if the interests of the creditors so permit, the maximum duration of the moratorium provided for in paragraph 1er , subparagraph 2, may be extended by a maximum of six months, without the total duration of the moratorium exceeding twelve months from the judgment granting the moratorium.

Exceptional circumstances within the meaning of this provision may include the size of the company, the complexity of the case or the importance of the jobs that can be safeguarded.

(3)

Decisions rendered under this article are not subject to opposition or appeal.

(4)

The judgment extending the moratorium is published in the Recueil électronique des sociétés et associations in accordance with article 67 and notified to the debtor by the court registry.

Subsection 7 - Changing the purpose of the procedure

Art. 34.

At any time during the stay, the debtor may ask the court to change the objective of the judicial reorganization procedure, without prejudice to article 12**.**

The judgment granting this request is published in the Electronic Register of Companies and Associations in accordance with article 67, and notified to the debtor by way of the registry and communicated to the creditors concerned in accordance with article 21, paragraph 2.

Subsection 8 - Early termination and closure of the procedure

Art. 35.

The debtor may, at any stage of the proceedings, waive all or part of its application for judicial reorganization.

The court, at the request of the debtor and after hearing the delegated judge's report, terminates the judicial reorganization procedure in whole or in part.

The debtor may ask the court to record in the judgment any agreement reached with creditors affected by the end of the judicial reorganization procedure.

The judgment is notified to the debtor through the court registry, published in the electronic register of companies and associations in accordance with article 67 and communicated to the creditors concerned in accordance with article 21, paragraph 2.

Art. 36.

(1)

When the debtor is manifestly no longer able to ensure the continuity of all or part of its assets or activities with regard to the objective of the judicial reorganization proceedings, or when the information provided to the delegated judge, the court or the creditors at the time of filing the petition or subsequently is manifestly incomplete or inaccurate, the court may order the early termination of the judicial reorganization proceedings by a judgment closing them.

(2)

The court rules on its own initiative or at the request of the debtor, the public prosecutor or any interested party against the debtor, after hearing the report of the delegated judge and the opinion of the public prosecutor.

In this case, the court may, in the same judgment, declare the debtor bankrupt or, in the case of a legal entity, compulsorily liquidated if the conditions are met.

(3)

Where the delegated judge considers that early termination of the judicial reorganization procedure is justified under paragraph 1er , he draws up a report which he communicates to the court and the public prosecutor. The report is sent to the debtor together with a summons to appear before the court by registered post within eight days of the report being communicated. The registered letter states that the debtor will be heard at the hearing and that the judicial reorganization proceedings may be terminated. At the hearing, the debtor is heard and the State Prosecutor is heard in his opinion and may request, where appropriate, the early termination of the judicial reorganization proceedings.

(4)

The judgment is published in the electronic register of companies and associations in accordance with article 67 and notified by registered mail to the debtor and communicated to the creditors concerned in accordance with article 21, paragraph 2.

Art. 37.

As soon as the judgment ordering the early termination of the judicial reorganization procedure is delivered and closed, the stay is terminated and the creditors regain full exercise of their rights and actions.

The same applies if the stay expires without having been extended in accordance with articles 33 or 56 or without the judicial reorganization proceedings having been closed in accordance with articles 35 and 36.

Section 2 - Judicial reorganization by collective agreement

Art. 38.
Where the purpose of the judicial reorganization proceedings is to obtain the agreement of the creditors on a reorganization plan, the debtor shall file a plan with the registry at least twenty days before the hearing set in the judgment referred to in Article 20(3).

Art. 39.
In the same case, the debtor shall notify each of its secured creditors, within fourteen days of delivery of the judgment declaring the judicial reorganization proceedings open, of the amount of the claim for which the creditor is registered in its books, accompanied, as far as possible, by a reference to the asset encumbered by a security interest or special lien securing the claim, or to the asset owned by the creditor, as well as the class of ordinary secured creditor or extraordinary secured creditor to which the creditor belongs.

Creditors may consult the list of creditors referred to in article 13, point 6°, at the registry under the conditions set out in article 16, paragraph 3.

This communication may be made at the same time as the notice provided for in Article 21(2).

Art. 40.
(1)
Any prepetition creditor who disputes the amount or quality of the claim indicated by the debtor**,** including the class of ordinary or extraordinary prepetition creditor to which he belongs according to the debtor, and any other interested party who claims to be a creditor may, in the event of persistent disagreement with the debtor, bring the dispute before the court which opened the judicial reorganization proceedings.
The court may, no later than fifteen days before the hearing referred to in article 48 and on the report of the delegated judge, decide, by means of an order made at the joint request of the creditor and the debtor, to modify the amount and characteristics of the claim initially set by the debtor, including the class to which it belongs. In this case, the clerk's office notifies the creditor concerned of the amount and characteristics of his claim.

If the creditor or interested third party has not lodged his objection with the court one month before the hearing referred to in article 48, he may, without prejudice to paragraph 4, vote and be included in the plan only for the amount proposed by the debtor in his communication referred to in article 45.

(2)
Any prepetition claim entered on the list referred to in Article 13(2)(6), as amended, where applicable, by application of paragraph 3, may be contested in the same way by any interested party. The action is brought against the debtor and the disputed creditor.
The court rules on the report of the delegated judge, after hearing the interested third party, the disputed prepetition creditor and the debtor.

(3)
If the dispute does not fall within its jurisdiction, the court determines the amount and status for which the claim will be provisionally admitted into the judicial reorganization operations and refers the parties back to the competent court for a decision on the merits. If the dispute falls within its jurisdiction, but a decision on the dispute may not be reached within a sufficiently short period of time, the court may also determine the amount and status of the claim.
(4)
On the report of the delegated judge, the court may at any time, in case of absolute necessity and at the request of the debtor or a creditor, modify the decision determining the amount and quality of the prepetition claim on the basis of new elements.
(5)
The judgment determining the amount and status of the provisionally admitted claim is not subject to appeal.
(6)
Where applicable, the debtor corrects or completes the list of creditors referred to in Article 13(2)(6) and submits it to the court clerk's office no later than eight days before the hearing provided for in Article 49. The court clerk shall enter the list and the corrected or completed data in the judicial reorganization file referred to in article 16.
Where the debtor corrects or supplements the list after the registrar has made the communication referred to in article 54 or where the court has rendered a decision in accordance with paragraph 4, the registrar shall notify the creditors that the list has been corrected or supplemented. This communication may be made by ordinary mail or electronically, under the conditions specified in article 26.

Art. 41.
(1)
During the stay of proceedings, the debtor draws up a plan consisting of a descriptive part and a prescriptive part. This plan is attached to the judicial reorganization file referred to in article 16.
Where applicable, the court-appointed trustee (mandataire de justice) appointed by the court under article 22 assists the debtor in drawing up the plan.

(2)
The descriptive part of the plan mentions :

1°	the identity of the debtor ;
2°	if applicable, the identity of the company conciliator or legal representative;
3°	the debtor's assets and liabilities at the time the plan is submitted, including the value of assets ;
4°	the economic situation of the debtor and the situation of the workers, a description of the causes and extent of the debtor's difficulties and the means to be implemented to remedy them;
5°	the different categories of claims or interests covered by the plan, where applicable, the classes into which creditors have been grouped for the purposes of adopting the plan, as well as the respective value of claims and interests in each class;
6°	where applicable, the categories of creditors not affected by the plan, together with a description of the reasons why it is proposed not to include them among the affected parties;
7°	where applicable, the general impact on employment, e.g. redundancies, part-time working arrangements or similar;
8°	procedures for informing and consulting employee representatives;

9° any new financing anticipated under the plan and the reasons why the new financing is necessary to implement the plan;

10° an explanatory statement explaining why the plan offers a reasonable prospect of avoiding the debtor's insolvency and ensuring its viability, and including the preconditions necessary for the plan's success.

The descriptive section also includes a report drawn up by the debtor on disputed claims, which should provide interested parties with a clearer picture of the extent of the claim and the grounds on which it is based.

(3)

The prescriptive part of the plan contains :

1° the measures to be taken to pay the prepetition creditors on the list referred to in Articles 13(2)(6) and 40 ;

2° if applicable, the proposed duration of any proposed restructuring measures.

Art. 42.

The reorganization plan describes in detail the rights of all holders of prepetition claims and the changes to their rights resulting from the vote and approval of the reorganization plan.

Art. 43.

The plan sets out the proposed payment terms and reductions in principal and interest prepetitiones. It may provide for the conversion of receivables into shares or corporate units, and the differentiated settlement of certain categories of receivables, in particular according to their size or nature. The plan may also provide for the waiver or rescheduling of interest payments, as well as for the priority set-off of amounts realized against the principal amount of the claim.

Where certain categories of claims are treated differently, the creditors concerned are treated equally within these categories and in proportion to the amount of their claim.

The plan meets the criterion of the best interests of creditors, in that no creditor is in a less favorable position as a result of the restructuring plan than it would be if the normal order of priorities were applied, either in the case of bankruptcy or compulsory liquidation, or in the case of a better alternative solution, if the restructuring plan were not approved.

The plan may also contain an assessment of the consequences that approval of the plan would have for the creditors concerned.

It may stipulate that prepetition claims may not be set off against debts owed by the owner creditor subsequent to homologation. Such a proposal may not apply to related claims or to claims that may be set off under an agreement entered into prior to the opening of the judicial reorganization proceedings.

The plan may also contain a list of creditors whose claims are nominally insignificant and whose inclusion in the plan as affected creditors would constitute an unjustifiable administrative and financial burden. The plan indicates the reasons why it is in the best interests of all affected creditors for these claims to be dealt with outside the plan and liquidated immediately.

When the continuity of the company requires a reduction in the payroll, a social component of the reorganization plan is provided for, insofar as such a plan has not yet been negotiated. In such cases, the plan may provide for redundancies.

The employee representatives on the Board of Directors or Supervisory Board, or in their absence, the employee delegation, will be heard when this plan is drawn up.

Articles L.513-1 to L.513-3 of the French Labor Code apply.

Art. 44.

The proposals include a payment proposal for all creditors.

The plan may not contain any reduction or waiver of claims arising from work performed prior to the opening of the judicial reorganization proceedings.

The plan may not provide for any reduction in maintenance debts or debts resulting from the debtor's obligation to compensate for damage caused by his fault and linked to the death or physical injury of a person.

The reorganization plan cannot provide for the reduction or elimination of criminal fines.

Art. 45.

Without prejudice to the payment of interest due to them under the terms of the agreement or by law on their claims, the plan may provide for the deferment of the exercise of the existing rights of extraordinary secured creditors for a period not exceeding twenty-four months from the date of the approval judgment referred to in article 50.

Under the same conditions, the plan may provide for an extraordinary extension of the moratorium for a period not exceeding twelve months. In this case, the plan provides that on expiry of the first period of suspension, the debtor will submit to the court, with the agreement of its creditor, proof that the company's financial situation and foreseeable income will, according to reasonable forecasts, enable it, on expiry of this additional period, to repay in full the extraordinary suspension creditors concerned, and that failing such proof, the court will order the suspension to be terminated.

With the exception of their individual consent or amicable agreement reached in accordance with article 11, a copy of which is attached to the plan when it is filed with the clerk's office, the plan may not include any other measure affecting the rights of extraordinary secured creditors.

Art. 46.

The voluntary sale of all or part of the company or its activities may be included in the reorganization plan.

Art. 47.

The implementation period for the plan may not exceed five years from the date of approval.

Art. 48.

As soon as the plan is filed with the registry, the prepetition creditors entered on the list referred to in Articles 13(2)(6) and 40 shall receive, through the registrar, a communication indicating :

- that this plan is under review and that they can consult it at the court clerk's office;
- the place, day and time of the hearing at which the vote on this plan will take place, to be held at least fifteen days after this communication;
- that they will be able to make their comments on the proposed plan either in writing or orally at the hearing;
- that only ordinary and extraordinary joint and several creditors whose rights are affected by the plan may take part in the vote.

The delegated judge may decide that co-debtors and persons with personal sureties will also receive this communication and that they may, in the same way, submit their observations.

The debtor informs the employee representatives referred to in article 43, paragraph 8, of the content of this plan.

Art. 49.

On the day indicated to the creditors in accordance with article 48, the court hears the delegated judge's report, as well as the debtor and the creditors' arguments.

The reorganization plan is deemed to have been approved by the creditors when the ballot receives a favorable vote from a majority of creditors in each class, representing by their uncontested or provisionally admitted claims, in accordance with article 40, paragraph 3, half of all sums due in principal.

The creditor may take part in the vote in person, by written proxy or through his lawyer, who may act without a special proxy.

The written power of attorney must be deposited with the clerk's office at least two working days before the hearing set in the judgment referred to in article 48.

For the purpose of calculating majorities, the creditors and amounts due included in the list of creditors filed by the debtor in accordance with article 48, as well as creditors whose claims have subsequently been provisionally admitted in accordance with article 40, are taken into account.

Creditors who do not take part in the vote and the claims they hold are not taken into account when calculating majorities.

Creditors voting against the adoption of the plan may contest, with reasons, that the plan satisfies the criterion of the best interests of the creditors.

Art. 50.

Within fifteen days of the hearing, and in any event before the end of the suspension period set by application of articles 20, paragraph 2, and 33, the court decides whether or not to approve the reorganization plan.

It verifies that any new financing provided for is necessary to implement the restructuring plan and does not excessively prejudice the interests of creditors and, in the event of contestation by the creditors referred to in article 49, paragraph 7, whether the plan satisfies the criterion of the best interests of creditors. If the plan has not been approved by the parties affected in accordance with article 49, paragraph 2, in each class authorized to vote, it may nevertheless be homologated on the proposal of the debtor, or with the agreement of the debtor, and be imposed on the dissenting classes authorized to vote, if it has been approved by one of the classes of creditors authorized to vote and if the restructuring plan meets at least the following conditions:

1° It complies with the provisions of paragraph 2;

2° in cases where the plan has only been approved by the class of ordinary prepetition creditors, that creditors in the extraordinary prepetition class are treated more favorably than creditors in the class of ordinary prepetition creditors;

3° no class of affected parties may, under the plan, receive or retain more than the total amount of its claims or interest.

If the court considers that the formalities have not been complied with, that the conditions of paragraph 2 have not been met or that the plan is contrary to public policy, it may, by reasoned decision and before ruling, authorize the debtor to propose an adapted plan to the creditors in accordance with the formalities of article 48. In a single decision, the court sets out all the objections it considers should be raised to the plan. In this case, it decides to extend the standstill period, without exceeding the maximum time limit set out in article 33. It also sets the date for the vote hearing.

Decisions made under this paragraph are not subject to opposition. They may only be appealed together with the final judgment on homologation.

Registration can only be refused in the following cases:

- in the event of failure to comply with the formalities required by the present law,
- if the conditions of paragraph 2 are not met,
- if the plan does not offer a reasonable prospect of avoiding the debtor's insolvency or guaranteeing the viability of the business, or
- for violation of public order.

It may not be made subject to any conditions not provided for in the plan, nor may it be modified in any way whatsoever.

Subject to any disputes arising from the implementation of the plan, the decision to approve the plan closes the reorganization proceedings.

It is published in the Recueil électronique des sociétés et associations in accordance with article 67 and notified by the clerk's office to the debtor and creditors.

Art. 51.

The judgment ruling on the application for homologation is not subject to opposition.

An appeal may be lodged by the debtor, in the event of rejection of the homologation, and by the parties involved in the judicial reorganization procedure, in the event of homologation. A creditor's appeal is directed against all parties involved in the judicial reorganization procedure, as well as against the debtor.

The judgment may be appealed within fifteen days of notification.

The notice of appeal contains a writ of summons. The appeal is heard as a matter of urgency and according to the same procedure as in the first instance.

The action is brought and judged as in summary proceedings in accordance with articles 934 to 940 of the New Code of Civil Procedure.

The summons and the notice of appeal are served on the State Attorney and the State Attorney General respectively.

The right of appeal also belongs to the State Prosecutor.

The appeal judge may use the option provided for in article 50.

If the judgment refuses to grant approval, the appeal has suspensive effect.

Art. 52.

The court shall rule on the application for homologation notwithstanding any criminal proceedings brought against the debtor or its directors.

Art. 53.

Approval of the reorganization plan makes it binding on all surviving creditors.

Contested prepetition claims that are recognized by the courts after homologation are paid in accordance with the procedures laid down for claims of the same nature. Under no circumstances may execution of the reorganization plan be suspended in whole or in part as a result of decisions handed down on disputed claims.

Prepetition claims which have not been entered in the list referred to in Article 13(2)(6), amended, where applicable, by application of Article 41(3), and which have not been contested, shall be paid after the plan has been fully implemented in accordance with the procedures laid down for claims of a similar nature. If the creditor has not been duly informed during the stay, he will be paid in accordance with the procedures and to the extent provided for in the approved plan for similar claims.

Unless the plan expressly provides otherwise, full implementation of the plan releases the debtor totally and definitively from all claims under the plan.

Without prejudice to the effects of a specific agreement referred to in article 45, the plan does not benefit co-debtors or persons who have provided a personal guarantee. The position of a creditor in relation to the plan is without prejudice to the rights that the creditor may assert against the third party who has acted as guarantor.

A natural person who has constituted a personal surety for the debtor free of charge, and whose request referred to in Article 28 has been granted, shall benefit from the effects of the collective agreement.

Art. 54.

Any creditor may, by writ of summons from the debtor, request the revocation of the reorganization plan where the debtor is manifestly no longer able to implement it and the creditor suffers prejudice as a result.

The court rules on the report of the delegated judge, after hearing the debtor. The judgment revoking the plan is notified to the creditor who requested revocation and to the debtor, and published in the Recueil électronique des sociétés et associations in accordance with article 67. The debtor communicates the content of this extract to all his creditors.

If the debtor is declared bankrupt, the reorganization plan is automatically revoked.

Revocation of the reorganization plan deprives it of all effect, except in respect of payments and transactions already effected, and in particular the sale already completed of all or part of the company or its activities.

Revocation implies that the debtor and creditors are left in the position they would have been in had there been no approved reorganization plan.

The court may, ex officio, from the first anniversary of the approval decision, summon the debtor to report annually on the implementation of the collective agreement. The debtor's declarations are recorded by the court clerk and filed in the judicial reorganization file.

At the reasoned request of the debtor, the court may acknowledge by judgment that the plan has been properly implemented, provided there is proof that the reorganization plan has been implemented in accordance with the conditions or with the agreement of the creditors concerned.

Section 3 - Judicial reorganization through transfer by court order

Art. 55.

(1)

The court may order the transfer of all or part of the business or its activities in order to ensure their continuance, where the debtor consents to this in its petition for judicial reorganization or subsequently during the course of the judicial reorganization proceedings.

If the debtor consents to the transfer by court order during the judicial reorganization procedure, the employee representatives on the Board of Directors or Supervisory Board, or failing that the competent staff delegation, will be heard.

(2)
The same transfer may be ordered at the request of the State Prosecutor or by subpoena from a creditor or any person with an interest in acquiring all or part of the business:

1° when the debtor fulfils the conditions for bankruptcy set out in article 437 of the French Commercial Code without having requested the opening of judicial reorganization proceedings;

2° when the court rejects the application to initiate judicial reorganization proceedings pursuant to article 19, orders their early termination pursuant to article 36 or revokes the reorganization plan pursuant to article 54;

3° when the creditors do not approve the judicial reorganization plan in application of article 49 ;

4° when the court refuses to approve the reorganization plan pursuant to article 50.

The request for transfer may be made in the petition or writ of summons for early termination of the reorganization proceedings or revocation of the reorganization plan, or in a separate writ directed against the debtor.

As soon as the petition is filed or the summons served, the court appoints a delegated judge to report to the court hearing the case on the basis of the petition and on any elements useful to its assessment.

Article 14, paragraph 2, applies.

(3)
When the court orders the transfer by the same judgment as that rejecting the application to open the judicial reorganization proceedings, ordering their early termination, revoking the reorganization plan, or refusing homologation, the court rules on the report of the delegated judge and instructs him to report on the execution of the transfer.
When the court orders the transfer by a judgment other than that terminating the stay, it appoints a judge to report on the execution of the transfer.

(4)
The provisions of this article do not affect the obligations to consult and inform employees or their representatives in accordance with the legal provisions or collective bargaining agreements in force.

Art. 56.

The judgment ordering the transfer appoints a court-appointed agent chosen from among the sworn experts appointed as court-appointed agents under the amended law of July 7, 1971 establishing sworn experts, translators and interpreters, company conciliators and court-appointed agents in criminal and administrative matters, and supplementing the legal provisions relating to the swearing-in of experts, translators and interpreters, to organize and carry out the transfer in the name and on behalf of the debtor. It determines the purpose of the transfer or leaves it to the discretion of the court-appointed agent.

The court may, by the same judgment, order an additional stay, not exceeding six months from the date of its decision, with the effects set out in articles 25 to 32.

The judgment is published in the Recueil électronique des sociétés et associations in accordance with article 67.

Art. 57.

(1)
The rights and obligations arising for the transferor from employment contracts existing at the time of the transfer of the business are, as a result of this transfer, transferred to the transferee without prejudice to the application of the provisions of article L. 127-5 of the French Labor Code.

(2)
The transferor or the court-appointed agent informs the prospective transferee in writing of all obligations relating to the employees concerned by the transfer and of any pending actions that these employees may have brought against the employer.
At the same time, it notifies individual employees of their obligations and sends a copy of this notification to the assignee.

The assignee may not be held to any obligations other than those thus communicated in writing. If the data is incorrect or incomplete, the employee has the right to request rectification of the incorrect or incomplete data and to claim damages from the assignor. The Labour Court hears such claims and makes rulings as a matter of urgency.

When the transfer is carried out at the request of a third party or the public prosecutor, debts existing at the date of the transfer and arising from employment contracts existing at that date are not transferred to the transferee, provided that payment of these debts is legally guaranteed by the Fonds pour l'Emploi, which guarantees employee claims in the event of employer insolvency proceedings within the limits of article L. 126-1 of the French Labor Code.

(3)
The transferee, the transferor or the court-appointed agent must apply to the Labour Court of the transferor's registered office or principal place of business for approval of the planned transfer, insofar as the transfer agreement concerns the rights set out in this article. In this article, "planned transfer" means, in addition to the transfer itself, the list of employees to be taken over or taken over, the fate of employment contracts, the working conditions laid down and debts.
The Labour Court shall rule as a matter of urgency, after hearing the representatives of the employees and the applicant. Employees who contest the notification referred to in paragraph 2 are summoned by the assignor or the legal representative to appear before the Labour Court at the same hearing.

If probate is granted, the assignee cannot be bound by any obligations other than those set out in the deed for which probate has been requested.

Art. 58.
(1)
The mandataire de justice organizes and carries out the court-ordered transfer through the sale or assignment of the movable or immovable assets necessary or useful to maintain all or part of the company's economic activity, or in the form of a merger in accordance with Title X, Chapter II, of the amended law of August 10, 1915 concerning commercial companies.
It seeks out and solicits offers, giving priority to maintaining all or part of the company's activity, while taking into account the rights of creditors.

He chooses whether to proceed with the sale or transfer publicly or by mutual agreement, in which case he defines the procedure to be followed by bidders in his invitation to tender. In particular, it sets a deadline by which bids must be communicated to it, after which no new bids may be taken into consideration. If the bidder intends to communicate a bid to other bidders in order to organize one or more higher bids, he must indicate this and specify how these higher bids are to be organized. Where applicable, the bidder must provide guarantees of employment and payment of the sale price, as well as financial plans and projects. For a bid to be taken into consideration, the price offered for all the assets sold or transferred must be equal to or higher than the presumed forced realization value in the event of bankruptcy or liquidation.

(2)
In the event that an offer is made by persons who exercise or have exercised control over the company and at the same time directly or indirectly exercise control over rights necessary for the continuation of its activities, the offer may only be taken into consideration on condition that these rights are accessible under the same conditions to other bidders.

(3)
The prospective bidder may indicate one or more current contracts that are not those concluded intuitu personae between the debtor and one or more co-contractors that he wishes to take over in full, including past debts, if his bid is accepted. In this case, if the sale is carried out in accordance with article 59, the offeror concerned will be subrogated ipso jure to the debtor's rights in the contract(s) he has indicated, without the co-contractor having to give his consent. Past claims arising from contracts thus indicated and assumed by the purchaser shall not be considered as part of the price referred to in paragraph 1, subparagraph 3er .
(4)
The mandataire de justice draws up one or more concomitant or successive sales proposals, setting out his or her due diligence, the conditions of the proposed sale and the justification for his or her proposals, and attaching a draft deed for each sale.
He communicates his plans to the delegated judge and, by petition notified to the debtor at least two days before the hearing, asks the court for authorization to proceed with the proposed sale.

(5)
No offer or modification of an offer subsequent to this request may be taken into consideration by the court.

Art. 59.
(1)
When the sale involves real estate and the proposed sale provides for a public sale, this takes place, in accordance with articles 832 et seq. of the New Code of Civil Procedure, through the ministry of the notary appointed by the court.
(2)
When the sale involves real estate and the court-appointed agent chooses to proceed by mutual agreement, he submits to the court a draft deed drawn up by a notary designated by him, setting out the reasons why a sale by mutual agreement is necessary. He attaches an expert report and a certificate from the mortgage registrar, dated after the judicial reorganization procedure was initiated, listing existing registrations and any transcriptions of orders or seizures relating to the said properties. Registered hypothecary or preferential creditors, hypothecary or preferential creditors exempt from registration, and creditors who have had a summons or writ of seizure transcribed, must be summoned to the authorization procedure by registered letter sent at least eight days before the hearing. They may ask the court to make authorization to sell subject to certain conditions, such as setting a minimum sale price.

In all cases, the sale must take place in accordance with the project authorized by the court and by the notary who drew it up or his successor.

(3)
Where buildings are co-owned by the debtor and other persons, the court may, at the request of the court-appointed agent, order the sale of the undivided buildings. Registered hypothecary or preferential creditors, hypothecary or preferential creditors exempt from registration, creditors who have had a summons or writ of seizure transcribed, the debtor and the other co-owners must be called to the authorization hearing by registered letter at least eight days before the hearing. In this case, the sale is carried out at the request of the court-appointed agent alone.
If all the co-owners agree to the sale of the undivided property, the court may authorize the sale, at the joint request of the court-appointed agent and the other co-owners, after calling the registered mortgagees or preferential creditors, creditors who have had a summons or writ of seizure transcribed, and the debtor by letter sent at least eight days before the hearing.

(4)
When the sale involves movable property, including goodwill, and the court-appointed agent chooses to proceed by mutual agreement, creditors who have had their security interests registered or

recorded must be called to the authorization procedure by letter served at least eight days before the hearing. They may ask the court to authorize the sale subject to certain conditions, such as the setting of a minimum sale price.
(5)
In all cases, the judgment mentions the identity of creditors and co-owners duly called to the hearing.

Art. 60.
On the report of the delegated judge, the court grants the authorization requested under article 58, paragraph 4, if the proposed sale satisfies the conditions set out in paragraph 1er , subparagraph 2**, of** that article. Where there is more than one comparable offer, the court will give priority to the offer which guarantees permanent employment by means of a social agreement.

The court hears the staff representatives on the board of directors or supervisory board, or failing that, the relevant staff delegation.

Where a proposed sale includes several proposals from different prospective purchasers or containing different conditions, the court chooses the offer most in line with article 58, paragraph 1er , subparagraph 2.

Art. 61.
The judgment authorizing the sale is published by extract in the Recueil électronique des sociétés et des associations in accordance with article 67 and communicated to the creditors by the court-appointed transfer agent, with an indication of the name of the notary or bailiff appointed by the court.

An appeal may be lodged within eight days of notification. The notice of appeal contains a writ of summons.

The action is brought as a summary proceeding in accordance with articles 934 to 940 of the New French Code of Civil Procedure, and judged within a short period of time.

The delegated judge is heard in his report. However, the delegated judge's report may also be submitted in writing no later than two days before the hearing before the Court.

If the purchaser wishes to proceed with the execution of the sale notwithstanding the appeal, the judicial representative will cooperate fully without incurring any liability as a result.

Art. 62.
The sale must take place in accordance with the draft deed authorized by the court.

When the sale involves movable property and the project provides for a public sale, the judgment designates the bailiff who will be in charge of the sale and who will collect the price. The price is collected by the court-appointed agent and then divided between the creditors in accordance with their respective rights.

The court-appointed agent invites all creditors mentioned on the list referred to in Article 13(2)(6) to make a declaration to the court registry.

Art. 63.
As a result of the sale of movable or immovable property, the rights of creditors are transferred to the price.

Art. 64.

When the appointed court-appointed agent considers that all activities likely to be transferred have been transferred, and in any event before the end of the stay, he applies to the court for closure of the judicial reorganization procedure, or, if it can be justified that it is being pursued for other purposes, for discharge of his mission. The court rules on the report of the delegated judge, after hearing the debtor.

Art. 65.

If the debtor is declared bankrupt or is wound up by the court before the trustee has fulfilled his mandate, the trustee asks the court to discharge him. The court may decide, on the basis of the delegated judge's report, to instruct him to complete certain tasks. In all cases, the trustee forwards the proceeds of the transfer to the curator or liquidator for distribution.

The fees of the mandataire de justice are deducted from the portion of the curator's and liquidator's fees relating to the proceeds of the transfer made by the mandataire de justice.

Art. 66.

The decision to close the judicial reorganization proceedings is published in the Recueil électronique des sociétés et associations in accordance with article 67.

The decision to close the judicial reorganization proceedings discharges the transferee from all obligations other than those mentioned in the transfer deed.

Art. 67.

(1)

The court decision is published by extract in the Recueil électronique des sociétés et associations, in accordance with the provisions of Title I^{er} , chapter *Vbis*, of the amended law of December 19, 2002 on the register of commerce and companies and the accounting and annual accounts of companies, by the clerk of the court within five days of its date.

(2)

The extract mentions :

1° in the case of a natural person, the debtor's surname, forenames, place and date of birth, the name under which the debtor's business is conducted, the address and location of the principal place of business, and the debtor's registration number in the Trade and Companies Register; in the case of a legal entity, the legal entity's name, form, the name under which the debtor's business is conducted, the registered office, the location of the principal place of business, and the debtor's registration number in the Trade and Companies Register;

2° the date of the court decision and the court that issued it;

3° the purpose of the decision, and if applicable the objective(s) of the judicial reorganization proceedings, the expiry date of the stay and the place, day and time set for ruling on any extension thereof;

4° if applicable and if the court can already determine them, the place, day and time set for the vote and decision on the reorganization plan.

(3)

The decisions referred to in articles 21, 22 and 23 shall also include the surname and first names of the delegated judge and, where applicable, those of the judicial representatives appointed under articles 22 and 23, together with their professional addresses.

(4)

The decisions referred to in article 24, last paragraph, shall also mention the points referred to in paragraph 2, points 3° and 4°, insofar as they have been amended, as well as the date of the judicial decision overturned and the court which issued it.
(5)
The extract of the judicial decision is published by the court clerk within five days of its date.

Chapter 5 - Miscellaneous provisions

Art. 68.
(1)
The mandataires de justice appointed under the present law are chosen in accordance with articles 455 and 456 of the French Commercial Code.
(2)
At the request of any interested party, at the request of the judicial representative or ex officio, the court may, at any time and insofar as necessary, replace a judicial representative or increase or decrease the number of such representatives.
All third-party claims are directed, in the form of summary proceedings, against the agent(s) and the debtor.

The court-appointed agent and the debtor are heard in chambers. The decision is rendered in open court.

Chapter 6 - Penalties

Art. 69.
The debtor is punished by imprisonment of one month to two years and a fine of 251 euros to 125,000 euros or one of these penalties only:

1°	if, in order to obtain or facilitate the judicial reorganization procedure, he has, in any manner whatsoever, deliberately concealed part of his assets or liabilities, or exaggerated those assets or minimized those liabilities;
2°	if he has knowingly allowed one or more alleged creditors or creditors whose claims have been exaggerated to take part in the deliberations;
3°	he has knowingly omitted one or more creditors from the list of creditors;
4°	knowingly made or allowed to be made to the court or a court-appointed agent inaccurate or incomplete statements concerning the state of the company's affairs or the prospects for reorganization.

Art. 70.
Anyone who, without being a creditor, has fraudulently taken part in the vote provided for in article 49, or who, being a creditor, has exaggerated their claims, or who has stipulated, either with the debtor or with any other person, special advantages for the purposes of their vote on the reorganization plan, or who has entered into a special agreement which would result in their benefit being charged against the debtor's assets, shall be liable to imprisonment of between one month and two years and a fine of between 251 euros and 125,000 euros.

TITLE 2 - Miscellaneous provisions

Art. 71.

(1)

Any natural person carrying on a self-employed professional, commercial, industrial, craft or liberal activity may apply to the district court sitting in commercial matters at the place of the registered office or principal place of business for the opening of bankruptcy proceedings in accordance with the provisions of article 437 et seq. of the French Commercial Code.

(2)

In the judgment opening the bankruptcy, the court rules on the applicable legal provisions relating to the liquidation of the bankruptcy, subject to any derogations provided for by the legislation governing the claimant's profession.

In the event of doubt as to the compatibility of a provision with an obligation arising from the legal status of a debtor holding a regulated liberal profession, the court may, at the request of the official receiver, request the opinion of the Order to which the holder of the liberal profession belongs.

(3)

Notwithstanding article 455 of the Commercial Code, the court appoints at least one curator who is a member of the same Order as the debtor. The court notifies his Order of a copy of the decision to open and close the bankruptcy.

Art. 72.

In all laws and regulations, the reference to composition with creditors shall be understood as a reference to a judicial reorganization procedure, as provided for in the present law.

Art. 73.

Tax administration officials are released from their tax secrecy obligations relating to information exchanged under this law.

Art. 74.

Reductions in value or provisions relating to claims on co-contractors for whom a reorganization plan has been homologated or an amicable agreement has been recorded by the court under the present law are accepted for the purposes of determining income tax.

TITLE 3 - Amending provisions

Art. 75.

The Commercial Code is amended as follows:

1° The title of Book III is amended as follows:

" BOOK III.
- Bankruptcies and rehabilitation

"

2° Article 438 is amended as follows:

"

Art. 438.

Bankruptcy is qualified as simple bankruptcy or fraudulent bankruptcy, punishable by criminal penalties, if the bankrupt merchant or the de jure or de facto manager of a bankrupt commercial company is in one of the cases and according to the distinctions provided for in Section I of Chapter II of Title IX of Book II of the French Penal Code.

"

3° Article 439 is repealed.

4° In article 440, a new paragraph is inserted after the 1er paragraph and reads as follows:

" The obligation to make this admission is suspended as from the filing of a petition for judicial reorganization and for as long as the stay of execution granted under the Act of August 7, 2023 on the preservation of enterprises and the modernization of bankruptcy law lasts.

5° Article 442 is amended as follows:

"

Art. 442.

Bankruptcy is declared by a judgment of the district court sitting in commercial matters, rendered either on the admission of the bankrupt, or on the summons of one or more creditors, or at the request of the public prosecutor, or ex officio. Except in cases of necessity, specially justified according to the elements of the case in the judgment declaring bankruptcy, the court will not declare bankruptcy ex officio until it has summoned the bankrupt through the court clerk's office to the council chamber to hear him on his situation.

In the same judgment, or in a subsequent judgment based on the juge-commissaire's report, the Tribunal d'Arrondissement, sitting in commercial matters, will determine, either on its own initiative or at the request of any interested party, the time at which payment ceased.

With the exception of article 613, this period may not be set at a date more than six months prior to the judgment declaring the bankruptcy.

In the absence of a special determination, cessation of payment will be deemed to have occurred from the date of the bankruptcy decree, or from the date of death, when the bankruptcy is declared after the death of the bankrupt.

No request for the cessation of payment to be set at a time other than that resulting from the declaratory judgment or a subsequent judgment will be admissible after the date set for the first verification of claims, without prejudice, however, to the right of opposition open to interested parties under article 473.

6° Article 444-1, paragraph 1, is amended as follows:

" (1)

If it is established that the bankrupt or the de jure or de facto managers, whether they are partners or not, apparent or hidden, remunerated or not, of a company declared bankrupt, whether they are in office or retired from the company at the time of the declaration of bankruptcy, have committed a serious and characterized fault which has contributed to the bankruptcy, the district court sitting in commercial matters which pronounced the bankruptcy or, in the event of bankruptcy declared abroad, the Luxembourg District Court dealing with

commercial matters, may prohibit such persons from engaging directly or through an intermediary in a commercial activity, as well as from acting as director, manager, commissaire, réviseur d'entreprises, réviseur d'entreprises agréé or in any other capacity conferring the power to bind a company. The ban must be imposed on anyone convicted of bankruptcy or fraudulent bankruptcy.

"

7° Article 445 is amended as follows:

"

Art. 445.

Are null and void, with respect to the general body of creditors, when they have been made by the debtor since the time determined by the court as being that of the cessation of his payments or within the ten days preceding that time:

1° All deeds transferring movable or immovable property free of charge, as well as commutative or onerous deeds, transactions or contracts, if the value of what has been given by the bankrupt significantly exceeds that of what he has received in return;

2° All payments, either in cash, or by transport, sale, set-off or otherwise, for unmatured debts and for matured debts, all payments made otherwise than in cash or commercial paper;

3° All conventional or judicial mortgages and all rights of antichrèse or pledge constituted on the debtor's assets for debts previously contracted.

8° Article 455 is amended as follows:

"

Art. 455.

Bankruptcy trustees are chosen from among lawyers or persons on the list of court-appointed agents pursuant to the amended law of July 7, 1971, which establishes sworn experts, translators and interpreters, company conciliators and court-appointed agents in criminal and administrative matters, and supplements the legal provisions relating to the swearing-in of experts, translators and interpreters.

In addition, when the nature and importance of a liquidation procedure so require, receivers who are not on the list provided for in paragraph 1er , may be appointed from among persons offering guarantees of competence in insolvency and liquidation proceedings. These curators will have the same rights, the same powers, and will be subject to the same supervision and the same obligations as if they had been chosen in application of the preceding paragraph.

9° Article 456 is repealed.

10° Article 457 is repealed.

11° Article 458 is amended as follows:

"

Art. 458.

In the performance of their duties, curators are subject to the supervision of the district court sitting in commercial matters.

12° Article 459 is repealed.

13° Article 461 is amended as follows:

"

Art. 461.

The fees of the receivers are regulated by the district court sitting in commercial matters, according to the nature and importance of the bankruptcy, on the basis set by Grand-Ducal regulation.

"

14° A new article 461-1 is inserted after article 461 :

"

Art. 461-1.

Actions against receivers are barred after five years from the date of the bankruptcy decree.

15° Article 465 is amended as follows:

"

Art. 465.

All bankruptcy judgments are provisionally enforceable; the time limit for lodging an appeal is forty days from the date of service. Appeals against bankruptcy rulings are lodged by bailiff's writ with a fixed date for appearance, and are heard and decided promptly in accordance with the oral procedure.

No opposition, appeal or civil claim may be lodged:

1° judgments concerning the appointment or replacement of the juge-commissaire and the appointment or dismissal of curators;

2° judgments that rule on relief claims for the bankrupt and his family;

3° judgments authorizing the sale of effects or goods belonging to the bankrupt, or, in accordance with article 453, paragraph 3, the remission of the sale of seized objects;

4° rulings on appeals against orders issued by the juge-commissaire within the limits of his powers.

16° Article 466 is amended as follows:

"

Art. 466.

In the judgment declaring the bankruptcy, the district court sitting in commercial matters will appoint a juge-commissaire and order the affixing of seals. It will appoint one or more curators, depending on the nature and scale of the bankruptcy. It will order the bankrupt's creditors to file a declaration of their claims with the court clerk's office within six months of the declaratory judgment, and will indicate the newspapers in which this judgment and the one that may subsequently determine the time of cessation of payment will be published, in accordance with article 472.

The same judgment will designate the place, day and time at which the first verification of claims will take place. This will take place within three months of the bankruptcy being declared.

Upon written request, the court may relieve the claimant of the forfeiture provided for in paragraph 1er when he can prove moral or material circumstances that prevented him from submitting his claim declaration in good time, in accordance with the provisions of the amended law of December 22, 1986 relating to the relief of forfeiture resulting from the expiry of a time limit for taking legal action.

In the event that the assets are insufficient to pay the costs and fees of the bankruptcy, only the first verification of claims set out in the bankruptcy decree is carried out, as well as, where applicable, the verification of wage claims which have not been discharged at the time of the first verification.

"

17° Article 470 is amended as follows:

"

Art. 470.

The appointed trustees will take office immediately after the declaratory judgment; they will first take an oath before the official receiver to perform their duties faithfully and well; they will manage the bankruptcy under the supervision of the official receiver, and, if necessary, they will immediately request that seals be affixed. The seals will be affixed to the bankrupt's stores, counters, cases, portfolios, books, papers, furniture and effects. In the event of bankruptcy of a general or limited partnership, the seals will be affixed not only at the partnership's head office, but also at the domicile of each of the joint and several partners. In all cases, the clerk of the court will promptly notify the president of the district court sitting in commercial matters and the curator appointed for the bankruptcy of the affixing of the seals.

18° Article 472 is amended as follows:

"

Art. 472.

The judgment declaring the bankruptcy and the subsequent judgment declaring the cessation of payments will, at the behest of the receivers and within three days of their date, be published in extracts in newspapers published in the Grand Duchy of Luxembourg and designated by the Tribunal d'Arrondissement sitting in commercial matters.

The court may also order publication by extract in foreign newspapers designated by the court.

19° Article 474 is repealed.

20° Article 475 is amended as follows:

"

Art. 475.

If the interests of creditors so require, the court, on the report of the official receiver and after hearing the curators, may order that the bankrupt's commercial operations be provisionally continued by them or by a third party under their supervision. The court, on the official receiver's report and after hearing the curators, may modify or revoke this measure at any time.

21° Article 477 is amended as follows:

"

Art. 477.

The curators may, with the authorization of the juge-commissaire, immediately sell items subject to imminent decline or depreciation.

Other objects may only be sold, before the rejection of the composition, by virtue of the authorization of the court, which, on the report of the official receiver and with the bankrupt party heard or duly summoned, will determine the method and conditions of the sale.

"

22° Article 479 is amended as follows:

"

Art. 479.

The receivers seek and collect, on their receipts, all debts or sums due to the bankrupt. Monies from sales and collections made by the receivers are paid into a third-party account specially opened in the name of the bankruptcy. In the event of delay, the receivers owe commercial interest on the sums they have not paid, without prejudice to the application of articles 458 and 462.

In the event of sufficient assets, the curator may request the juge-commissaire to grant him an advance on the costs of the bankruptcy proceedings out of the assets collected.

The curators are required to forward to the official receiver an extract from the third-party account specially opened in the name of the bankruptcy at the beginning of each calendar year and at the official receiver's special request.

23° Article 480 is repealed.

24° Article 482 is amended as follows:

"

Art. 482.

The bankrupt may not be absent without the authorization of the official receiver. He must attend all summonses issued by the official receiver or the receivers. Summonses are sent by registered letter, fax, e-mail or any other means of communication.

The bankrupt may be represented by a proxy, if he can justify any impediment recognized as valid by the official receiver.

25° Article 483 is repealed.

26° Article 484 is amended as follows:

"

Art. 484.

The curators may call the bankrupt to them to close and stop the books and entries in his presence, if they have the time.

The curators will audit the annual accounts or financial statements. If major corrections are necessary, they will prepare them, using the bankrupt's books and papers and any information they can obtain.

The curators may, with the agreement of the juge-commissaire (official receiver) who rules by order, engage the services of an accountant or chartered accountant to prepare the annual accounts or financial statements.

27° Article 488 is amended as follows:

"

Art. 488.

Within three days of taking office, the curators request, if necessary, that the seals be lifted, and proceed with an inventory of the bankrupt's property, in the presence of the bankrupt or duly summoned.

The curators may, with the authorization of the juge-commissaire, enlist the help of anyone they deem fit to assist them in drawing up the document.

28° Article 491 is repealed.

29° Article 492 is amended as follows:

"

Art. 492.

The receivers may, with the authorization of the official receiver, and the bankrupt natural person or the managers or administrators of the bankrupt legal entity duly summoned by registered letter, fax, e-mail or any other means of communication, settle all disputes concerning the estate, even those relating to real estate shares and rights.

When the transaction relates to real estate rights, or when its object is of an indeterminate value or exceeds 12,500 euros, the transaction will only be binding once it has been approved, on the report of the juge-commissaire. If the dispute on which the settlement was reached fell within the jurisdiction of the civil court, the settlement will be approved by that court.

The bankrupt will be called upon by registered letter, fax, e-mail or any other means of communication to attend the probate; in all cases, he will have the right to object. His opposition will be sufficient to prevent the transaction, if it concerns real estate.

The receivers may also, with the authorization of the district court sitting in commercial matters, the bankrupt duly summoned by registered letter, fax, e-mail or any other means of communication, refer the litisdecisory oath to the opposing party, in disputes in which the bankruptcy will be involved.

30° Article 493 is amended as follows:

"

Art. 493.

The receivers may employ the bankrupt to facilitate and enlighten their management. The juge-commissaire sets the conditions of his work.

31° Article 494 is amended as follows:

"

Art. 494.

In all bankruptcies, the receivers, within six weeks of taking office, are required to submit to the official receiver a brief or summary account of the apparent state of the bankruptcy, its main causes and circumstances, and the characteristics it appears to have. They must also reply within three months to any questionnaire relating to the bankruptcy submitted by the public prosecutor.

32° Article 495-1 is amended as follows:

"

Art. 495-1.

When the bankruptcy of a company reveals a shortfall in assets, the court may decide, at the request of the curator or the public prosecutor, that the amount of this shortfall in assets shall be borne, in whole or in part, by all or some of the de jure or de facto managers, whether or not they are partners, apparent or hidden, paid or unpaid, in respect of whom serious and well-founded misconduct contributing to the bankruptcy has been established. If there are several directors, the court may, by reasoned decision, declare them jointly and severally liable.

The limitation period is three years from the date of final verification of the claim.

33° Article 496 is amended as follows:

"

Art. 496.

The bankrupt's creditors are required to file a declaration of their claims, together with their securities, with the clerk of the commercial court within the time limit set in the bankruptcy decree. The court clerk will keep a record of these declarations and issue a receipt.

34° Article 497 is amended as follows:

"

Art. 497.

If there are creditors, resident or domiciled outside the Grand Duchy, in respect of whom the time limit set by the judgment declaring the bankruptcy would be too short, the official receiver will extend it for them according to the circumstances.

35° Article 498 is amended as follows:

"

Art. 498.

Each creditor's declaration sets out his or her surname, first names, profession and domicile, the amount of the claim and the grounds on which it is based, any liens, mortgages or pledges assigned to it, and the title from which it arises.

Creditors are required to notify the trustees of any change of address. Failing this, summonses are deemed validly made to the last address that the interested party has communicated to the receivers.

This declaration ends with an affirmation in the following terms: "I affirm that my present claim is sincere and true".

It is signed by the creditor, or on his behalf by his attorney; in this case, the power of attorney is attached to the declaration, and must state the amount of the claim and contain the affirmation prescribed by this article.

36° Article 499 is repealed.

37° Article 500 is amended as follows:

"

Art. 500.

It is carried out in the presence of the official receiver and with the intervention of the bankrupt, or the latter duly summoned by registered letter, fax, e-mail or any other means of communication. The securities are reconciled with the bankrupt's books and records.

The claims of the receivers are verified by the juge-commissaire.

Minutes are drawn up by the curators and signed at each meeting by them and the juge-commissaire. The minutes indicate the names or corporate names of the creditors. They contain a summary description of the securities produced and state whether the claim is admitted, contested or partially admitted.

In the event of a dispute, or if the claim does not appear to be fully justified, the curators postpone their decision until the debate on the dispute.

38° Article 501 is repealed.

39° Article 502 is amended as follows:

"

Art. 502.

At the meeting scheduled for the audit, all claims declared are examined by both parties. The curators sign the following declaration on the title of each admitted and uncontested claim: Admitted to the liabilities of the bankruptcy of ... for the sum of ... on ...

The juge-commissaire endorses the declaration.

"

40° Article 503 is repealed.

41° Article 504 is amended as follows:

"

Art. 504.

Debates on disputes, with the exception of debates on wage declarations, only take place at the request of the creditor, who is duly notified by the curator by registered letter within 15 days of the verification of his claim that his declaration has been disputed.

Under penalty of foreclosure, the creditor's claim must be lodged within forty days of the date of dispatch of the registered letter by petition to the district court sitting in commercial matters.

On the day set for the debates on the disputes, the official receiver makes his report and the court rules on the disputes by judgment.

Disputes that cannot be settled immediately will be separated; those that do not fall within the jurisdiction of the court will be referred to the competent judge.

No objections will be entertained against the judgement rendered pursuant to the present article, nor against those which subsequently rule on the separate disputes.

42° Chapter V. - Du Concordat is repealed.

43° Article 528 is amended as follows:

"

Art. 528.

The receivers represent the general body of creditors, and proceed with the liquidation of the bankruptcy; they arrange for the sale of real estate, goods and chattels, and liquidate active and passive debts; all under the supervision of the official receiver, in compliance with the provisions of article 479, and without the need to call in the bankrupt.

They may compromise, in the manner prescribed by article 492, on any kind of rights belonging to the bankrupt, notwithstanding any opposition on his part.

44° Articles 529 to 532 are repealed.

45° Article 533 is amended as follows:

"

Art. 533.

When the liquidation of the bankruptcy is completed, the creditors, admitted to the liabilities, are summoned by the curator in accordance with the provisions of article 482. The curator's account is attached to this summons.

At this meeting, the account is debated, with the bankrupt present or duly called by registered letter. The balance of the account will form the final distribution. In

the event of a dispute, the District Court sitting in commercial matters will rule on the report of the official receiver.

"

46° Article 535 is repealed.

47° Article 536 is amended as follows:

"

Art. 536.

If, at the earliest six months from the date of the bankruptcy decree, it is recognized that the assets are insufficient to cover the presumed costs of administering and liquidating the bankruptcy, the district court sitting in commercial matters may, on the report of the official receiver, pronounce, even ex officio, the closure of the bankruptcy operations. In this case, creditors will be able to exercise their individual actions against the person and property of the bankrupt who has been declared a simple or fraudulent bankrupt.

Enforcement of the closing judgment will be suspended for one month.

The bankrupt or any other interested party may, at any time, have it withdrawn by the district court sitting in commercial matters, by proving that there are sufficient funds to cover the operations of the bankruptcy, or by having a sufficient sum paid into the caisse des consignations. In all cases, the costs of proceedings under this article must be paid in advance.

48° Article 536-1, paragraph 1er is amended as follows:

" In the event of closure of the bankruptcy due to insufficient assets, the costs incurred by the trustee will be taxed by the district court sitting in commercial matters. The latter will set the fees according to the nature and importance of the care provided by the trustee, without these fees being lower than a minimum or higher than a maximum to be set by Grand-Ducal regulation.

49° A new article 536-3 is inserted, worded as follows:

"

Art. 536-3.

(1)

The bankrupt individual may be discharged by the court from the balance of claims arising prior to the declaration of bankruptcy, without prejudice to any security given by the bankrupt or a third party, with the exception of claims covered by article 2101, paragraph 1er , point 4°, of the Civil Code. Erasure is only granted by the court at the bankrupt's request, which he must add to his admission of bankruptcy or file before the closure of the bankruptcy or within one month of the closure of the bankruptcy, if the bankruptcy is closed less than six months after its opening. The clerk of the court notifies the curator of the request. The court rules on the application for discharge within eighteen months of publication of the bankruptcy decree. The clerk of the court notifies the curator of the judgment ordering total or partial discharge of the bankrupt's debts, and an extract is published by the clerk of the court in the Recueil électronique des sociétés et associations, in accordance with the provisions of title Ier , chapter *Vbis*, of the amended law of December 19, 2002 concerning the register of commerce and companies and the accounting and annual accounts of companies.

(2)

Any interested party, including the trustee and the public prosecutor, may, by petition notified to the bankrupt by the clerk of the court, from the date of

publication of the bankruptcy decree, request that the write-off be granted only in part, or refused in its entirety by reasoned decision, if the debtor has committed serious and well-founded faults which have contributed to the bankruptcy, or has knowingly provided inaccurate information at the time of the admission of bankruptcy or subsequently to requests made by the official receiver or the trustee. The same request may be made by way of a third party opposition by petition within three months of publication of the judgment granting the write-off. The court makes its decision after hearing the opinion of the curator and the State prosecutor, and on the basis of a report by the delegated judge.

(3)

Erasure has no effect on the bankrupt's alimony debts or debts arising from the obligation to compensate for damage caused by the bankrupt's own fault in the event of the death or physical injury of a person.

(4)

The spouse, ex-spouse, partner or ex-partner in accordance with the amended law of July 9, 2004 on the legal effects of certain partnerships who is personally obliged to the latter's debt, contracted at the time of the marriage or partnership, is released from this obligation by erasure.

The partner whose declaration of partnership was made in the six months preceding the opening of the bankruptcy proceedings cannot benefit from the write-off.

(5)

The write-off has no effect on the personal or joint debts of the spouse, ex-spouse, partner or ex-partner in accordance with the amended law of July 9, 2004 on the legal effects of certain partnerships, arising from a contract concluded by them, whether or not they were contracted alone or with the bankrupt, and which are unrelated to the bankrupt's professional activity.

"

50° A new article 536-4 is inserted, worded as follows:

"

Art. 536-4.

(1)

Without prejudice to Article 2016 of the French Civil Code, co-debtors and grantors of personal sureties are not entitled to deletion.

(2)

After the opening of the bankruptcy proceedings, a natural person who has provided personal security for the bankrupt free of charge may petition the court to be discharged of all or part of his obligation if, at the opening of the judicial reorganization proceedings, the said obligation is manifestly disproportionate to his ability to repay, this ability being assessed, at the time the discharge is granted, in relation to both his movable and immovable property and his income.

To this end, the applicant shall state in his application :

- identity, profession and address;
- the identity and address of the holder of the claim whose payment is guaranteed by the security;
- a declaration that, at the time the proceedings are initiated, his obligations are disproportionate to his income and assets;
- a statement of all the assets and liabilities that make up its assets;
- documents supporting the security commitment and its importance ;

- any other document likely to establish with precision the state of its resources and its expenses.

The parties are promptly summoned by the clerk's office to appear at the hearing set by the judge. The summons states that the petition and the documents submitted may be consulted at the court registry. The filing of the petition suspends enforcement proceedings.

If the court grants the request, the individual who has taken out a personal surety for the debtor free of charge benefits from the debt write-off. If the court does not completely discharge the debtor's personal surety, the creditors regain the right to take individual action against the debtor's assets.

(3)
The judgment granting the request is entered in the bankruptcy file and published by extract in the Recueil électronique des sociétés et associations, in accordance with the provisions of Title I[er] , Chapter *Vbis*, of the amended law of December 19, 2002 on the register of commerce and companies and the accounting and annual accounts of companies.

"

51° A new article 536-5 is inserted, worded as follows:

"

Art. 536-5.

(1)
If assets emerge after the closure of the bankruptcy, the District Court sitting in commercial matters may, at the request of the State Prosecutor, revoke the company's bankruptcy decision and order its liquidation.

(2)
The request is published by extract in two newspapers published in the Grand Duchy of Luxembourg.

(3)
When ordering liquidation, the court appoints a bankruptcy judge and one or more liquidators. It determines the method of liquidation. It may make applicable, to the extent it determines, the rules governing the liquidation of the bankruptcy. The method of liquidation may be modified by subsequent decision, either ex officio or at the request of the liquidator(s).

(4)
The company is deemed to exist for its liquidation.

(5)
Court decisions ordering the liquidation of a company are published by extract in the Recueil électronique des sociétés et associations, in accordance with the provisions of Title I[er] , chapter *Vbis*, of the amended law of December 19, 2002 concerning the register of commerce and companies and the accounting and annual accounts of companies. In addition to the publications to be made in newspapers published in the Grand Duchy of Luxembourg, the court may also order the publication of extracts in foreign newspapers designated by the court. Publications are made by the liquidator(s).

(6)
The court may decide that the judgment ordering liquidation is provisionally enforceable.

(7)
The time limit for lodging an appeal against a decision to wind up a commercial company governed by Luxembourg law is forty days from publication of the decision in the Recueil électronique des sociétés et associations, in accordance

with the provisions of Title I[er] , Chapter *Vbis*, of the amended law of December 19, 2002 concerning the register of commerce and companies and the accounting and annual accounts of companies. The action is brought and judged as in summary proceedings and articles 934, 935, 936, 937 and 939 of the New Code of Civil Procedure are applied. Notwithstanding article 934, paragraph 1[er] , of the New Code of Civil Procedure, the claim may be brought at a hearing specially scheduled for such cases.

(8)

Actions against liquidators are barred after five years from the publication of the close of the liquidation.

"

52° A new article 536-6 is inserted, worded as follows:

"

Art. 536-6.

When an insolvent individual has benefited from a debt write-off under articles 536-3 et seq. of the French Commercial Code, any forfeiture of the right to take up or pursue a commercial, industrial, artisanal or liberal activity on the sole ground that the entrepreneur is insolvent is automatically terminated on expiry of the debt write-off period.

53° Article 541 is amended as follows:

"

Art. 541.

Creditors retain their action for the full amount of their claim against the bankrupt's co-obligors.

54° Article 564 is amended as follows:

"

Art. 564.

If there are no expropriation proceedings, only the receivers may proceed with the sale, with the authorization of the juge-commissaire, in accordance with the special provisions governing the matter.

The receivers can always stop proceedings that have already begun, by proceeding in the same way, with the authorization of the district court sitting in commercial matters, with the bankrupt being called by registered letter to sell the seized property.

In this case, they shall notify the pursuing creditor and the bankrupt, at least eight days before the sale, of the place, day and time of the sale.

The same notification is made within the same time limit to all creditors registered at their elected domicile in the registration form.

55° Articles 573 to 583 are repealed.

56° The heading of Title III of Book III of the French Commercial Code is amended as follows:

" TITLE III. - Rehabilitation

"

Art. 76.

A new paragraph 3 is inserted in article 31 of the amended law of June 8, 1999 on the State budget, accounting and treasury, with the following wording:

" (3)
Tax collectors are automatically relieved of responsibility for the collection of tax debts that could not be recovered following the application of the law of August 7, 2023 on the preservation of businesses and the modernization of bankruptcy law.

"

Art. 77.

Book II, Title IX, Chapter II, Section I^re^ of the Penal Code is amended as follows:

" 1° Article 489 is amended as follows:

"

Art. 489.

Any bankrupt trader or de jure or de facto manager of a commercial company in a state of bankruptcy who is in one of the following situations shall be declared a simple bank robber and punished by a prison sentence of one month to two years and a fine of 251 to 25,000 euros:

1° if personal or household expenses are deemed excessive;

2° if he has spent large sums on gambling, operations of pure chance, or fictitious stock market or commodity transactions;

3° if, with the intention of delaying his bankruptcy, he has made purchases to resell below the market price; if, with the same intention, he has engaged in borrowing, circulation of bills, and other ruinous means of raising funds;

4° if he has assumed expenses or losses, or if he does not justify the existence or use of the assets of his last inventory or balance sheet and of the cash, securities, movables and effects, of whatever nature, which may be subsequently advanced to him;

5° with the intention of delaying the declaration of bankruptcy, he has paid or favoured a creditor to the detriment of the estate.

Simple racketeers may also be sentenced to disqualification in accordance with article 24.

2° Article 490 is amended as follows:

"

Art. 490.

Any bankrupt trader or de jure or de facto manager of a commercial company who is in one of the following situations is also declared a simple bankrupt and punished by the penalties set out in article 489:

1° if he has entered into commitments on behalf of others, without receiving value in exchange, that are considered too substantial in view of his situation at the time they were entered into;

2° if, having departed by contract from the provisions of the legal matrimonial regime, he has not complied with article 69 of the Commercial Code;

3° if he has not made an admission of the cessation of his payments within the period prescribed by article 440 of the

Commercial Code; if this admission does not contain the names of all the joint and several partners; if, in doing so, he has not provided the information and clarifications required by article 441 of the same code, or if this information or clarification is inaccurate;

4° if he has been absent without the authorization of the juge-commissaire or if, without legitimate impediment, he has not attended in person the summonses sent to him by the juge-commissaire or by the curators;

5° if he has not kept the books prescribed by article 9 of the Commercial Code; if he has not made the inventory required by article 15 of the same code; if his books and inventories are incomplete or irregularly kept, or if they do not show his true active and passive situation, without however there being any fraud.

"

3° Following article 490, new articles 490-1 to 490-9 are inserted with the following wording:

"

Art. 490-1.

Shall be sentenced to the penalties provided for in article 489 :

1° those who, in the interest of the bankrupt, have removed, concealed or concealed all or part of the bankrupt's movable or immovable property;

2° those who have fraudulently presented in bankruptcy and asserted, either in their own name or through an intermediary, supposed or exaggerated claims;

3° the creditor who has stipulated, either with the bankrupt or with any other person, particular advantages by reason of his vote in the deliberations of the bankruptcy, or who has made a particular treaty from which would result, in his favour, an advantage to be charged to the bankrupt's estate;

4° the curator who is guilty of mismanagement.

Offenders are also liable to a fine equal to the value of the benefits unlawfully stipulated or to the restitutions and damages due to the creditors.

Art. 490-2.

The penalties provided for in article 489 shall apply to de jure or de facto directors of a commercial company in a state of bankruptcy who have failed to provide the information requested of them, either by the official receiver or by the receivers, or who have provided inaccurate information.

The same applies to those who, without legitimate impediment, fail to attend a meeting convened by the juge-commissaire or the curator.

Art. 490-3.

Any bankrupt trader or de jure or de facto manager of a commercial company in a state of bankruptcy who is in one of the following situations will be declared a fraudulent bank robber and sentenced to six months to five years' imprisonment and a fine of 500 to 50,000 euros:

1° if he has concealed all or part of the books or accounting documents referred to in articles 9, 14 and 15 of the French

Commercial Code, or if he has fraudulently removed, erased or altered their contents;

2° he has embezzled or concealed part of his assets;

3° if, in its accounts, either through public deeds or commitments under private signature, or through its balance sheet, it has fraudulently acknowledged that it owes sums that it did not owe.

Art. 490-4.

In the cases provided for in articles 490-1 and 490-3, the court will rule ex officio, even if there is an acquittal:

1° on the reinstatement to the creditors' estate of any assets, rights or shares fraudulently removed ;

2° on the damages that may be claimed and that the judgment or ruling will arbitrate.

The agreements will also be declared null and void with respect to all persons, including the bankrupt.

The creditor returns any sums or securities received under the cancelled agreements to the appropriate party.

Art. 490-5.

If the annulment of the fraudulent acts or agreements mentioned in articles 490-1 and 490-3 is pursued through civil proceedings, the action is brought before the district court sitting in commercial matters in whose jurisdiction the bankruptcy was opened.

Art. 490-6.

The costs of proceedings for simple or fraudulent bankruptcy may only be charged to the estate in the event of acquittal, when the receivers, authorized by a deliberation taken by an individual majority of the creditors present, have joined the civil action.

Art. 490-7.

All judgments or sentences handed down pursuant to articles 489 to 490-3 will be published in excerpts in two newspapers published in the Grand Duchy of Luxembourg, designated by the court at the expense of the convicted persons.

The court may also publish the notice referred to in paragraph 1er on the website of the judicial authorities.

Art. 490-8.

In all cases of prosecution and conviction for simple or fraudulent bankruptcy, civil actions, other than those referred to in article 490-4, will remain separate, and all provisions relating to property prescribed for bankruptcy will be enforced, without being attributed to or evoked by the district courts or the police courts.

Art. 490-9.

However, the bankruptcy trustees will hand over to the State Prosecutor all documents, titles, papers and information requested of them. These documents, titles and papers will, during the course of the investigation, be kept in a state of communication by the clerk's office; this communication will take place at the request of the curators, who will be able to take private extracts or request

authentic ones which will be delivered to them on free paper and without expenses by the clerk.

The documents, titles and papers that have not been ordered to be deposited with the court will, after the judgment, be given to the curators, who will discharge them.

"

Art. 78.

The New Code of Civil Procedure is amended as follows:

1° In article 257, paragraph 1er , the words "first paragraph" are replaced by "paragraph 2".

2° Article 555 is repealed.

Art. 79.

1° The title of the amended law of July 7, 1971 establishing sworn experts, translators and interpreters in criminal and administrative matters and supplementing the legal provisions relating to the swearing in of experts, translators and interpreters is amended as follows:

" Law of July 7, 1971, as amended, establishing sworn experts, translators and interpreters, company conciliators and legal representatives in criminal and administrative matters, and supplementing the legal provisions relating to the swearing-in of experts, translators and interpreters.

2° Articles 1 to 5 are inserted in a new chapter 1er , entitled as follows :

" Chapter 1er

- Sworn experts, translators and interpreters

3° Article 1er , paragraph 1er , is amended as follows:

" In criminal and administrative matters, the Minister of Justice may appoint sworn experts, translators and interpreters to carry out assignments entrusted to them by the judicial and administrative authorities.

He may dismiss them in the event of a breach of their duties or professional ethics, or for other serious reasons. Dismissal may only take place on the advice of the State Attorney General and after the person concerned has been given the opportunity to present his or her explanations.

4° Article 2 is amended as follows:

"

Art. 2.

They shall take an oath before the Superior Court of Justice sitting in civil matters; experts shall take an oath to make their reports and give their opinions in their honour and conscience; translators and interpreters shall take an oath to translate faithfully into one of the languages generally used in the Grand Duchy both statements made and written documents drafted in a foreign language, and vice versa.

They will be subject to the supervision of the State Attorney General.

5° A Chapter 2 is created, entitled "Chapter 2 - Company conciliators and legal representatives", as well as a Chapter 3, entitled "Chapter 3 - Lists", comprising the following articles:

"Chapter 2
- Company conciliators and legal representatives

Art. 6.

The Minister of Justice may appoint company conciliators and mandataires de justice to carry out the tasks entrusted to them by the judicial authorities in application of the law of August 7, 2023 on the preservation of companies and the modernization of bankruptcy law.

It may revoke them in the cases provided for in Article 1, paragraph 2.

Art. 7.

All persons holding a Luxembourg university diploma in law, economics or management corresponding to a recognized master's degree, or a foreign university diploma in law, economics or management corresponding to a recognized master's degree and issued by a higher education institution established in accordance with the laws and regulations governing higher education on the territory of the issuing state, and must have been entered in the register of training qualifications, may be admitted as company conciliators or legal representatives, section of higher education provided for in articles 66 and 68 of the law of October 28, 2016 on the recognition of professional qualifications and classified at least at levels 6 and 7 respectively of the Luxembourg qualifications framework and presenting guarantees of knowledge and competence in insolvency proceedings.

Art. 8.

They shall take an oath before the Superior Court of Justice sitting in commercial matters to perform the duties entrusted to them faithfully and well.

They do not have to renew their oath each time they are hired.

Art. 9.

The fees of company conciliators and court-appointed representatives will be determined and modified as legal costs in accordance with article 5, with the exception of fees paid to court-appointed representatives appointed as receivers pursuant to article 461 or 536-1 of the French Commercial Code.

Chapter 3
- Lists

Art. 10.

The persons designated in application of articles 1 and 6 are included on a list of sworn experts, sworn translators and interpreters, company conciliators and court-appointed agents, which includes the surname, first name, private or professional address**,** telephone number, e-mail address and website of the persons concerned.

Art. 11.

Coordinated lists are published on the Ministry of Justice website.

Art. 80.

1° Articles 1200-1 and 1200-2 of the amended law of August 10, 1915 concerning commercial companies are amended as follows:

"

Art. 1200-1.

(1)

The Tribunal d'Arrondissement sitting in commercial matters may, at the request of the Public Prosecutor, dissolve and order the liquidation of any company governed by Luxembourg law which pursues activities contrary to criminal law or which seriously contravenes the provisions of the Commercial Code or the laws governing commercial companies, including the right of establishment.

(2)

The application and the procedural documents under this article are served through the court registry. If the company cannot be contacted at its legal domicile in the Grand Duchy of Luxembourg, the application is published by extract in two newspapers published in the Grand Duchy of Luxembourg.

(3)

When ordering liquidation, the court appoints a bankruptcy judge and one or more liquidators. It determines the liquidation procedure. It may make applicable, to the extent it determines, the rules governing the liquidation of the bankruptcy. The method of liquidation may be modified by subsequent decision, either ex officio or at the request of the liquidator(s).

(4)

Court decisions ordering the dissolution and liquidation of a company are published by extract in the Recueil électronique des sociétés et associations, in accordance with the provisions of Title I^{er} , chapter *Vbis*, of the amended law of December 19, 2002 concerning the register of commerce and companies and the accounting and annual accounts of companies**.** In addition to the publications to be made in newspapers published in the Grand Duchy of Luxembourg, the court may also order the publication of extracts in foreign newspapers designated by the court.

Publications are made by the liquidator(s).

(5)

The court may decide that the judgment pronouncing dissolution and ordering liquidation is provisionally enforceable.

(6)

In the event of absence or insufficiency of assets, as determined by the official receiver, the costs and fees of the liquidators, which are arbitrated by the court, are borne by the State and liquidated as legal costs.

(7)

The time limit for lodging an appeal against a judgment of liquidation of a commercial company governed by Luxembourg law is forty days from the date of service. The appeal is lodged by bailiff's writ containing a summons to appear on a fixed date, and is heard and judged promptly in accordance with the oral procedure.

(8)

Actions against liquidators are barred after five years from the publication of the close of the liquidation.

Art. 1200-2.

(1)

At the request of the State Prosecutor, the District Court dealing with commercial matters may order the closure of any establishment in the Grand Duchy of

Luxembourg of a foreign company which pursues activities contrary to criminal law or which seriously contravenes the provisions of the Commercial Code or the laws governing commercial companies, including with regard to the right of establishment.

(2)

The application and the procedural documents under this article are served through the court registry. Where the company cannot be contacted at its legal domicile in the Grand Duchy of Luxembourg, the application is published by extract in two newspapers published in the Grand Duchy of Luxembourg. The court may also order the publication of extracts in foreign newspapers of its choice.

(3)

Court decisions ordering the closure of a foreign company's establishment are published by extract in the Recueil électronique des sociétés et associations, in accordance with the provisions of Title I^{er} , chapter *Vbis*, of the amended law of December 19, 2002 concerning the register of commerce and companies and the accounting and annual accounts of companies. In addition to the publications to be made in newspapers published in the Grand Duchy of Luxembourg, the court may also order the publication of extracts in foreign newspapers designated by the court. Publications are made by the State Prosecutor.

(4)

Judgments ordering the closure of a foreign company's establishment in the Grand Duchy of Luxembourg are enforceable provisionally.

(5)

The time limit for lodging an appeal against a decision to close a foreign company's establishment is forty days from the date of service. The appeal is lodged by bailiff's writ containing a summons to appear on a fixed date, and is heard and decided promptly by oral procedure.

(6)

Anyone who violates a judicial closure order issued in accordance with this article shall be liable to imprisonment for a term of between eight days and five years and a fine of between 1,250 euros and 125,000 euros, or to one of these penalties only.

"

2° A new article 1200-3 is inserted after article 1200-2 of the amended law of August 10, 1915 on commercial companies, to read as follows:

"

Art. 1200-3

(1)

If any assets emerge after the liquidation has been closed, the district court sitting in commercial matters may, at the request of the public prosecutor, revoke the decision to close the liquidation.

(2)

The request is published by extract in two newspapers published in the Grand Duchy of Luxembourg.

(3)

In ordering the liquidation, the court appoints an official receiver and one or more liquidators. It determines the method of liquidation. It may make applicable, to the extent it determines, the rules governing the liquidation of the bankruptcy. The method of liquidation may be modified by subsequent decision, either ex officio or at the request of the liquidator(s).

(4)

The company is deemed to exist for its liquidation.

(5)

Court decisions ordering the liquidation of a company are published by extract in the Recueil électronique des sociétés et associations, in accordance with the provisions of Title I[er] , chapter *Vbis*, of the amended law of December 19, 2002 concerning the register of commerce and companies and the accounting and annual accounts of companies. In addition to the publications to be made in newspapers published in the Grand Duchy of Luxembourg, the court may also order the publication of extracts in foreign newspapers designated by the court. Publications are made by the liquidator(s).

(6)

The court may decide that the judgment ordering liquidation is provisionally enforceable.

(7)

The time limit for lodging an appeal against a decision to wind up a commercial company governed by Luxembourg law is forty days from publication of the decision in the Recueil électronique des sociétés et associations, in accordance with the provisions of Title I[er] , Chapter *Vbis*, of the amended law of December 19, 2002 concerning the register of commerce and companies and the accounting and annual accounts of companies. The action is brought and judged as in summary proceedings and articles 934, 935, 936, 937 and 939 of the New Code of Civil Procedure are applied. Notwithstanding article 934, paragraph 1[er] , of the New Code of Civil Procedure, the claim may be brought at a hearing specially scheduled for such cases.

(8)

Actions against liquidators are barred after five years from the publication of the close of the liquidation.

"

Art. 81.

Article 97 of the amended Act of January 8, 1962 concerning bills of exchange and promissory bills is amended as follows:

"

Art. 97.

Within the first ten days of each month, the registrars send a table of protests of accepted bills of exchange and promissory bills recorded in the previous month to the presiding magistrate of the chamber of the Tribunal d'arrondissement sitting in commercial matters within whose jurisdiction the protest was drawn up, as well as to the secretariat of the Comité de conjoncture, the Chambre de Commerce and the Chambre des métiers. This table contains :

1° the date of the protest ;
2° the surname, forenames, profession and address of the person in whose favour the bill is created or of the drawer;
3° surname, forenames, profession and address of the promissory bill subscriber or bill of exchange acceptor;
4° due date ;
5° the bill amount; and
6° the response to the protest.

The same table is also sent to the magistrate presiding the chamber of the district court sitting in commercial matters of the subscriber of a promissory bill or the acceptor of a bill of exchange, if this domicile is located in the Grand Duchy of Luxembourg in a jurisdiction other

than that where payment is to be made. These schedules remain deposited at the respective registries of the said courts, as well as at the Chambre de commerce and the Chambre des métiers, where they may be consulted by anyone.

"

Art. 82.

Article 13 of the amended law of December 19, 2002 on the register of commerce and companies and the accounting and financial statements of companies is amended as follows:

1°	in point 4) of article 13 the words ", homologation or resolution of the composition obtained by the bankrupt" are deleted;
2°	Article 13(5) is deleted;
3°	Article 13(6) shall read as follows: "(6) judgments rehabilitating the bankrupt, granting a debt write-off, discharging a natural person who has provided personal security for the bankrupt free of charge, or granting a stay of payment or revoking the latter;" ;
4°	Article 13(7) shall read as follows: "7) judicial decisions concerning judicial reorganization proceedings;" .

Art. 83.

Article 7, paragraph 2, of the law of July 23, 1991 regulating subcontracting activities is amended as follows:

" Payment is compulsory even if the main contractor is bankrupt or undergoing judicial reorganization proceedings.

"

Art. 84.

In article 1er , point **11°** of the amended law of August 5, 2005 on financial collateral arrangements, the words "by a composition" are replaced by the words "by a collective agreement in application of the law of August 7, 2023 on the preservation of businesses and the modernization of bankruptcy law".

TITLE 4 - Repeal and transitional provisions

Art. 85.

The law of April 14, 1886 concerning composition with creditors in bankruptcy and the Grand-Ducal decree of May 24, 1935 supplementing the legislation relating to suspension of payments, composition with creditors in bankruptcy and bankruptcy through the introduction of a system of controlled management are repealed, while remaining applicable to current proceedings.

Art. 86.

Any reference to this Act may be made under the short title "Act of August 7, 2023 on the preservation of businesses and the modernization of bankruptcy law".

Art. 87.

This law comes into force on the first day of the third month following its publication in the Official Journal of the Grand Duchy of Luxembourg.

Mandate and order that the present law be inserted in the Official Journal of the Grand Duchy of Luxembourg to be executed and observed by all those concerned.

The Minister of Justice, **Sam Tanson**	Cabasson, August 7, 2023. **Henri**

Doc. parl. 6539A; sess. ord. 2020-2021, 2021-2022 and 2022-2023; Dir. (EU) 2019/1023.